

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

DIVISION OF COASTAL AND LAND USE PLANNING

**Adopted Amendments to the Upper Raritan Water Quality Management Plan and Northeast Water Quality Management Plan**

**Public Notice**

Take notice that on **JAN 24 2013**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Quality Management Planning rules, N.J.A.C. 7:15, and P.L. 2011, c. 203, the Department of Environmental Protection (Department) adopted amendments to the Upper Raritan Water Quality Management (WQM) Plan and the Northeast WQM Plan. These amendments adopt a Future Wastewater Service Area (FWSA) map for that portion of Somerset County within the Upper Raritan WQM planning area and Northeast WQM planning area (all portions of Somerset County with the exception of the following municipalities within the Lower Raritan/Middlesex County WQM planning area: Franklin Township, Bound Brook Borough, South Bound Brook Borough, Green Brook Township, North Plainfield Borough, Watchung Borough, and a portion of Bridgewater Township in the vicinity of U.S. Route 22 and County Route 527).

The proposal of these amendments, published in the New Jersey Register on May 21, 2012, at 44 N.J.R. 1664(a), included notice of the proposed FWSA map for all portions of Somerset County, including the Upper Raritan WQM Plan, the Northeast WQM Plan, and that portion of Somerset County within the Lower Raritan/Middlesex WQM Plan. However, this adoption is only of the FWSA map

for that portion of Somerset County within the Upper Raritan WQM planning area and the Northeast WQM planning area.

The FWSA map amending the Lower Raritan/Middlesex County WQM planning area is proceeding separately. The Middlesex County Board of Chosen Freeholders is the designated planning agency for the Lower Raritan/Middlesex County WQM Plan and it operates pursuant to plan amendment procedures approved by the Department consistent with N.J.A.C. 7:15-3.4(d). Notice of the Somerset County FWSA map amending the Lower Raritan/Middlesex County WQM Plan was published in the New Jersey Register on November 19, 2012, at 44 N.J.R. 2966(c). A public hearing on the Somerset County FWSA map amending the Lower Raritan/Middlesex County WQM Plan was held on Friday, December 21, 2012, by the Middlesex County Board of Chosen Freeholders. The public comment period on the Lower Raritan/Middlesex County WQM Plan closed 15 days following the December 21, 2012, public hearing.

The adopted amendments that are the subject of this notice, for that portion of Somerset County within the Upper Raritan WQM planning area and the Northeast WQM planning area, were submitted on behalf of the Board of Chosen Freeholders of Somerset County as the responsible wastewater management planning agency. The proposed amendments were submitted to the Department 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 (SSA), which shall comply with the Department's regulatory criteria. The adopted map, titled "Future Wastewater Service Areas, Somerset County New Jersey, Amending the Upper Raritan and Northeast Areawide Water Quality Management Plans" will supersede all wastewater

service area mapping for Somerset County currently contained in the Upper Raritan WQM Plan and the Northeast WQM Plan, and also includes areas outside of Somerset County served by wastewater treatment facilities located within Somerset County, which have been included as part of an adopted WMP.

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 SSAs to exclude environmentally sensitive areas that are not currently connected to sewer systems. Additionally, the map removes areas from sewer service based on local planning initiatives, and also includes areas previously excluded from SSA based on local planning objectives. These amendments only modify the wastewater service area mapping portions of the above referenced WQM Plans.

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 SSA 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 update a SSA 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 this amendment. Finally, P.L. 2011, c. 203 expires on January 17, 2014, and the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., 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 Somerset County have held numerous meetings with the public, municipal officials, and affected agencies over the past four years. Further, in accordance with Administrative Order No. 2010-03 (AO #2010-3) signed by Commissioner Martin, a public meeting was held on January 20, 2011, to allow public review and comment on the then-current draft of Somerset County SSA. 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 must be excluded in the adopted SSAs. Pursuant to N.J.A.C. 7:15-5.24, environmentally sensitive areas are defined 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 special water resource protection areas, and wetlands, alone or in combination.

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

(Landscape Project), as applicable. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species are not included in the adopted SSAs 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 adopted SSA, 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 adopted SSAs, 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), the 300-foot buffer 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, their tributaries and all Highlands waters, 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 (N.J.A.C. 7:13), the Highlands Water Protection and Planning Act rules (N.J.A.C. 7:38), the Stormwater Management rules (N.J.A.C. 7:8), and the Water Quality Management Planning rules (N.J.A.C. 7:15). 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 adopted SSA, except as provided under N.J.A.C. 7:15-5.24(e) through (h).

Pursuant to N.J.A.C. 7:15-5.24 (c), certain coastal planning areas, not applicable here, must also be excluded from SSA. Specifically, there are no Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Areas in the Upper Raritan WQM planning area or the Northeast WQM planning area.

In accordance with N.J.A.C. 7:15-5.24(d)1, areas with Federal 201 grant limitations that prohibit the extension of sewers are excluded from the adopted SSA 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. 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 these amendments 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), 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) through (4). Specifically, there are no beaches, coastal high hazard areas, or dunes in the Upper Raritan Water Quality Management (WQM) planning area or the Northeast WQM planning area.

As provided under N.J.A.C. 7:15-5.24(e) through (h), limited environmentally sensitive areas have been included in SSAs. Where applicable, Department Permits or Jurisdictional Determinations have been utilized to determine the extent of the SSA on individual lots.

In accordance with N.J.A.C. 7:15-3.10, the Highlands Water Protection and Planning Council (Council) was provided an opportunity to review and comment on the proposed amendment within the Highlands Region for consistency with the adopted Regional Master Plan (RMP). In correspondence dated August 9, 2012, the Council advised Somerset County that it had determined that the proposed FWSA map was consistent with the RMP.

The notice of this amendment proposal was published in the New Jersey Register on May 21, 2012, at 44 N.J.R. 1664(a). A public hearing was held on Wednesday, June 20, 2012.

The following people submitted comments on this amendment:

**Number – Commenter Name, Affiliation**

1. Judith A. Sullivan, Bedminster Township Administrator
2. Michael Merdinger, Hillsborough Township Administrator
3. Edward Clerico, Hillsborough Township Property Owner
4. David P. Moskowitz, Senior Vice President, EcolSciences, Inc., on behalf of Far Hills Country Day School (FHCDs)
5. Thomas Timko, Bernards Township/ Bernards Sewerage Authority
6. Neil Yoskin, Esq., on behalf of Pike Run II/ Meadows LLC
7. Timothy Touhey, New Jersey Builders Association (NJBA)

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 amendments 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 SSA, which was not reflected in the proposed amendment and were 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, change what is being prescribed, proscribed, or otherwise mandated by the proposed amendment, or enlarge or curtail the scope of the proposed amendment and its burden on those affected by it. Thus, changes which 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 parentheses after each comment identifies the respective commenter listed above.

**1. Comment:** The commenter notes that in the proposed FWSA map, the mapped location of the discharge beds associated with the Discharge to Ground Water (DGW) facilities serving the Hamilton Farms (NJ0087343) and Trump National (NJ0142883) Golf Courses are inaccurate, and the identified Discharge to Surface Water (DSW) point for the Lamington Farms Treatment Facility (NJ0027227) is no longer an active permit or discharge location and should be removed. (1)

**Response:** The Department has confirmed that the two locations of the groundwater discharge beds were misidentified and that the DSW point is not active. The Department has determined that these corrections are not substantial and has directed Somerset County to make the above identified technical modifications, indicate the correct DGW locations, and remove the inactive DWS point as part of the adopted amendment.

**2. Comment:** The commenter requests the expansion of the Fiddlers Elbow Country Club WMP to include a proposed pool house, pro shop, and other potential recreational facilities outside of the existing SSA. (1)

**Response:** It appears the commenter is requesting an expansion of Fiddlers Elbow County Club SSA to accommodate potential recreational amenities outside of the SSA as shown on the proposed FWSA map. The inclusion of new SSA 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.

It should also be noted the commenter did not identify the physical location of the proposed facilities or propose a specific SSA delineation. Consequently, the Department would have been unable to review the location of the potential recreational facilities under the WQM Planning rule.

**3. Comment:** The commenters are opposed to the exclusion of two parcels, Block 201, Lot 3, and Block 200.10, Lot 20, from the proposed SSA on the FWSA map. One commenter notes that these parcels were included in the previously adopted SSA and requests that these areas be returned to the proposed SSA to accommodate future commercial development as provided for in the Hillsborough Township Master Plan Amendment adopted on December 9, 2010, and implemented by the creation of the Transitional Economic Development District which includes the above referenced properties. The other commenter objects to the removal of the SSA from his parcel at Block 200.10, Lot 20, based on the contention that his land has been in agricultural use for at least the past 100 years and would not support the identified species of concern – grassland birds. (2), (3).

**Response:** The parcels in question were previously in an approved SSA, but were proposed for exclusion pursuant to N.J.A.C. 7:15-5.24 due to the identification of habitat for threatened and endangered wildlife species, as identified by the Landscape Project. As part of the development of the county-wide WMP and FWSA map, the Department evaluated a site specific Habitat Suitability Determination (HSD) application submitted on behalf of the property owner of Block 200.10, Lot 20. The Department reviewed the application and on

January 14, 2010, issued a determination pursuant to N.J.A.C. 7:15-5.26, which concluded that the present availability of suitable habitat for the species in question onsite, and/or in associated surrounding areas, is of sufficient size to support breeding, resting, or feeding by these species and is consistent with documented, suitable habitat. Thus, Block 200.10, Lot 20 is excluded from the adopted SSA.

No HSD application was received by the Department with regard to Block 201, Lot 3, and thus, as to this parcel exclusion of the site due to environmental sensitivity stands.

Therefore, both of these parcels are excluded from the adopted SSA.

In addition, the inclusion of new SSA 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.

**4. Comment:** The commenter requests that the existing ball fields located on Block 4, Lots 10, 11, & 12, within the Borough of Far Hills and associated with the FHCDS should be included back in the SSA. The commenter submitted a HSD application, which the commenter believes indicates no threatened and endangered species habitat is present, and supports the request that the existing ball fields located on Block 4, Lots 10, 11, & 12 within the Borough of Far Hills and associated with the FHCDS should be included back in the SSA. (4)

**Response:** The commenter's requested expansion of the FHCDS SSA to accommodate existing ball fields has not been made.

The Department has not changed the SSA as part of this amendment because the inclusion of new SSA 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.

Further, as an adjustment to SSA based on the submitted HSD application 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. Thus, the Department has not reviewed the HSD application. The HSD application may be resubmitted as part of an application for a site specific amendment or revision.

Additionally, the Borough of Far Hills communicated to the Department that it does not currently support the inclusion of the existing ball fields in SSA as it intends to pursue the necessary steps for conformance with the Highlands RMP. As marginal portions of the SSA boundary requested by the commenter are within the designated Protection Zone within the Highlands Planning Area, as delineated by the RMP, Far Hills Borough has recommended a revised, more compact, SSA boundary for this facility that would restrict the SSA to the FHCDS's existing wastewater generating structures only. The Department recognizes that the revised SSA has been requested in order to restrict future development consistent with the RMP. Should Far Hills Borough decide to conform to the RMP, consistency with the RMP will be addressed through the Highlands Plan Conformance process. Such modification to restrict SSA to be consistent with the RMP would require an application to amend or revise to the WQM Plan.

**5. Comment:** The commenter does not support the SSA expansion for the Pingry School (Block 11601, Lot 3.01, Bernards Township) to include approximately 36 acres for new facilities on its campus as proposed on the FWSA map. The commenter objects to SSA for the Pingry School beyond the current footprint of development for the existing school facilities. Bernards Township and the Sewerage Authority have specific allocation reserved for this site that does not include the new facilities at this time. The SSA should be reduced based on the Township's recommended SSA delineation consistent with the Municipal Master Plan. (5)

**Response:** Although Bernards Township and the Sewerage Authority have opposed the expansion of SSA as it is shown on the proposed FWSA map due to specific contractual wastewater allocation, the Department has not revised the SSA to include only the current footprint of development for Pingry School as part of this amendment. The removal of the proposed SSA 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.

P.L. 2011, c. 203 authorized the Department to approve the inclusion of land in SSA notwithstanding that existing treatment works may not currently have assured capacity to treat wastewater from such land. Additionally, sewer service to any project is subject to contractual allocations between municipalities, authorities, and/or private parties and is not guaranteed by this amendment.

**6. Comment:** The commenter owns land bordered by Route 206 and Township Road in Montgomery Township and requests the inclusion of land in the SSA not included in the proposed amendment. These properties include an approximately

16 acre right-of-way (ROW) set aside associated with the Route 206 bypass alignment project. The bypass alignment project was completed without the need to include the Pike Run portion of the ROW. The proposed SSA within Montgomery Township excluded this 16 acre ROW. This area is not identified as environmentally constrained. The commenter requested that this area be included in SSA to allow Pike Run II/ Meadows LLC flexibility in future planning for development of the Pike Run Plaza, a retail/commercial center fronting Route 206 adjacent to Bellemead-Griggstown Road. (6)

**Response:** The commenter's requested expansion of the SSA to include the ROW has not been accepted. The inclusion of new SSA 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.

Further, the Department received correspondence from Montgomery Township concerning this comment indicating that the Township does not support the inclusion of this location as SSA at this time. Specifically, the Township indicated that the inclusion of the Pike Run bypass area within SSA is not consistent with the previously adopted WMP which Montgomery Township continues to support. As designated in the Montgomery Township and Rocky Hill Borough WMP, adopted November 8, 2001, the Pike Run bypass area is not proposed as future SSA. Moreover, the Township has two completed municipal consolidation feasibility studies currently under review and so is not prepared to add or modify the proposed SSA at this time, pending consideration and/or recommendations contained in the studies. Finally, Montgomery Township stated that if it is to consider or support any expansion of the SSA, the Township's

policy is to give priority to existing developments with marginal or failing septic systems located near existing sewer lines.

**7. Comment:** The commenter commends Somerset County on providing adequate public notice to residents throughout the SSA mapping process. The public review and comment process is critical to rectifying mapping errors, and allows oversight over the draft prior to adoption. The commenter encourages the Department and the County to not rush through the adoption process, but allow time to address any issues. In that regard, the commenter directs that the Department should calculate the public comment period on working days as opposed to 15 calendar days as the submission deadline for comments for the Somerset County proposed FWSA map falls on the July 4, 2012, holiday. (7)

**Response:** The Department and Somerset County have pursued an open and extensive public review process beyond the minimal requirements of the WQM Planning rules. The Department and Somerset County have held numerous meetings with the public, municipal officials, and affected agencies over the past four years. Further, in accordance with Administrative Order No. 2010-03 (AO #2010-3) signed by Commissioner Martin, a public meeting was held on January 20, 2011, to allow public review and comment on the then-current draft of Somerset County SSA. 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. The Department notes that notice of every individual property impacted by this amendment is not required by the adopted WQM Planning rules. Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to the 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.

Public notices issued by the Department, which require public comment periods, are issued pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the WQM Planning rules at N.J.A.C. 7:15-3.4(g) that refer to the specified public comment period only as "days." "Days" are calendar days only, unless specifically noted otherwise in statute or regulation. The Department notes that due to the State and Federal July 4th holiday the 30 day period was informally extended to July 7, 2012, and any written comments received by that date with a valid postmark were accepted by the Department and are addressed in this notice.

**8. Comment:** The commenter asserts that the reliance on existing Department Geographical Information Systems (GIS) mapping data to create the first draft of proposed SSA provided to each county is not reliable and therefore requires extensive field verifications. (7)

**Response:** The Department believes that the use of GIS is not only the most accessible approach for wastewater management planning agencies but is also appropriate for the scale of planning required in the Water Quality Management Planning rules at N.J.A.C. 7:15. Because GIS coverages are readily available, have a high degree of accuracy, and can be viewed at various scales, they provide a means to simplify the wastewater management plan development process that will help ensure plans are developed, kept up to date, and serve the purpose for which they were intended. More detailed, or site by site analysis, is more appropriate for regulatory programs (that is, site plan review, or land use permitting) and is infeasible at a planning level. However, it was recognized by the Department from the beginning of the WMP development process that the Department's existing GIS data utilized to create the first draft of proposed SSA



required some verification and “ground truthing” by the WMP agencies. Accordingly, each WMP agency participating in this planning process was contacted by the Department via written correspondence that included a first draft of the proposed SSA. This correspondence noted that the SSA map provided was intended as the starting point from which the County should begin discussions with the municipalities to refine the draft SSA. Where new, more accurate information is available to local entities regarding development, wastewater management planning agencies are encouraged to use it to enhance the GIS data layers the Department provides on its website. Changes based on existing land use/construction since 2002 and approved (having obtained local and wastewater approvals) but not yet constructed projects were a particular focus of the process. In addition, numerous site-specific analyses, including Freshwater Wetlands (FWW) Letter of Interpretations, HSDs, and FWW and Flood Hazard Area permits were utilized to further modify the draft SSA. As such, development of the SSA did indeed result in extensive field verification, which validates the SSA delineation included in this amendment.

**9. Comment:** The commenter asserts that while the Somerset County FWSA map available online includes names of municipalities and tax parcels boundaries, the map does not include street names. Without this information it is difficult for property owners to determine if they are impacted by simply looking at the map.  
(7)

**Response:** Although the resulting adopted FWSA map does not include local street names, it does identify the names of municipalities; tax parcels lines, county roads, and major State and Federal highways. It is the Department’s experience that, as displayed, this available information is sufficient for locating specific properties. The Department and Somerset County sought to provide a balance of

graphic and textual information to preserve the ability to adequately view the proposed FWSA boundaries, which are the focus of the FWSA map.

**10. Comment:** The commenter asserts that the public notice provided the regulatory mapping criteria used to modify the previously approved SSA. However, the proposed FWSA map does not include the underlying rationale explaining why specific areas are proposed to be removed (or added) to SSA. It is suggested that footnotes be added to explain those bases (i.e. threatened and endangered species habitat, wetlands). (7)

**Response:** As indicated by the commenter, the proposed FWSA map does not include footnotes explaining which regulatory mapping criteria (i.e. wetlands threatened and endangered species etc.) was used as the basis for exclusion of specific areas from the proposed SSA. As noted above, the mapping display is constrained by the actual amount of information included. Similarly, adding footnotes or other textual information associated with every location excluded or removed from the SSA would not be practical or desirable from a display standpoint. The Department notes that all of the GIS data utilized by the Department during this process is available for review and download on the Department's website (<http://www.nj.gov/dep/gis>). Further, pursuant to Administrative Order 2010-03, the Department will provide any property owner, upon written request, an explanation of the issues preventing the inclusion of a specific site in the proposed SSA. In addition, the Department and Somerset County have provided at numerous meetings, and via numerous correspondence, similar information. The Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., 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. A complete

county-wide WMP is required to include mapping of all of the environmental resource criteria used as the basis for the SSA delineation.

**11. Comment:** The commenter asserts that areas of previously approved SSA which are surrounded by existing and proposed SSA on the FWSA map have been removed. Portions of lands constrained in various ways, such as lands preserved in public ownership, detention basins, cemeteries, highway medians, and ROW which do not qualify as environmentally sensitive (25 acres or greater) and cannot be developed are proposed to be removed from the SSA. It is unclear as to why such lands need to be removed from the SSA as they are not buildable. Similarly, there is no justification, from an environmental sensitivity standpoint, for the uniform removal of SSA on golf courses as proposed on the FWSA map as this prevents the redevelopment on these properties with alternate uses. Areas currently served by septic systems that were designed and constructed prior to 1989 should be included in SSA. (7)

**Response:** The Department recognizes that some undevelopable lands, such as detention basins, cemeteries, highway medians, ROWs, and common lands owned by homeowners associations, although not environmentally sensitive, were removed from the SSA. The Department maintains that, as no wastewater is to be generated for such sites, there is no compelling need to identify them as SSA. In fact, their inclusion in SSA gives the misrepresentation that these areas can be developed.

The removal of SSA from certain golf courses was not conducted independently by the Department, but, rather, in consultation with Somerset County and the effected municipality. In some cases, if underlying residential zoning was present on the golf course, SSA was afforded to specific privately owned parcels,

currently in use as a golf course, to allow for alternative future redevelopment. However, this was done only when consistent with the local planning needs. Alternately, on publicly owned and operated courses, as recommended by Somerset County, SSA was limited to wastewater generating structures such as the club house.

The decision to include parcels currently served by septic systems within the SSA area in this case, was based on local planning objectives of the individual municipality, prioritizing existing failing systems, the availability of sewer infrastructure if any, and upon agreement from the managing sewerage or municipal utilities authorities, regardless of the timeframe it was installed.

**12. Comment:** The commenter commented upon multiple issues not addressed by, or subject to, the proposed amendments or preliminary notice, such as the interpretation of supporting mapping information and associated tables created by the County as a result of the ongoing development of its FWSA mapping and ongoing process to complete a WMP. (7)

**Response:** In regard to the supporting mapping and associated information maintained by the County, although the Department supports Somerset County's right to post and/or share this information, it is not a requirement of the WQM Planning rules or subject to comment for this proposed amendment. As this data is a product of Somerset County, questions as to the results or its interpretation are best directed to them.

In addition to the specific written comments addressed above, the Department received information submitted to the County from the Boroughs of Far Hills and Bernardsville in response to its request for consent. Specific information and

documentation included requests for minor adjustments to the SSA delineation for various parcels as part of this amendment.

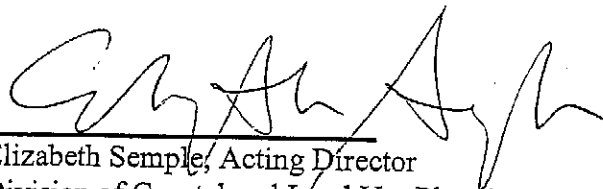
With regard to Bernardsville Borough, as a result of more accurate digital parcel mapping, sufficient documentation has been provided demonstrating that various parcels in the vicinity of Brookside Avenue and Tysley Street currently served by Harrison Brook Sewage Treatment Plant (STP) were inadvertently included in the SSA to be served by the Borough of Bernardsville STP. Similarly, additional information was provided to revise the SSA to correspond to the boundary lines of a single family dwelling currently served by the Harrison Brook STP which was inadvertently omitted. The Department has determined these adjustments to be technical corrections and has made these changes as part of this amendment.

Far Hills Borough requested the removal of Block 21, Lots 1 through 5, from the SSA due to the expiration of prior local approvals and, therefore, that their inclusion in SSA is no longer valid. The Department however has not removed these lots from the SSA as part of this adopted Somerset County FWSA map because the removal of SSA 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.

As mentioned above, any party may submit an application to the Department for a site specific amendment or revision, as applicable, to the 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.

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 Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., 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, Acting Director  
Division of Coastal and Land Use Planning  
Department of Environmental Protection

1/24/2013

Date