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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Adopted Amendment to the Northeast Water Quality Management Plan

Public Notice

Take notice that on **OCT 24 2017** 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. 7:15-3.5), an amendment (Program Interest No. 435442, Activity No. AMD160005) to the Northeast Water Quality Management (WQM) Plan was adopted by the Department of Environmental Protection (Department). This amendment submitted by Stonefield Engineering & Design, LLC on behalf of KTB Realities expands the sewer service area (SSA) of the Rockaway Valley Regional Sewerage Authority (RVSRA) by 1.44 acres. The project, identified as Proposed Planned Industrial Park, includes two flex buildings (25,750 square foot and 23,850 square foot) with individual loading zones, parking facilities, utilities landscape, site lighting, and stormwater management facilities, in the Borough of Rockaway, Morris County, Block: 40/ Lot 76 (partial). Preliminary notice was published in the New Jersey Register on June 19, 2017 at 49 N.J.R. 1745(a). No comments were received during the comment period.

This amendment has been reviewed pursuant to the Water Quality Management Planning rules at N.J.A.C. 7:15. This notice represents the Department's determination that the amendment is compliant with the regulatory criteria at N.J.A.C. 7:15-3.5 and 4.4 and serves as public notice of the Department's final decision pursuant to N.J.A.C. 7:15-3.5(g)11.

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Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), certain coastal planning areas, or areas subject to US Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

Pursuant to N.J.A.C. 7:15-4.4(e), Environmentally Sensitive Areas (ESAs) are any contiguous area, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Rank 3, 4, or 5; Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300 foot riparian zone based upon the Flood Hazard Area Control Act Rules, N.J.A.C 7: 13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered species Rank 3 (State threatened), Rank 4 (State endangered), or Rank 5 (Federal endangered or threatened) are not to be included in proposed SSAs except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as threatened or endangered wildlife habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.1 at <http://www.nj.gov/dep/gis/listall.html>. The site contains Rank 5 Indiana Bat habitat.

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N.J.A.C. 7:15-4.4(j)2 provides that an applicant may rebut the presumption that the Department's environmental data is accurate by providing a Habitat Suitability Determination (HSD) prepared pursuant to N.J.A.C. 7:15-4.6 that demonstrates that an area is not suitable habitat for endangered or threatened wildlife species. The applicant and the Department agreed that the subject site included suitable habitat for the Indiana Bat.

When a proposed site contains suitable habitat, N.J.A.C. 7:15-4.4(k) provides that areas designated as ESA based on Landscape Maps may be included in SSA provided the Department determines, based upon a review of data provided by the applicant as part of a Habitat Impact Assessment (HIA), that the proposed project or activity avoids the endangered or threatened wildlife species habitat; will result in insignificant or discountable effects on the maintenance or local breeding, resting, or feeding of the species; or includes the implementation of conservation measures that will minimize to the maximum extent practicable all adverse modification of suitable habitat and will mitigate for any such adverse modification in a manner that provides for no net loss of habitat value to endangered or threatened species including the local population of that species. The applicant submitted an HIA to the Department on August 26, 2016. The HIA determined that approximately 1.94 acres of woody vegetation will be disturbed because of the project, but that the loss will be mitigated by the revegetation of 1.54 acres of currently disturbed area, and the placement of a conservation easement on the remainder of the project site. Therefore, the Department has determined that the proposed project will minimize to the maximum extent practicable all adverse modification of suitable habitat, and will mitigate for any such adverse modification of habitat so that there is no net loss of habitat value for the local population of the Indiana Bat.

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Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as Natural Heritage Priority sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. Areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites pursuant to N.J.A.C. 7:15-4.4(e)2, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. The Department's review determined that the project site is not located within any Natural Heritage Priority Site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3. Areas identified as Category One waters and their corresponding 300 foot riparian zones are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of Category One waters and their corresponding 300 foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There are no Category One waters or corresponding 300-foot riparian zones located on the subject site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and identified mapped wetlands on the subject site.

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Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Letter of Interpretation (LOI) issued by the Department on February 2, 2015 with a File Number 1434-04-0001.2 (FWW 140001). The LOI determined that wetlands on and adjacent to the site, with a resource value of intermediate, require a 50-foot wetland buffer. On January 28, 2016, the Department issued a correction to the February 2, 2015 LOI clarifying that, due to association with threatened and endangered species, the wetlands had a resource value of exceptional. Resource values of exceptional require a 150-foot-wide transition area. The Department issued a Transition Area Redevelopment Waiver on January 28, 2016, permit number 1434-04-0001.2 FHA 150001-02 and FWW 150002-04. Because the applicant based the project design on the wetland classification stated in the February 2, 2015 LOI, the Department determined that the applicant may rely on the original wetland classification for this project only, and authorized a modification to the transition area subject to required conservation easements including the 50-foot wetland buffer associated with the original classification.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSA, except, as provided under N.J.A.C. 7:15-4.4(f)1 and 2, to abate an existing imminent public health and safety issue, to accommodate infill development or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at

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<http://www.nj.gov/dep/gis/install.html>. The subject site is not located within any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from SSA, unless documentation can be provided demonstrating that a mapping revision or waiver has been obtained from EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSA to ESAs, the Department reviewed mapped wetlands utilizing its GIS data at <http://www.nj.gov/dep/gis/install.html>, flood plains using the Federal Emergency Management Agency (FEMA) flood plain mapping at <https://msc.fema.gov/portal>, and the EPA list of New Jersey Counties with ESA Grant Conditions at <https://www3.epa.gov/region02/water/sewer.html>.

The Rockaway Valley Regional Sewerage Authority (RVRSA), which would serve this site, is subject to a 201 Facilities Grant condition included in the grant agreement between RVRSA and EPA under project number C340-339-04. The grant condition prohibits sewer connections to federally funded facilities, including RVRSA, 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. On March 30, 2017, EPA Region 2 approved a waiver of this grant condition for this proposed project as there are wetlands and wetland transition areas that remain throughout the site.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and (h)2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and

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future land uses shown in municipal or county master plans. On May 12, 2015, the Morris County Planning Board issued site plan approval for the proposed project. On December 1, 2015, the Borough of Rockaway issued preliminary and site plan approval for the proposed project. Based on this approval the incorporated endorsements, the Department has determined that the proposed project is consistent with local zoning and the county and local master plans.

Pursuant to N.J.A.C. 7:15-3.5(j)2, for projects that propose to add 100 or more acres to the SSA, or where the additional SSA would generate 20,000 gallons per day (gpd) or more of wastewater, the applicant must prepare a modification to the wastewater treatment capacity analysis to include the proposed project or activity, pursuant to N.J.A.C. 7:15-4.5(b). The project plans to add 1.44 acres to the SSA, and the projected wastewater flow for the proposed project to be received by the Raritan Valley Regional Sewerage Authority is 2,000 gallons per day (gpd), based on flow calculated pursuant to N.J.A.C. 7:14A-23.3. Therefore, no wastewater treatment capacity analysis is required for this proposed amendment.

N.J.A.C. 7:15-3.5(g)6 requires the applicant to request a written statement of consent from all identified governmental entities, sewerage agencies, and BPU related sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the amendment proposal. Accordingly, the Department instructed the applicant to request written statements of consent from the Borough of Rockaway, Morris County, the Highlands Council, and the Raritan Valley Regional Sewerage Authority (RVRSA). On March 21, 2017, the Highlands Council issued a letter confirming that the proposed amendment is consistent with the Highlands Regional Master Plan. On July 13, 2017, RVRSA adopted Resolution 17-090 in support of the proposed amendment. On July 27th, 2017, the Borough of Rockaway adopted Resolution 132-17 in support

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of the proposed amendment. On August 18, 2017, Morris County confirmed via e-mail that it would not state a formal position in support or in objection to the proposed amendment.

Sewer service is not guaranteed by this amendment. This amendment represents only one part of the permit process and other issues may need to be addressed. These issues may include, but are not limited to, obtaining all permits for the proposed projects; meeting all regulatory requirements for needed permits, 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 law or to any contractual arrangements between municipalities, authorities and/or private parties. 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.

SIGNED

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

October 24, 2017

Date