

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATERSHED MANAGEMENT

ADOPTED AMENDMENT TO THE OCEAN COUNTY WATER QUALITY MANAGEMENT PLAN

Public Notice

Take notice that on **SEP 10 2004**, 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 to the Ocean County Water Quality Management Plan (WQMP) and modification of the Ocean County Municipal Utilities Authority Northern Wastewater Management Plan (WMP) was adopted by the Department of Environmental Protection (Department). This amendment was submitted by the Ocean County Planning Board on behalf of Anthony and Mary Ann Vinciguerra. The amendment expands the Ocean County Utilities Authority (OCUA) Northern Pollution Control Facility's sewer service area to provide sewer service to an approximately 60-acre portion of a 124-acre property (the Vinciguerra property) known as Block 1, Lot 48 in Jackson Township, Ocean County.

This amendment was noticed in the New Jersey Register on April 5, 2004 (see 36 N.J.R. 1831(a)). One comment on this amendment was received during the public comment period. This comment is summarized below with the Department's response.

**Comment:** Any additional development of the site would adversely impact biological diversity and water quality. The commenter is opposed to such development. Additional issues need to be raised on this project and a public hearing should be held. Ms. Barbara Sachau, Florham Park, Morris County

**Response:** The Department has evaluated the impacts from development of the property including water quality and biodiversity issues. While the commenter asserted that additional issues needed to be raised, the commenter did not specify what these issues were or provide any information on what new information would be presented at a public hearing. The Department determined that there was not sufficient justification to hold a public hearing on this amendment. Prior to proposal of the amendment, the Department evaluated the proposed development for impacts, including impacts to threatened and endangered species, forested areas and freshwater

wetlands. The amendment limits sewer service and development to only that portion of the property that is either currently disturbed or is not classified as critical habitat by the Department's Landscape Project. The sewer service area additionally excludes wetlands identified by the approved Freshwater Wetlands Letter of Interpretation (LOI) issued on April 27, 2000 (File #1511-99-0016.1) and the wetland buffers and conservation areas shown on the map titled "Boundary and Topographic Survey of Tax Map Lot 48 Block 1 Township of Jackson Ocean County New Jersey" prepared by Kendarian and Zilinski Associates dated July 15, 2003, as referenced in the proposal notice for this amendment. Additionally, any development of the property must adhere to existing ordinances that minimize and restrict the clearing of native vegetation. Finally, the amendment requires that 2.430 acres of the property be designated as a conservation area protected in perpetuity by a conservation restriction filed with the Ocean County Clerk's office prior to the amendment taking effect. The Department believes that the amendment, as adopted, assures that water quality will be maintained while additional open space for habitat and biological diversity will be provided.

In addition to the public comment received, the applicant submitted comments on May 24, 2004 noting clarifications that it is asserted should be incorporated upon adoption. These include specifying that there is not currently a day care facility on the site, that the commercial/industrial uses are only conceptual and that the existing facilities are not proposed to be abandoned at this time. In addition, the applicant indicates that the total usable acres should be stated to encompass up to 74 acres rather than 60 acres.

The clarifications requested by the applicant will be addressed as follows. The Department is aware that the information submitted in the original application is conceptual. The conceptual plan described in the original application has been used by the Department for planning purposes. Approval of the amendment does not require any existing establishment to be abandoned immediately. Additionally, the amendment does not constrain the applicant to those conceptual uses noted in the preliminary notice and original application. However, any

development of the property, including any existing development left in place, is subject to the projected wastewater flows from the approved sewer service area of 97,500 gallons per day. The commercial establishments constructed would also have to comply with any requirements for water quality protection under any Departmental permit that may be necessary for the project. Finally, any development or redevelopment that occurs at the site as result of this amendment will have to conform to local commercial or industrial zoning requirements.

With reference to the applicant's assertion that the amendment should be clarified to indicate that 74+/- acres could potentially be developed, the Department acknowledges that the 74 acres depicted on the current LOI is all upland area that was considered for development with the original application. However, after the wetland buffers and the conservation areas are taken into account, approximately 60 acres of the 74 acre upland area remain. Only that area is approved for sewer service by this amendment. Development will not be allowed in those areas described in the LOI and those described in the conservation restriction. These areas are contained on the map titled "Boundary and Topographic Survey of Tax Map Lot 48 Block 1 Township of Jackson Ocean County New Jersey" prepared by Kendarian and Zilinski Associates dated July 15, 2003 map. This map is to be filed with the conservation restriction.

**This amendment** has been approved to provide for sewer service expansion for the Vinciguerra Property located on the east side of Monmouth County Route 537 immediately southeast of Interstate 195 Interchange Number 16. The sewer service expands the Ocean County Utilities Authority (OCUA) Northern Pollution Control Facility's sewer service area to provide additional sewer service to an approximately 60+/- acre portion of the 124-acre property known as Block 1, Lot 48 in Jackson Township, Ocean County. The portion of the property is to be commercially developed consistent with the requirements of the Highway Commercial Zone (HC) as outlined in the Jackson Township Land Use and Development Code Chapter 109. The property is surrounded by and immediately adjacent to properties that are designated and approved for sewer service. The applicant will protect 2.430 acres of the site situated along the northeastern

portion of the property in proximity to freshwater wetlands and threatened and endangered species habitat areas as conservation areas. The conservation areas will be established by a conservation restriction to be filed with the Ocean County Clerk's office restricting use of the areas solely for conservation or non-structural stormwater management.

The total projected wastewater flow for the additional area is calculated based upon the anticipated commercial/industrial uses of the property and the maximum allowable lot coverage of 30 percent under the Jackson Township Land Use and Development Code, Chapter 109. The portion of the lot proposed for development is approximately 650,000 square feet (SF). The 650,000 SF area of lot coverage multiplied by a rate of 0.15 gallons per day (GPD)/SF results in a daily wastewater flow of 97,500 GPD. The expanded sewer service area is contiguous with the existing sewer service area that would be connected by gravity to the sanitary sewer line located adjacent to County Route 537 and conveyed by gravity to the OCUA Northern Pollution Control Facility.

**This amendment** was evaluated in accordance with Executive Order 109 (2000) and N.J.A.C. 7:15-5.18. The Point Source Pollutant Analysis does not apply to this project because the OCUA Northern Pollution Control Facility's surface water discharge is to the Atlantic Ocean and effluent limits are regulated and enforced by the New Jersey Pollutant Discharge Elimination System Program's Ocean Discharge Requirements (NJPDES Permit No: NJ0028142) (see N.J.A.C. 7:14A-11.6(a)8). The Environmental Constraints/Threatened and Endangered Species, Nonpoint Source Loading/Hydromodification, Stream Corridor and Water Use Analyses have been satisfied. Certain environmental analyses are addressed through Jackson Township's recently adopted Design Standards for Stream Corridors Ordinance 35-02, Water Conservation Ordinance 36-02 and Stricter Controls on the Removal of Trees Ordinance 07-01. These ordinances establish performance standards as a means of achieving the objectives of the Nonpoint Source Loading/Hydromodification, Environmental Constraints/Threatened and Endangered Species, Stream Corridor and Water Use environmental analyses required by Executive Order 109 (2000).

Certain areas of the 124 acre project area are excluded from sewer service. These include all State open waters, freshwater wetlands and transition areas on the property as well as those areas to be subjected to the above described conservation restriction. These areas include the freshwater wetlands, State open waters and associated transition areas delineated and approved by the Department pursuant to a Letter of Interpretation (LOI) issued on April 27, 2000 (File #1511-99-0016.1). The State open waters, freshwater wetlands, transition areas and conservation areas are shown on the map titled "Boundary and Topographic Survey of Tax Map Lot 48 Block 1 Township of Jackson Ocean County New Jersey" prepared by Kendarian and Zilinski Associates dated July 15, 2003. A declaration of protective covenant shall be recorded in the Jackson Township land records and a conservation restriction running with the land in perpetuity will be required to be filed with the Ocean County Clerk's Office as a condition of this approval. The conservation areas are referenced in the document titled "Legal Description of a Conservation/Non-Structural Stormwater Management Area Tax Map Lot 48, Block 1 Township of Jackson Ocean County New Jersey" as surveyed and prepared by Kendarian and Zilinski Associates. This legal description shall be filed with the conservation restriction when filed with the Ocean County Clerk's office and will also be available for review from the Department. Prior to this amendment taking effect, the applicant is required to submit proof to the Department that such a conservation restriction with conditions restricting, in perpetuity, use to either conservation or non-structural stormwater management has been recorded in the Ocean County Clerk's Office.

Jackson Township Water Conservation Ordinance 36-02 requires that all new development projects conserve and preserve the water supplies of the Township. Based on the requirements of that Ordinance, the concerns of the Water Use Analysis are satisfied. Specifically, the applicant will be required to reduce water consumption by minimizing clearing of native vegetation, maximizing the utilization of native vegetation for landscaping and utilizing water conserving devices such as drip irrigation and low-flow shower heads, faucets and toilets. The Department will require that all water supply within approved sewer service areas be obtained from approved water allocation diversion permits. The applicant is required to obtain all water

supply for the project from the Jackson Township Municipal Utilities Authority (MUA). The Jackson Township MUA would also provide all water supplies for non-potable purposes unless the applicant can obtain Department approval for individual on-site wells. If such individual on-site well permit approvals are obtained, they shall only be granted for non-potable purposes and shall be constructed into confined aquifers. These requirements satisfy the water use analysis as well as minimizing impacts to base stream flow.

Water Conservation Ordinance 36-02 requires stormwater management facilities to capture and retain all 2-year frequency stormwater within the property. On-site non-structural stormwater management facilities that are designed to recharge groundwater are preferred. These standards are designed to protect the land use and water resources of Jackson Township and enhance ground water recharge in this critical headwater area of Jackson Township. The Design Standards for Stream Corridors Ordinance 35-02 does not allow direct discharges to streams, allows only very limited clearing of vegetation for the construction of stormwater management facilities and alternative design of stormwater management facilities is encouraged.

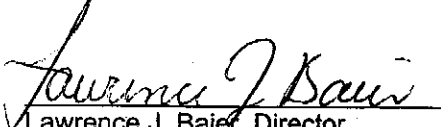
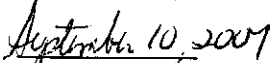
In addition, the majority of the property that is proposed for sewer service area has already been cleared of trees because of the existing uses of the property. Any additional clearing of trees will require that the applicant apply to the Jackson Township Forester for a tree removal permit, as per Jackson Township Ordinance 07-01 Stricter Controls on the Removal of Trees.

The standards specified under Design Standards for Stream Corridors Ordinance 35-02 require riparian buffer plans to be submitted to the Township for all new development. To protect riparian and aquatic ecosystems, the applicant is required to establish minimum buffers from the stream channel to protect State open waters, streams, freshwater and tidal wetlands, the 100-year floodplain, reservoirs, lakes, forested areas, steep slopes and erodible soils. The riparian buffer includes the stream channel and shall extend to include all adjacent wetlands floodplains, steep slopes, erodible soils and any other environmentally sensitive resources such as threatened and endangered plants and animals. The minimum buffer width for all streams shall be a minimum of

75 feet and shall be extended and additional 25 feet in third order and higher streams, 10 to 60 feet for slopes greater than 15 percent, 25 to 100 feet for either a recreational use or sensitive stream habitat designation and 25 feet beyond the edge of the floodplain.

All riparian buffers are required to be maintained through a declaration of protective covenant that shall be recorded in the land records of Jackson Township and shall run with the land in perpetuity. The declaration would also be filed with the Township and County Clerk's office with the conservation restrictions.

**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 addresses may include, but are not limited to, the following: 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.

  
Lawrence J. Baier, Director  
Division of Watershed Management  
Department of Environmental Protection  
  
Date