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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Adopted Amendment to the Ocean County Water Quality Management Plan

Public Notice

Take notice that on November 20, 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. 435448, Activity No. AMD140007) to the Ocean County Water Quality Management Plan (WQMP) was adopted by the Department of Environmental Protection (Department). This amendment submitted by Morgan Engineering and Surveying on behalf of Alan Krupnick and identified as Norma Place, expands the sewer service area (SSA) of the Ocean County Utilities Authority Central Water Pollution Control Facility (WPCF) by 2.18 acres to allow for the construction of three five-bedroom single family homes. The proposed project site is located in Toms River Township, Ocean County, on the southbound side of Norma Place and west of Whitesville Road (County Route 527) on portions of Block 105/Lots 1-3. Preliminary notice was published in the New Jersey Register on June 19, 2017 at 49 N.J.R. 1746(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) – (l).

Pursuant to N.J.A.C. 7:15-4.4(e), 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 wildlife species Ranks 3 (State threatened), Rank 4 (State endangered), and 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 pursuant to N.J.A.C. 7:15-4.4(e)1 as threatened or endangered wildlife species habitat, the Department utilized its Landscape Maps version 3.1 at <http://www.nj.gov/dep/gis/listall.html>.

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Review of the Landscape Maps determined that a portion of the proposed project site is identified as Rank 3 Northern Pine Snake habitat.

N.J.A.C. 7:15-4.4(j) provides that an applicant for an amendment to an areawide plan may rebut the presumption that the environmental data identified in N.J.A.C. 7:15-4.4(e) is accurate. Specifically, N.J.A.C. 7:15-4.4(j)4 provides that the applicant may submit any information that demonstrates that the Department's GIS coverage is inaccurate at a particular location.

In July 2014, the Department reviewed the proposed project site. The Department determined that Northern Pine Snakes are present in areas near the site, but on the other side of the Toms River. The Department determined that the habitat on the site or in surrounding areas is not likely suitable for the Northern Pine Snake due to the limited amount of available habitat, high level of development and unfavorable soil types; and that, because the Department conducted a site visit, a Habitat Suitability Determination (HSD), submitted in accordance with the provisions of N.J.A.C. 7:15-4.6, would not be required.

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/liststall.html>. There are no Natural Heritage Priority Sites 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 Category One waters and their corresponding

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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 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 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>. Review of the proposed project site has determined that the Grass Hollow Branch (FW2-TMC1), a Category One waterway, and its riparian zone buffer are located on the subject site.

Pursuant to N.J.A.C. 7:15-4.4(j)4, the applicant provided Flood Hazard Area Verification File No. 1507-014-0048.1 through 0048.3 FHA160001 and FHA160002 for each lot, confirming the extent of the flood hazard area, floodway, and riparian zone along the Grass Hollow Branch are accurately delineated on the proposed project activity site. Flood Hazard Area General Permit No. 6 (with the above referenced file numbers) has been approved by the Department for each lot to allow for the construction of a single-family home and confirming that the proposed project meets the requirements for approval to disturb regulated areas pursuant to N.J.A.C. 7:13-2.3, 2.4, 5.2, 9.6 and 22.2. Still, the SSA including the single-family home does not include any Category One waters or corresponding 300-foot riparian zones.

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 determined that there are wetlands on the

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project site. Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided Freshwater Wetlands Letter of Interpretation File No. 1507-14-0048.1 FWW140001 (LOI), confirming the extent of wetlands and transition areas on the site. This documentation confirms that, while wetlands are present on the proposed project site, there are no wetlands within the proposed SSA.

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 SSAs, 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. The Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/listall.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 the EPA list of New Jersey Counties with ESA Grant

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Conditions at <https://www3.epa.gov/region02/water/sewer.html>. There are no 201 Facilities Plan grant conditions that provide for the restriction of sewer service to ESAs.

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 future land uses shown in municipal or county master plans. The proposed project site is located within Toms River Township's R800 Zoning District, which allows for single family dwellings as a permitted use. On March 22, 2017, the Ocean County Planning Board issued a letter stating that the proposed project was consistent with the county master plan. Therefore, the proposed project is consistent with the local zoning ordinance, and the local and county master plan.

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 2.18 acres to the SSA, and the projected wastewater flow for the proposed project to be received by Ocean County Utilities Authority WPCF is 900 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 Ocean County Utilities Authority (OCUA), the Ocean County Board of Chosen

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Freeholders, and the Toms River Township Council. On August 11, 2017 OCUA issued a letter which stated that they would not state a formal position in support or objection to the proposed amendment. On September 6, 2017, the Ocean County Board of Chosen Freeholders adopted Resolution 2017001028 in support of the proposed amendment. On October 11, 2017, the Toms River Township Council confirmed via email 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

November 20, 2017

Date