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## **ENVIRONMENTAL PROTECTION**

### **WATER RESOURCE MANAGEMENT**

#### **DIVISION OF WATER MONITORING AND STANDARDS**

##### **Adopted Amendment to the Ocean County Water Quality Management Plan**

###### **Public Notice**

**Take notice** that on August 4, 2020 pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Ocean County Water Quality Management (WQM) Plan. The amendment (Program Interest No. 435448, Activity No. AMD170007) expands the sewer service area (SSA) of the Ocean County Utilities Authority (OCUA) by 47.68 acres to serve a proposed recreational facility located on a portion of Block 3001, Lot 2, Jackson Township, Ocean County. The amendment, identified as "Adventure Crossing," consists of a recreational sports complex that includes an indoor recreation building and bar, two hotels, six fields, a concession stand and a storage/maintenance building that would generate a projected wastewater flow of 58,846 gallons per day (gpd), based on flow calculated in accordance with N.J.A.C. 7:14A-23.3, to be received by the OCUA Northern Water Pollution Control Facility (NJPDES Permit # NJ0028142). Preliminary notice was published in the New Jersey Register on December 2, 2019 at 51 N.J.R. 1803(a). No comments were received during the comment period.

This notice represents the Department's determination that the amendment is compliant with the applicable regulatory criteria at N.J.A.C. 7:15, as described below.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to modifications of the eligible SSA needed to address a specific project or activity. N.J.A.C. 7:15-3.5(j)2 requires that site

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specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater must update the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b) to include the proposed project or activity. The proposed project involves less than 100 acres but would generate a total projected wastewater flow of 58,846 gpd (0.05846 million gallons per day (mgd)), based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. In accordance with N.J.A.C. 7:15-4.5(b)1, the existing wastewater flow at the OCUA Northern WPCF is the highest consecutive 12-month rolling average during the five-year period preceding the amendment application (December 2012 to December 2017), which was calculated to be 23.01 mgd (April 2014-March 2015) based on NJPDES Discharge Monitoring Reports reported in DEP Data Miner (<https://www.13.state.nj.us/DataMiner#>). The OCUA Northern WPCF is currently permitted to discharge up to 32 mgd under New Jersey Pollutant Discharge Elimination System (NJPDES) permit NJ0028142. The additional flow from the proposed project should not cause the facility to exceed its permitted capacity; therefore, no additional wastewater treatment plant capacity analysis is required.

In accordance with N.J.A.C. 7:15-3.5(g)6, the Department instructed the applicant to request written statements of consent from the Ocean County Utilities Authority, the Jackson Township Municipal Utilities Authority, Jackson Township, and the Ocean County Board of Chosen Freeholders. The Ocean County Utilities Authority stated in a letter dated November 18, 2019 that it would not take a formal position on the proposed amendment. The Jackson Township Municipal Utilities Authority adopted Resolution 2019-155 on November 21, 2019, consenting to the proposed amendment. Jackson Township adopted Resolution 384R-19 on November 26, 2019, consenting to the proposed amendment. The Ocean County Board of Chosen Freeholders adopted Resolution 2020000077 on January 15, 2020, approving the proposed amendment.

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Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSAs, except as otherwise provided at N.J.A.C. 7:15-4.4(i), (j), (k), and (l): environmentally sensitive areas (ESAs) identified under N.J.A.C. 7:15-4.4(e) as endangered or threatened wildlife species habitat, Natural Heritage Priority (NHP) Sites, riparian zones of Category One waters and their tributaries, or wetlands; coastal planning areas identified under N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions under N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the project site using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <http://www.nj.gov/dep/gis/listall.html> and/or other information as noted below, to determine the presence of any such areas in accordance with N.J.A.C. 7:15-4.4(e), (f), and (g) and made the following findings:

- The Department determined that, in accordance with N.J.A.C. 7:15-4.4(e)1, the expanded SSA contains areas mapped as endangered or threatened wildlife species habitat Rank 3, for both the Northern Pine Snake and Barred Owl as shown on the Department's Landscape Maps of Habitat for Endangered, Threatened, or Other Priority Wildlife, "Landscape Project Data", Version 3.3 GIS data layers. However, based on a habitat suitability determination (HSD) prepared pursuant to N.J.A.C. 7:15-4.6 and a habitat impact assessment (HIA) prepared pursuant to N.J.A.C. 7:15-4.7, along with a May 5, 2018 site inspection conducted by the Department's Endangered and Nongame Species Program, the Department determined that, the project site provides only marginal habitat for the Northern Pine Snake due to dense vegetation, lack of suitable basking or nesting areas, and increased development in surrounding areas; therefore, the expanded sewer service area would not result in adverse impacts to this species in accordance with N.J.A.C. 7:15-4.7(e)1ii.

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The Department determined that Barred Owl habitat on the project site was of high quality and contained areas as defined by the HSD/HIA as “critical” or suitable for foraging and thus were highly suitable for this species. The Department identified additional forested habitat on the project site that is suitable for foraging and nesting habitat, for a total of 62 acres of suitable habitat on the project site, of which 40 acres would be adversely impacted by the proposed development. The Department determined that the impacts to Barred Owl habitat in the expanded sewer service area cannot be avoided and that implementation of the following conservation measures are required to minimize, to the maximum extent practicable all adverse modification of suitable habitat and to 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, in accordance with N.J.A.C. 7:15-4.4(k)3 and 4.7(e)1iii. As such, the agreed upon conservation easement/deed restriction was filed in Ocean County and recorded by said county clerk on April 1, 2020. As described below, the following conservation measures and restrictions have been place on the subject mitigation property:

1. The applicant purchased a 91-acre mitigation site located on portions of Block 19201, Lot 1 and Block 18602, Lot 1, Jackson Township, Ocean County and executed a conservation restriction establishing a permanent conservation easement on the deed to the property filed in accordance with the New Jersey Recording Act, N.J.S.A. 46:15-1.1 et seq. This mitigation site contains upland hardwood forest largely dominated by oak species, expansive areas of Atlantic White Cedar swamp and smaller areas of Red Maple swamp and will provide suitable roosting and foraging habitat for the Barred Owl. The conservation easement established within the deed to this property restricts development and use of the property as necessary to preserve the high quality Barred Owl habitat located therein and runs with the property and is binding on all successive

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owners, their agents and assigns. Ownership of the proposed mitigation site has been established; the deed restriction has been executed, filed and recorded with the Ocean County Clerk; and proof of ownership and recordation of the deed restriction was provided to the Department prior to adoption of the proposed amendment, in accordance with N.J.A.C. 7:15-4.4(k)3. This mitigation site is now protected by the applicant through the above referenced conservation easement as per the requirements of this amendment.

2. Three nest boxes shall be placed on the mitigation property to add a measure of nest habitat value to the lands being preserved. Nest box design and placement must be coordinated with the Department's Endangered and Nongame Species Program and must occur within the first year following adoption of the proposed amendment.
  3. The mitigation site must be surveyed for five breeding seasons after nest box placement or until box occupation is confirmed to establish whether Barred Owls occupy any of the artificial nesting structures and otherwise evaluate the effectiveness of this mitigation measure. Details on this survey must be coordinated with, and annual reports must be submitted by the end of each calendar year to, the Department's Endangered and Nongame Species Program for the five breeding seasons following adoption of the proposed amendment.
- The Department determined that the expanded SSA does not contain any areas mapped as Natural Heritage Priority Sites based on the "Natural Heritage Priority Sites" GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)2.
  - The Department determined that the expanded SSA does not contain any Category One (C1) waters or 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC-14

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watershed of any C1 waters based on the "Surface Water Quality Standards" GIS data layer in accordance with and N.J.A.C. 7:13-4.1(c)1 and 7:15-4.4(e)3.

- The Department determined that mapped wetlands are located on the project site based on the "Wetlands 2012" GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)4; however, pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File #1511-13-0015.1 FWW130001 confirming that there are no wetlands within the expanded SSA.
- The Department determined that the expanded SSA does not contain any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas mapped on the CAFRA Planning Map based on the "CAFRA Layers" GIS layer in accordance with N.J.A.C. 7:15-4.4(f).
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project site based on the U.S. Environmental Protection Agency list of New Jersey counties with ESA grant conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2> in accordance with N.J.A.C. 7:15-4.4(g).

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. On May 17, 2017, the Jackson Township Zoning Board of Adjustment issued resolution 2017-31 granting Preliminary and Final Site Plan approval for the proposed project. The Ocean County Planning Board issued a letter received on February 14, 2019 stating that the proposed project is consistent with the Ocean County Master Plan.

Sewer service is not guaranteed by adoption of this amendment since it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA resulting from

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adoption 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 agencies with jurisdiction over this project/activity.

Date 8/4/20

SIGNED

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Kimberly Cenno, Bureau Chief  
Bureau of Environmental Analysis, Restoration, and Standards  
Division of Water Monitoring and Standards