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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Adopted Amendment to the Sussex 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, the New Jersey Department of Environmental Protection (Department) adopted an amendment (Program Interest No. 435459, Activity No. 170001) to the Sussex County Water Quality Management (WQM) Plan. This amendment, submitted by Harold E. Pellow & Associates, Inc., on behalf of Frankford Township, expands the sewer service area (SSA) of the Branchville/Sussex County Municipal Utilities Authority (SCMUA) Paulins Kill Facility by 0.86 acres. The project, identified as 8 Roslyn Road Frankford Twp., is in Frankford Township, Sussex County, Block: 48, Lot: 21.07 (Partial), and includes one proposed single-family home. Preliminary notice was published in the New Jersey Register on August 7, 2017 at 49 N.J.R. 2550(a). The Department received one comment during the comment period. The Department's response is below.

The proposed amendment involves digging over 150 lineal feet through a documented wetland. This wetland is a buffer and natural filtration system for my private well aquifer, and for the local aquifer in general. How would a sewer line be allowed under a gravel driveway that allows water filtrations under the rules and regulations of the Freshwater Wetlands Protection Act?
(Walter Steinert)

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RESPONSE: The inclusion of an area as eligible for sewer service is not an approval to move forward with a proposed project or activity. Instead, as indicated in the rules, any area included in a sewer service area for planning purposes continues to remain subject to all applicable Department permitting programs, such as the Freshwater Wetlands permitting program, and the environmental standards established in those permitting programs' rules to protect water quality, water supply, and all other environmental resources. Accordingly, the Department's decision to adopt this area as eligible for sewer service does not immediately serve as an approval of the project for construction. The project must still comply with all relevant Department permitting programs, including the Freshwater Wetlands program, if applicable.

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.

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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 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 Ranks 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 3.3 at <http://www.nj.gov/dep/gis/listall.html>. Review of the Landscape Maps determined that the site includes Rank 4 habitat for Bobcats and Rank 3 habitat for Wood Turtles.

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 includes suitable habitat for both Bobcat and Wood Turtle.

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

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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 April 25, 2017.

Review of the HIA determined that the proposed project will require the removal of deciduous trees, which are not considered prime habitat for the Wood Turtle or Bobcat, due to the site's proximity to existing development. However, the Department determined that a portion of the lot serves as an important corridor for the Bobcat to cross U.S. Route 206. To preserve the vital habitat corridor, the applicant has proposed to place 2.4 acres of wooded habitat along the western side of the property under a conservation easement, prohibiting any disturbance of soil or removal of trees in the area connecting the habitat adjacent to Route 206 to forested habitat on the property. In addition, the conservation easement's protection of the western portion of the site will address the Wood Turtle's habitat by protecting the terrestrial landscape without change to hydrology, soil or tree cover. Therefore, Department has concluded that the conservation measures will minimize to the maximum extent possible any adverse modification in a manner that provides for no net loss of habitat value to the local population of Bobcat and Wood Turtle.

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>. There are no Natural Heritage Priority sites located on the subject site.

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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 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 and their 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>. There are no wetlands within the designated SSA of 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 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

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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 <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 the EPA list of New Jersey Counties with ESA Grant Conditions at <https://www3.epa.gov/region02/water/sewer.html>. There are no 201 Facilities Plan grant conditions for the proposed 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 future land uses shown in municipal or county master plans. On May 26, 2016, the Sussex County Board of Chosen Freeholders adopted a resolution to preliminarily approve the proposed amendment. In its decision to approve the proposed amendment, the Board of Chosen Freeholders acknowledged that the proposed amendment had previously been endorsed by the Frankford Township Committee and by the Sussex County Municipal Utilities Authority. Based on this

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approval and 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 0.86 acres to the SSA, and the projected wastewater flow for the proposed project to be received by the Branchville/SCMUA Paulins Kill Facility is 300 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 Township of Freehold, Branchville Borough, the Sussex County Municipal Utilities Authority, and the Sussex County Board of Chosen Freeholders. On August 4, 2015, the Township of Frankford adopted a resolution in support of the proposed amendment. On March 15, 2017, the Township engineer reaffirmed the Township's position on the project via email. On April 6, 2016, Sussex County Municipal Utilities Authority adopted a resolution in support of the proposed amendment. On March 9, 2017, Branchville Borough submitted an email to the applicant confirming its approval of the proposed amendment. On October 25, 2017, the Sussex County Board of Chosen Freeholders adopted a resolution in support of the proposed amendment.

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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