

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATERSHED MANAGEMENT

AMENDMENT TO THE TRI-COUNTY WATER QUALITY MANAGEMENT PLAN

Public Notice

Take notice that on **JUN 28 1999**, 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 Tri-County Water Quality Management Plan was adopted by the Department of Environmental Protection (Department). This amendment adopts a Wastewater Management Plan that was submitted by the Township of Chesterfield, Burlington County. The major proposal within the plan is to implement a voluntary Transfer of Development Credits that is consistent with the "Burlington County Transfer of Development Rights Demonstration Act". Utilizing this program will preserve large blocks of contiguous farmland while reducing infrastructure. A "sending" zone is created to transfer development to a "receiving" zone, thereby, putting significant restrictions on the sending zone.

The Chesterfield Wastewater Management Plan identifies an expansion to the Albert C. Wagner Youth Correctional Facility Sewage Treatment Plant (Wagner STP) sewer service area to include this receiving zone, some houses surrounding the receiving zone, and Crosswicks Village that currently has failing septic systems. Wagner STP is owned and operated by the Department of Corrections and currently has a design capacity of 0.800 million gallons per day (mgd) with a current flow of approximately 0.528 mgd. Chesterfield has a need for approximately 0.455 mgd.

An expansion in flow for the Wagner STP is proposed to accommodate the Department of Corrections future needs of 0.858 mgd and also provide 0.455 mgd flow for Chesterfield Township. The total expansion will be 1.313 mgd with discharge to the surface waters of Crosswicks Creek classified according to the Surface Water Quality Standards (N.J.A.C. 7:9B) as Freshwater Two-Nontrout waters. If expansion to the Wagner STP discharge to surface water is not possible, then Chesterfield will send flow to the Wagner STP but as a discharge to ground water located at Block 103, Lot 2002.

The existing Chesterfield School site, Block 500, Lot 8, has been designated for wastewater disposal to subsurface sewage disposal systems with planning flows less than 20,000 gpd. The remainder of Chesterfield Township has been designated as service area for subsurface sewage disposal systems with wastewater planning flows of less than 2,000 gpd.

This amendment proposal was noticed in the New Jersey Register on March 1, 1999. Comments on this amendment were received during the public comment period and are summarized below with the Department's responses. David N. Kinsey from Kinsey & Hand put forth all comments below on behalf of Crosswicks Ellisdale, L.P.

**COMMENT 1:** Crosswicks Ellisdale, L.P. supports the expansion of the wastewater service area of Chesterfield Township to include the "receiving zone" as described in the pending WMP.

**RESPONSE:** The Department thanks the commenter for their support of the amendment.

**COMMENT 2:** Crosswicks Ellisdale, L.P. supports any wastewater treatment solution for the "Crosswicks/Receiving Zone Wastewater Service Area," provided treatment is at a reasonable cost, made available in a timely manner, and allocated on a priority basis such that any wastewater treatment capacity that becomes available is allocated to its proposed inclusionary development.

**RESPONSE:** Cost and availability is Chesterfield Township's issue and cannot be addressed by the Department. The flow that will be allocated to Chesterfield Township will include flow for failing septic systems at Crosswicks Village, the receiving zone, and homes surrounding the receiving zone.

**COMMENT 3:** The pending WMP is flawed as its premise is expansion of the DOC treatment plant and DOC willingness to accept and treat wastewater from the Township, yet the pending WMP and DEP notice present no evidence of the Township-DOC agreement necessary for the Township to rely on this approach.

**RESPONSE:** The Department has been kept apprised of the discussions with DOC and Chesterfield Township and has every confidence that a Memorandum of Agreement (MOA) that allows this WMP to be implemented is in the finalization period with no major issues pending. The Department supports the Burlington County Land Use Office efforts in providing a viable solution that allows sewer flows to be conveyed to a regional sewer treatment plant (STP).

**COMMENT 4:** The pending WMP admits the possibility that a Township-DOC agreement may not be reached and states that in that case "the Township will utilize a 33 acre parcel (owned by the Township) for community septic systems, with groundwater treatment..." (at page 3). This option is not addressed in the DEP public notice. This is yet another, third alternative proposed by the Township (Alternative C), while the WMP should be spelling the adopted course or action by the Township for addressing its wastewater needs.

**COMMENT 5:** The pending WMP is flawed by its indecision as to how and where the discharge from an expanded DOC treatment plant will take place, contrary to DEP rules. The pending WMP proposes three alternatives. Neither of the two alternatives of treatment at the DOC treatment plant, with either discharge to surface water or discharge to groundwater, are within the control of the Township, until the Township has an executed agreement with the DOC allowing wastewater from the proposed "Crosswicks/Receiving Zone Wastewater Service Area" to be treated in the DOC treatment plant. The Township's third alternative is an ill-defined "community septic

systems.” The DEP rules require the WMP to name and classify “any surface and ground waters that *would* receive any discharges from the DTW...” (emphasis added). DEP rules do not allow naming waters that only *may* receive discharges, as Chesterfield Township has done by providing three alternatives.

**RESPONSE to Comment 4 and 5:** The option addressed in this comment is not a third alternative put forth in the plan. There are only two alternatives mentioned in the plan. The 33 acre parcel referenced will be utilized as the discharge to ground water point from the Wagner STP as stated in the DEP public notice if discharge to surface water is not a viable solution. On page 3 in the WMP, “for community septic systems” will be removed due to the confusion it presents in this paragraph. Should the MOA not occur, the Department can revisit the issue and entertain an amendment to change the plan at that time. The only question is will DOC discharge to surface or ground water. Flexibility in this situation helps support the Transfer of Development Rights concept and avoids precluding options where ultimate viability can only be determined through detailed technical review of a discharge permit application.

**COMMENT 6:** The pending WMP is flawed by its vagueness and inconsistencies. On the one hand, the WMP states with precision that the “receiving area” has a future sewer demand of 379,280 GPD (Table 1, page 7). On the other hand, the WMP states “The exact timing, size and location of the Receiving Zone wastewater treatment plant is not known at this time.” (pages 6-7). If this essential information is not known now, when will it be known? Is not a main purpose of the WMP specifying the size and location of the domestic treatment plant to serve the “receiving zone”? See N.J.A.C. 7:15-5.18(d). Does not the WMP purport to propose expansion of the existing DOC treatment plant from its present design capacity of 0.8 MGD to 1.3 MGD, in order to accommodate the future sewer demand of the “receiving zone” and other areas of Chesterfield Township?

**RESPONSE:** The paragraph beginning with “The exact timing, size and location...” has been deleted from the WMP due to its ambiguity. The timing is the only aspect unknown. As required under N.J.A.C. 7:15-5.18(d), the WMP identifies an expansion to the Wagner STP to 1.313 mgd that will serve DOC, Crosswicks Village, and the “receiving zone”. The location of this STP and the proposed discharge location are depicted on the “Future Wastewater Facilities and Service Areas” map. The proposed expansion of the DOC treatment plant and the MOA is partially based on these figures and leaves no ambiguity.

**COMMENT 7:** DEP should not approve the pending WMP that perpetuates the delay in provision of access to sewer infrastructure that has characterized the Township’s lack of compliance with satisfying its constitutional fair share housing obligation under the *Mount Laurel* doctrine. The pending WMP states, “It is the intent of this WMP to preserve flexibility for the Crosswicks/Receiving Zone service area due to the dynamic nature of the TDC [“transfer of development credits”] concept.” (page 8). Now that the Township has defined by ordinance its “Sending Zone” and “Receiving Zone,” there is no need to “preserve flexibility” as to timing, size and location of the wastewater treatment plant. The Township’s desire to preserve such flexibility is, rather, an admission of the lack of a realistic plan and a means of delaying critical decisions on

providing sewer infrastructure. DEP should take decisive action now to require Chesterfield Township to make now the key municipal decisions and agreements on how and when adequate sewer infrastructure will be provided to the "receiving zone" and revise the WMP accordingly.

**RESPONSE:** The last paragraph on page eight beginning with "it is the intent..." has been deleted from the WMP. Submittal of the WMP was positive action by Chesterfield Township to move forward with the proposal. Some flexibility remains due to the uniqueness of the proposal (TDR implementation and municipal use of a state facility) and DEP's desire to aid in moving the proposal forward. By allowing flexibility the process is moving forward to the technical permitting arena rather than holding back. In the opinion of the Department, Chesterfield Township has made the key municipal decisions and is working on the MOA as the solution.

**COMMENT 8:** One minor comment is that the date of the Township Master Plan should be corrected to "1997" on the next to the last line of page 2 of the WMP.

**RESPONSE:** Page 2 has been changed to reflect this correction.

**COMMENT 9:** Another minor comment is that the Township adopted a new Land Development Ordinance on December 31, 1998, and so Table 7 on Current Zoning and Map #4 Current Adopted Zoning should be revised accordingly.

**RESPONSE:** Table 7 on Current Zoning and Map #4, the Current Adopted Zoning Map, has been changed to reflect the newly adopted Land Development Ordinance.

This amendment represents only one part of the permit process and other issues will be addressed prior to final permit issuance. Additional issues which were not reviewed in conjunction with this amendment but which may need to be addressed 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.



Lance R. Miller  
Director  
Division of Watershed Management

4/28/99  
Date