

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF ENVIRONMENTAL PLANNING

AMENDMENT TO THE UPPER DELAWARE WATER QUALITY MANAGEMENT
PLAN

Public Notice

Take notice that on **MAY 22 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 Upper Delaware Water Quality Management Plan was adopted by the Department of Environmental Protection.

This amendment, submitted by Cerenzio & Panaro, P.C. (C&P) on behalf of the Township of Knowlton, updates the Township of Knowlton Wastewater Management Plan (WMP). The amendment allows for a centralized wastewater treatment facility (up to 140,000 gallons per day) and a corresponding service area (approximately 170 acres) to provide for the existing and future wastewater disposal needs for that section of Knowlton Township, Warren County. The proposed wastewater facility would be owned and operated by a private firm and constructed on property known as the "Taylor Site". Presently, the designated sewer service area is served by individual subsurface wastewater disposal systems. Under this amendment, Travel Centers of America (formerly Truck Stops of America), McDonald's and the New Jersey Department of Transportation storage and service facility, will abandon their existing individual subsurface wastewater disposal systems and connect to the central treatment facility. Travel Centers of America has experienced past problems with their existing disposal system and a connection to the central treatment facility would eliminate the potential for future problems associated with the existing disposal system.

In accordance with N.J.A.C. 7:15-3.4, a public hearing on the amendment was noticed in the New Jersey Register and the Star Ledger on June 15, 1998, and the Blirstown Press on June 17, 1998. The public hearing was held on July 30, 1998, and public comments were accepted by the Department at the hearing and until August 14, 1998. The Department received written comments from 164 persons and 20 persons submitted spoken comments at the July 30, 1998 hearing. The WMP was endorsed by the Mayor and Committee of Knowlton Township by resolution. The following is a summation of the comments received on the WMP and the Department's responses to these comments:

Comments on the WMP

COMMENT: The Knowlton Township WMP does not adequately address issues; of open space and farmland preservation, impact on farmland, sprawl, lack of infrastructure for village centers, incompatible non-residential growth, long term planning, and appropriate development of the Township. In addition, the majority of Knowlton

Township residents who participated in the amendment process are opposed to the the Knowlton Township WMP, especially the centralized wastewater treatment facility aspect.

RESPONSE: In accordance with NJAC 7:15-5.3 & 5.8, the governing body of Knowlton Township is the designated "Wastewater Management Planning Agency" (WMPA) and is responsible for all wastewater management plan initiatives and decisions within Knowlton Township. The governing body of Knowlton Township are elected officials voted into office by Knowlton Township residents. As elected officials, the governing body has a fiduciary duty to act in the best interests of Knowlton Township. The governing body retained the services of C&P in these regards and proposed and endorsed, by unanimous resolution, the Knowlton Township WMP prepared by C&P. The governing body through its consultant, C&P, has indicated that they carefully considered all aspects of the WMP and the corresponding comments and the governing body did not find any significant substance in these comments to warrant changes to the Knowlton Township WMP prepared by C&P. The Department is responsible to review the WMPA's WMP proposal to evaluate conformance with the applicable 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 et seq.). Generally, since the local WMPA are usually more familiar with the planning needs and concerns of the communities under their jurisdiction, the Department endeavors not to interfere with the WMPA's plan initiatives and decisions unless they are not in conformance with existing WQMP rules, regulation, policies and procedures. The Department's review of this WMP did not disclose any substantive scientific, technical or regulatory, issues or justifications, to support a finding of WMP inconsistency. Having found that the Knowlton Township WMP is in conformance, the Department must approve and adopt the WMP.

This Department response is also applicable to the other comments in this comment subsection.

COMMENT: Most of the suggestions of the Knowlton Township Environmental Commission were ignored by the governing body and Applied Water Management, Inc., formerly Applied Environmental Systems, Inc. (AWM)

RESPONSE: The governing body has not indicated that the Environmental Commission's suggestions are substantive enough to warrant changes to the Knowlton Township WMP prepared by C&P. However, in response to the potential environmental impact concerns of the Environmental Commission, the Department carefully evaluated the technical, scientific and regulatory issues related to these suggestions and decided to require AWM to prepare and submit a preliminary technical and hydrogeologic investigation of the proposed discharge to groundwater (DGW) in advance of their New Jersey Pollutant Discharge Elimination System (NJPDES) permit application in order to evaluate the hydrogeologic feasibility of the proposed DGW.

COMMENT: Inquiry was made concerning how the Department makes the determination that the Knowlton Township WMP centralized wastewater treatment facility is consistent with the WQMP

RESPONSE: The Department evaluates conformance of all aspects of the WMP in accordance with the applicable 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 et seq.). The Department's review of this WMP did not disclose any substantive scientific, technical or regulatory justifications to support an inconsistency finding.

COMMENT: The Knowlton Township centralized groundwater disposal treatment facility is more beneficial to the water quality in comparison to allowing several existing groundwater disposal systems in the corresponding section of the township.

RESPONSE: The governing body agrees, since they have endorsed, by unanimous resolution, the WMP amendment prepared by C&P.

COMMENT: Dischargers in violation of their pollution permits should be required to connect to the centralized treatment system but dischargers that are not should not have to be required to connect.

RESPONSE: The governing body has decided to provide for the existing and future wastewater disposal needs for that section of Knowlton Township by requiring connections to the centralized treatment facility to eliminate the potential for future problems associated with the existing wastewater disposal systems.

COMMENT: The corrected Knowlton Township WMP zoning map was not made available to the public prior to the July 30, 1998 hearing.

RESPONSE: C&P has indicated that an updated zoning map was available at the municipal building in June 1998 and they have confirmed with Jan Walter, Municipal Clerk that a complete and correct version of the WMP Amendment was on file at the Municipal Building prior to the Public Hearing.

COMMENT: The Department was requested to disclose any documentation in our possession regarding the current wastewater disposal system needs for Travel Centers of America (TCA) as a justification aspect for the WMP.

RESPONSE: As stated in the Knowlton Township WMP text, TCA's existing wastewater disposal systems "...are operating satisfactory but there have been past problems which have prompted the County Health Department to request a long term solution be found. This will resolve any future problems associated with TCA's existing system, which is not in compliance with current regulations." The Department is not aware of any other corresponding or contrary documentation in connection with this WMP proceeding.

COMMENT: The Knowlton Township WMP does not address the future growth and infrastructure planning needs of the Columbia and Delaware Villages.

RESPONSE: As stated in the text of the Knowlton Township WMP, this plan reflects the governing body's desire to serve the planning needs and encourage and concentrate commercial development of the C-2 and surrounding portions of the PCD zoning districts.

COMMENT: The WMP does not address reports of septic system failures and problems in the Villages of Delaware and Columbia.

RESPONSE: The governing body and C&P are not aware of any documented official reports of septic system failures and problems in Delaware and Columbia. Should documentation to the contrary be available please provide such to the governing body with a copy to the Department.

COMMENT: An existing McDonald's establishment within the designated sewer service area inquired if they could be grandfathered by the governing body from connecting to the centralized wastewater treatment facility.

RESPONSE: The Knowlton Township WMP indicates that all existing commercial establishments in the sewer service area will be mandated to hook up to the sewer system as soon as treatment becomes available.

COMMENT: McDonald's did not express interest in participating in the central sewer system as was indicated in the text of the WMP.

RESPONSE: This statement had no bearing on the Department's final decision, however to correct this inaccuracy, the statement "Truck Stops of America, McDonald's, and the New Jersey Department of Transportation service yard, have expressed a desire to participate in the central sewer system which will serve existing and future wastewater needs" has been deleted from the final WMP text.

COMMENT: The "town center" statements in the WMP are inaccurate and misleading

RESPONSE: The WMP text refers to a "town center" approach. The context is different from that of an official SDRP center designation.

COMMENT: Inquiry was made concerning the Department's history over the last ten (10) years in deciding WMP amendments similar to Knowlton Township

RESPONSE: WMP amendments are expectedly unique to their individual jurisdictions and WQMP issues and as such a review of our records did not disclose any similar WMP during that time period. However, the Department did recently decide a controversial WMP in Hopewell Township that contained some aspects similar to Knowlton Township. A majority of the Hopewell Township residents who participated in the WMP process also opposed the governing body's sponsoring of a multi-million dollar sewage pipeline to a neighboring town to expand and transfer the existing sewer service area of the Southern portion of the Township to attract new ratables and to correct existing and potential septic system problems within the Township. Certain aspects of the plan were

also in conflict with the SDRP. After a careful and lengthy evaluation the Department finalized the Mercer County Planning Board's approval of the WMP prepared by the Hopewell Township governing body's consultant.

COMMENT: Inquiry was made concerning the Department's mission relevant to WQMP actions.

RESPONSE: The Department's mission is to implement the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.S.A. 13:1D-9 which includes but is not limited to the following:

- Prevent, control, and abate water pollution;
- Conserve the natural resources of the State, promote environmental protection, and prevent the pollution of the environment of the State;
- Encourage, direct, supervise and aid areawide WQM planning-
- Integrate and unify the Statewide and areawide WOM planning processes, and- provide for continuing WQM planning;
- Provide opportunities for public participation in the WQM planning process;
- Prepare, administer, and supervise Statewide, regional and local plans and programs concerning conservation and environmental protection, including plans and programs concerning sewerage facilities.

Comments regarding Environmental Impacts

COMMENT: Concerns were raised regarding the potential environmental impact of the centralized wastewater treatment facility's DGW.

RESPONSE: Knowlton Township did not volunteer to conduct an Environmental Impact Statement (EIS) and under the existing WQMP regulations, the Department is limited in its ability to require such. However, in response to these concerns, and in response to the recommendations of the Knowlton Township Environmental Commission, the Department decided to evaluate the hydrogeologic feasibility of the proposed discharge, in conjunction with the amendment review proceedings. The Department required AWM to prepare and submit preliminary hydrogeologic data and other relevant technical information in advance of their NJPDES permit application in order to evaluate the hydrogeologic feasibility of the proposed DGW. The Bureau of Non-Point Pollution Control Groundwater Section received and evaluated this information and determined that based upon this data, they did not foresee any hydrogeologic/technical impediments to the proposed DGW that could not be overcome by proper design engineering and operation of the proposed facility. In addition, before AWM can construct and operate the proposed facility, they must apply for and obtain NJPDES DGW and TWA permits from the Department. Additional investigations and studies are underway by AWM which are designed at providing the Department with technical justification to approve the proposed discharge to groundwater. The Department will evaluate AWM's DGW application and assign corresponding effluent limits protective to the groundwater. Upon AWM's acceptance of the effluent and permit limits, subsequent compliance is enforced by the Department in accordance with the NJ Clean Water Enforcement Act. ²

COMMENT: The Departments approval of the WMP in the absence of any data or study regarding environmental contamination data within Knowlton Township is arbitrary and capricious.

RESPONSE: The Department must act within the regulatory constraints of its authority pursuant to 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 et seq.) and as such the Department is limited in its ability to require an EIS. However, in response to the potential environmental impact concerns of the commenters, including the Knowlton Township Environmental Commission the Department did require AWM to prepare and submit a preliminary technical and hydrogeologic investigation of the proposed DGW in advance of their NJPDES permit application in order to evaluate the hydrogeologic feasibility of the proposed DGW.

COMMENT: Inquiry was made regarding the content and location of any technical/scientific studies regarding the proposed wastewater treatment facility and related groundwater quality.

RESPONSE: AWM has prepared a phase 1 preliminary technical and hydrogeologic investigation for the Department. This information is on file with the Bureau of Non-Point Pollution Control Groundwater Section and will become part of AWM's NJPDES DGW application

Comments relating to the State Development and Redevelopment Plan (SDRP)

COMMENT: The Knowlton Township WMP does not comply with the SDRP.

RESPONSE: Based upon prevailing case law (New Jersey Builders Assn. vs. the Department, 306 N.J. Super. 93 (App. Div. 1997)), the Department remains legally limited in its ability to require compliance with the SDRP under our existing WQM Planning rules and regulations. The Department is endeavoring to implement SDRP requirements as part of upcoming changes to the WQM Planning rules and regulations. In the meantime, the Department must render a decision on this WMP's conformance with all applicable WQM Planning rules and regulations.

COMMENT: The Department should not act on the Knowlton Township WMP until such time as the SDRP regulations are implemented into the WQM Planning regulations.

RESPONSE: The Department has not received any indications from the governing, as the designated WMPA, that they wish to delay the Knowlton Township WMP. In November of 1998, in response to a request from C&P, on behalf of the governing body, the Department agreed to complete its review and render a decision on the Knowlton Township WMP. As the SDRP implementation may take an extended period of time to accomplish due to the legal and administrative procedures required for new rule proposals, and having found that the Knowlton Township WMP conforms to the applicable 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 et seq.), the Department must approve and adopt this WMP.

Legal Comments

COMMENT: Has the applicant complied with the Wastewater Privatization Act ?

RESPONSE: The Department reviewed the proposed service agreement between the Township of Knowlton and AWM and on August 25, 1995 issued a conditional approval. The Department identified portions of the service agreement which would require amendment prior to the Department's further conditional approval of the service agreement. The Department specified that, in addition to the amendments to the service agreement, final approval was conditioned on the adoption of a Water Quality Management Plan Amendment for this project, obtaining a final NJPDES DGW Permit, and a TWA for the system. On October 6, 1995, the Department responded to amendments made to the service agreement and identified a necessary revision to the amended proposed contract language before a conditional approval would be issued. The Department indicated that once the required revision was made the Department would issue a conditional approval pending receipt of a final NJPDES DGW permit and treatment works approval. The revision was made, and the Department granted a conditional approval on November 1, 1995. The conditional approval again noted that a NJPDES DGW permit and a TWA were required. The Department reviewed the proposed contract and found the language of the contract to be satisfactory. However, in accordance with N.J.S.A. 58:27-13.a., the Department is unable to grant approval of the contract until the Department can certify the proposed contract is consistent with the Water Quality Management Plan and that the proposed contract will meet appropriate environmental and water quality standards. The action taken today approving the Water Quality Management Plan Amendment satisfies the consistency criteria. In order to certify the proposed contract will meet the latter condition, the Department must be satisfied that the discharge will meet appropriate effluent limits and that the discharger has adequate treatment facilities to meet these limits. This is accomplished through the application for and issuance of the NJPDES DGW Permit and the TWA for this proposed discharge. The Department will grant an approval of the contract once the NJPDES DGW Permit and the TWA have been issued by the Division of Water Quality:-

COMMENT: The Department's decision to approve the WMP will likely result in legal challenges in court.

RESPONSE: The Department believes its final decision regarding the WMP is proper and appropriate. The Department is confident that said final decision will withstand any legal challenges should any be filed.

COMMENT: The Knowlton Township WMP sewer service contract with AWM has not been disclosed in its entirety.

RESPONSE: A complete copy of the sewer service contract is on file in the Department's Trenton offices and the Knowlton Township municipal offices and are available for public inspection

Miscellaneous Comments

COMMENT: Inquiries were made regarding, disclosure of AWM treatment facilities similar to the proposed Knowlton Township WMP treatment facility and potential odor concerns related to such facilities.

RESPONSE: AWM has provided the following list of similar treatment facilities they have constructed in New Jersey and they have indicated that the technology they propose to utilize for the Knowlton Township WMP treatment facility is widely accepted and employed in New Jersey.

<u>Name</u>	<u>Location</u>	<u>Capacity (gpd)</u>
1. Skylands Baseball Park	Ross' Corner, Augusta, NJ	20,000 gpd
2. Village Square	Grandin Court, Union Twp., Hunterdon Co., NJ	15,000 gpd
3. Oakwood Village	Oakwood Village Apartment Complex Route 206 Mt. Olive Twp., NJ	175,000 gpd
4. Country Oaks	Goldmine Road Mt. Olive Twp., NJ	52,000 gpd
5. Mansfield Farms	Mansfield Township, Burlington Co., NJ (Permitted & under construction)	375,000 gpd

AWM has indicated that there are no documented official reports of any odor problems or complaints attributed to these similar treatment facilities. Therefore they do not have any reasonable expectation of any odor problems for the proposed Knowlton Township WMP treatment facility. The Department agrees that treatment facilities utilizing new technologies can adequately control odors if properly designed and operated.

COMMENT: Inquiry was made regarding whether insurance coverage for potential odor liability was required or obtained by AWM.

RESPONSE: C&P has indicated that the service contract requires that AWM maintain a level of insurance as outlined in Appendix V, and they do not believe that such a policy covers odors.

COMMENT: Inquiry was made concerning the technical aspects of air quality monitoring and enforcement

RESPONSE: This is the responsibility of the Department's Division of Air Quality Enforcement and the technical aspects are beyond the scope of this amendment proceeding. Please contact this Division for further information.

COMMENT: Inquiry was made on whether the DGW and/or TWA permits regulates odors

RESPONSE: The DGW and TWA permits do not contain any limitations or requirement regarding odor. The TWA does have a requirement for a 500 feet setback of the treatment works from the property line whenever possible.


COMMENT: Inquiry was made into the procedural and technical effluent limit and plant design aspects of the DGW and TWA permitting process.

RESPONSE: The specifics of the DGW and TWA permitting process is beyond the scope of this amendment proceeding. For further information in these regards please contact the Department's Bureau of Non-Point Pollution Control Groundwater Section and the Bureau of Engineering North respectively.

COMMENT: Miscellaneous objection comments regarding issues of; quality of life, rural atmosphere and agricultural preservation, growth, economics, taxes, ratables, property values, commercial interests, local politics, planning board irregularities, voter referendum, resident survey, financial benefits to individuals, traffic noise, sewer service contract liability and Council on Affordable Housing (COAH). Comment regarding the non water quality benefits of the centralized plant

RESPONSE: These issues are beyond the scope and jurisdiction of this WQMP proceeding. It would be more appropriate for residents to raise the objection issues with the governing body of Knowlton Township.

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
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5/22/99
Date