

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATERSHED MANAGEMENT

ADOPTED AMENDMENT TO THE UPPER DELAWARE WATER QUALITY  
MANAGEMENT PLAN

Public Notice

Take notice that on **JUL 28 2015**, 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 (Department). This amendment, submitted on behalf of Alpha 519 LLC, amends the Alpha Borough Wastewater Management Plan (WMP) and the Phillipsburg, Lopatcong, Pohatcong, and Alpha WMP.

This amendment adds the entire 25.4 acres of Block 96, Lot 5 in the Borough of Alpha, Warren County to the Future Sewer Service Area of the Phillipsburg Wastewater Treatment Facility. This lot is located in the southeastern portion of the Borough and is bordered by the Norfolk Southern Rail Line to the east and the Pohatcong Township municipal border to the south. This property will be accessed by Route 519 on the west side. In addition, this amendment allows for the construction of 92 single family three-bedroom homes, four three-bedroom condos, eight two-bedroom condos, and four one-bedroom condos on Block 96, Lot 5. The total projected wastewater flow from this development, calculated in accordance with N.J.A.C 7:14A 23.3, would be 31,200 gallons per day (GPD).

This proposed amendment has been reviewed in accordance with Executive Order 109 (2000) and N.J.A.C. 7:15-5.18. The development is designed to convey stormwater into an existing storm sewer system which discharges into Pohatcong Creek (FW2-TM C1). Due to the topography of the site, stormwater can not be conveyed via sheet flow through the special water resource protection

area without causing a public safety hazard due to the potential ponding and icing of stormwater on Route 519. This site is part of a court approved affordable housing plan. The affordable housing component is inclusionary within the larger development, and thus the development could not reasonably be reduced in size and scope so as to allow all stormwater runoff to be managed on site, without destroying the integrity of the Court's mandate. The Department concludes that the Constitutional requirement for the provision of affordable housing and given the particular geographic setting of this property require flexibility in the application of the special water resource protection area requirements of the Stormwater Management Rules. The Department has concluded that the only alternative to safely convey stormwater from the site is to collect excess stormwater runoff from this site into the existing storm sewer system. The discharge point of this existing storm sewer system encroaches upon the Special Water Resource Protection Area (SWRPA) of Pohatcong Creek. Under the Stormwater Management Rule (N.J.A.C. 7:8-5.5 h1ii), encroachments within the designated SWRPA may be allowed where previous development or disturbance has occurred, and the applicant demonstrates that the functional value and overall condition of the SWRPA will be maintained to the maximum extent practicable. While the existing storm sewer system is exempt from the Stormwater Management Rules and the SWRPA requirement, the additional flow generated by the proposed project must meet the anti-degradation requirements of no measurable change in pollutant loading established by the Surface Water Quality Standards, N.J.A.C. 7:9B, in order to comply with the Stormwater Management Rule. To achieve compliance, a 150 foot buffer was provided on-site, prior to discharge into the existing storm sewer system, to achieve the required pollutant reduction effects of the Special Water Resource Protection Area. The site design conforms to all other aspects of the Stormwater Management Rule (N.J.A.C. 7:8). There are no streams or wetlands on-site or nearby which would require Riparian Corridor Analysis. There are no records for threatened or endangered species or habitat on-site. The proposed development will be provided with water within an existing Aqua NJ water allocation.

This amendment proposal was noticed in the New Jersey Register on March 20 2006 at N.J.R. 38 N.J.R. 1472(b) and no comments were received during the Department's comment period.

As required by the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38, the Department shall not approve a Water Quality Management Plan amendment for a project proposed in the Highlands Planning area without first obtaining a recommendation from the Highlands Council (Council). The Council issued a letter to the Department on June 28, 2006 which stated that "the Council has no objection to the New Jersey Department of Environmental Protection proceeding to take final action on the proposed amendment based upon the information that the Highlands Council provided to NJDEP and any other available information."

The Council received public comments during its review which it forwarded to the Department. The Department reviewed all the information the Council provided, and issued the following responses to the Council:

1. Comments were submitted which questioned if the karst limestone geology of the project site and surrounding area had been considered in the review process. The Department thoroughly considered the karst limestone geology of the project site and the surrounding area during the Department's review of the proposed project. In conformance with the Stormwater Management Rule (N.J.A.C. 7:8-5.4 a2iv), all stormwater management basins associated with the project have been designed with clay liners to prevent infiltration on-site and mitigate the impact of the proposed development on the karst limestone geology of the area. These measures have received approval from the Warren County Soil Conservation District.

2. Comments were submitted which questioned the impact of the stormwater discharge from the proposed project on the Category One Pohatcong Creek. The Department has carefully examined the proposed project's impact on the Category 1 Pohatcong Creek during the Department's stormwater management review. The proposed project has been designed to fully conform to the Stormwater Management Rules, N.J.A.C. 7:8, in order to meet the anti-degradation requirements of no measurable change in pollutant loading established by the Surface Water Quality Standards, N.J.A.C. 7:9B.

3. Comments were submitted which questioned the availability of water to service the project. The Department has examined the potential water supply issues associated with the proposed development. Aqua NJ, the water purveyor for the project, currently has sufficient capacity within its existing water allocation permit to serve the proposed project.

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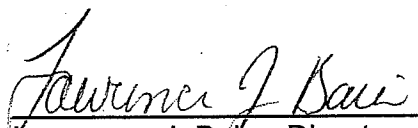
4. Comments were submitted which suggested that the additional draw on the public water supply by the proposed project may exacerbate the effects of a recently discovered groundwater contamination site. The Department has given consideration to this possibility. However, this concern appears to be unsupported due to the distance of the public wells from the currently known extent of the contamination and the relatively minor quantity of water required by the project. In addition, a comment was submitted which asserted that the proposed project would utilize valuable capacity within the public water supply system which should instead be reserved as a mitigation measure in the eventuality that lots currently served by private wells are impacted by the groundwater contamination and it becomes necessary to connect these lots to the public water supply system. This concern also appears to be unsupported as there is currently sufficient excess capacity, which provides for an appropriate margin of safety, beyond that required to service the proposed project.

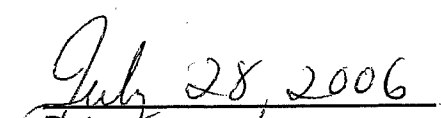
Several commenters raised concerns to the Highlands Council about the cumulative impact of all the proposed projects in the area and an additional document submitted by the Phillipsburg Riverview Organization contained comments exclusively addressing the proposed EAI Investments project in neighboring Pohatcong Township. The Department is processing the proposed Alpha 519 project as a site specific amendment and the proposed EAI project is not part of the Alpha 519 amendment. The cumulative environmental impacts from other proposals are not addressed within a site-specific review which considers the impact of the proposed project under currently existing conditions. The cumulative environmental impacts of the various projects will be addressed by the Department through a comprehensive WMP that is currently being prepared pursuant to a Consent Order entered by the Honorable Victor Ashrafi on September 7, 2005. Pursuant to that Order, Alpha, Phillipsburg, Pohatcong, Greenwich and Lopatcong are working on an Wastewater Management Plan (WMP) that will fully address the wastewater management planning issues of the individual towns, meet all the criteria of N.J.A.C. 7:15-5 and Executive Order 109, and include correct calculations, accurate mapping and current build out analyses. Further, Phillipsburg, in accordance with the Consent Order, will submit to the Department a multi-municipal regional WMP for review and approval. An approvable multi-municipal regional WMP is a WMP that fully addresses the wastewater management planning issues of the area encompassed within the individual five towns, that incorporates the individual towns' WMPs, that meets all the criteria of N.J.A.C. 7:15-5 and Executive Order 109, and includes correct calculations, accurate mapping and current build out analyses.

The remaining comments submitted to the Council addressed the social and economic impacts of the proposed project on the local community. Specifically, the necessity of another affordable housing project within the municipality was challenged, and concern was expressed that the project would result in higher local taxes, resulting in economic hardship to current residents. While the

Department respects the significance of these concerns, these comments are more appropriately addressed by the Council in conjunction with the local municipalities and the New Jersey Council on Affordable Housing (COAH). The Department has conducted its review in conformance with N.J.A.C. 7:15 and Executive Order 109 (2000) and determined that the proposed project has satisfied the Department's required analyses.

This amendment represents only one part of the permit process and other issues may need to be addressed prior to final permit issuance. Additional issues which may need to be addressed may include, but are not limited to, the following: compliance with stormwater regulations; 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.

  
Lawrence J. Bajer, Director  
Division of Watershed Management  
Department of Environmental Protection

  
Date