

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATERSHED MANAGEMENT

REVISION TO THE UPPER DELAWARE WATER QUALITY  
MANAGEMENT PLAN


TAKE NOTICE that on ~~JAN 28 2009~~, pursuant to the provisions of the Water Quality Planning Act, N.J.S.A.58:11A-1 et seq., and the Statewide Water Quality Management (WQM) Planning rules, N.J.A.C. 7:15-3.5; a revision to the Upper Delaware WQM Plan/Hackettstown Municipal Utilities Authority (MUA) Wastewater Management Plan (WMP) was adopted by the New Jersey Department of Environmental Protection (Department). This revision modifies the Hackettstown MUA Wastewater Management Plan and updates the digital sewer service area (SSA) mapping adopted on October 6, 2006 by rescinding the site identified as Liberty Square on Block 8, Lots 21 and 22.04, Independence Township, Warren County from the Hackettstown MUA sewer service area.


On August 6, 2007, the Department issued a WQM Plan revision for the above project based on its review of the Highlands Applicability and WQM Plan Consistency Determination application dated May 23, 2007. Review of that application determined that the project was exempt based on documentation submitted as part of the application, including a letter from Independence Township affirming the validity of a preliminary major site plan approval from the Independence Township Planning Board, dated December 19, 1989. In accordance with the Highlands Water Protection and Planning Act (Highlands Act – N.J.S.A. 13:20-1 et seq.), the amendment adopted on October 6, 2006 immediately revoked previously approved sewer service area in the Highlands Preservation Area where wastewater collection systems had not been installed as of August 10, 2004. This revocation, however, did not extend to any designated sewer service area necessary to serve development in the Highlands Preservation Area that is exempt from the Highlands Act as provided in N.J.S.A. 13:20-28. Therefore, since the project was exempt it was also determined consistent and the August 6, 2007 revision was issued.

The Department, however, is now issuing a revision to rescind the original revision issued by the Department on August 6, 2007 to the Upper Delaware WQM plan based on a November 10, 2008 decision and order by the Honorable John J. Coyle, Jr., J.S.C in the case of Wayne Najduch and Andrea Najduch v. Township of Independence, et al (Docket No. L-417-03) which declared the December 19, 1989 preliminary major site plan approval from the Independence Township Planning Board for Block 8, Lots 21 and 22.04 and

Block 5, Lot 1 to be void ab initio. Based upon Judge Coyle's decision, the Department has determined that its July 26, 2007 Highlands Applicability determination (HAD) was based on inaccurate information. Therefore, the Department issued a rescission of the HAD determination dated July 26, 2007 on December 17, 2008, and finds the proposed project to be inconsistent with the Upper Delaware Water Quality Management Plan.

The site of Liberty Square, therefore, is removed from sewer service area in the Upper Delaware WQMP/ HMUA Wastewater Management Plan and the digital sewer service area mapping.

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

  
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Date