



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

STATE OF NEW JERSEY
WATERSHED PROPERTY REVIEW BOARD

CATHERINE R. McCABE
Commissioner
Department of
Environmental Protection

JOSEPH L. FIORDALISO
President, Board of Public
Utilities

SHEILA Y. OLIVER
Commissioner
Department of Community
Affairs

WATERSHED PROPERTY REVIEW BOARD REQUEST)
FOR AN EXEMPTION BY THE TOWNSHIP OF WEST)
MILFORD AND SUEZ WATER NEW JERSEY)
)

ORDER GRANTING
EXEMPTION

(SERVICE LIST ATTACHED)

BY THE WATERSHED PROPERTY REVIEW BOARD:

Introduction

The Township of West Milford, Passaic County ("Township") has made an application before the Watershed Property Review Board ("Board") to sell its assets, including certain property containing its water and wastewater systems located in the Township of West Milford, Passaic County, to SUEZ Water New Jersey, Inc. ("SWNJ"). The Township, by way of written request dated June 5, 2018, is seeking an exemption from the Watershed Property Review Board ("Board") to allow this sale to proceed. Without the exemption, conveyance of the property may be prohibited by the Watershed Protection and Moratorium Act, P.L. 1988, c. 163, as amended by P.L. 1990, c. 19 ("Act"). This Order adopts Board Staff's recommendation to grant the requested exemption.

Background

In 1964, the Township created a municipal utilities authority ("MUA") to provide water and sewer service to its residents. Currently, the MUA provides water and sewer service to approximately 1,700 homes and businesses in the Township. Water and sewer service is provided to the Awosting, Bald Eagle Village, Birch Hill, Crescent Park, Highview and Olde Milford Estates communities. The MUA also provides water service

to the Greenbrook Estates, Parkway and Greenwood Lake Beach communities. The MUA operates and maintains nine separate water systems (totaling 16 groundwater wells) and six sewer treatment plants in its service area. The MUA is solely funded by its ratepayers and does not receive tax dollars to operate and maintain its facilities.

The MUA is no longer able to continue operating its systems due to severe deterioration of its infrastructure, a smaller customer base and mounting operation and maintenance costs, which have resulted in violations of the Safe Drinking Water Act and Water Pollution Control Act and penalties exceeding \$5 million. Therefore, the Township is seeking to convey its system to SWNJ. Voters approved the proposed \$12.5 million sale via a Township referendum in November 2017. The Township subsequently amended the resolution reflecting a new selling price of \$11.3 million. There are 29 parcels ("the Properties") included in this sale, which will be transferred in fee, as inventoried in Exhibit 1. In addition to these properties, the MUA's utility rights within certain road right-of-way ("ROW") and 37 easements across private and public properties will also be transferred to SWNJ.

Approximately 25 properties are located in the headwaters area of Monksville and Wanaque Reservoirs and 4 properties are located within the Pequannock watershed. The MUA's water system relies entirely on groundwater resources (16 wells); none of its supply is generated by surface water. Board Staff has conducted a preliminary review of the Properties and easement locations conducted site visits for the Properties. Other than the MUA's facilities (which include sewage treatment plants, wellhouses, water storage tanks, booster stations, lift stations, and associated access driveways and fencing), these properties are undeveloped.

Discussion

The Act prohibits any "municipality, municipal utility authority, or public utility" from conveying "any land utilized for the purpose of the protection of a public water supply." Section 1 of P.L. 1988, c. 163. In other words, the Act places a moratorium on all conveyances of watershed property. The Act permits the Board to grant an exemption from the moratorium under three circumstances. Section 2(a) of P.L. 1988, c. 163. The Board may permit the conveyance of watershed property if it finds: "(1) that there is a compelling public need for the conveyance of the property, (2) the denial of the exemption would result in extraordinary hardship, or (3) the sale or development of the watershed property is otherwise consistent with the purposes of this Act" (which are generally to protect water quality and encourage open space preservation).

The Township is seeking an exemption which will allow it to convey its interest in the Properties, ROWs and easements to SWNJ on the basis that the sale is consistent with the purposes of the Act. Board Staff concur that the Properties and easement interests will continue to be subject to the Act since they will be conveyed from one regulated entity to another. The sale would further allow SWNJ to improve the systems to meet current New Jersey Department of Environmental Protection ("DEP") standards and help resolve the ongoing enforcement matter. As a condition of the sale, SWNJ has

agreed to substantial upgrades and repairs to these systems over the next 20 years. If in the future SWNJ decides to convey any interest in these Properties to a third party, SWNJ has committed to contact the Board for a jurisdictional determination on each property proposed for sale, as would be required under the Act

Conclusion

Based on the foregoing discussion, the Board **HEREBY FINDS** that the proposed conveyance of the Properties by the Township to SWNJ is consisted with the purposes of the Act, which includes the protection of water quality and encourage open space preservation. The Board **FINDS** that the Properties will continue to be subject to the Act, and any future conveyance of property interests in the Properties would require the Board Staff to conduct a detailed jurisdictional determination for each property interest proposed for conveyance and/or an exemption from the Board. The Board **HEREBY ORDERS** any future sale of the Properties would require the Board Staff to conduct a detailed jurisdictional determination for each property proposed for sale. The Board **FURTHER ORDERS** to the extent that the Township and SWNJ identify additional property interests that will transfer to SWNJ at closing, the Township and/or SWNJ must report these properties to Board Staff within 30 days of closing, via an updated Exhibit 1 inventory. The Board **FURTHER ORDERS** the Township and SWNJ must work with DEP staff to resolve purported easement interests on DEP held properties at Block 3802, Lot 2 (Greenwood Lake State Park) and Block 4502, Lot 2 (Long Pond Ironworks State Park) for which written easement documents have not been located.

Therefore, the Board **HEREBY ORDERS** that the application for the sale of the Properties, ROWs and easements be granted an exemption by the Watershed Property Review Board, pursuant to Section 2(a) of P.L. 1988, c. 163, as amended, shall be and hereby is **APPROVED** subject to the conditions recited above.

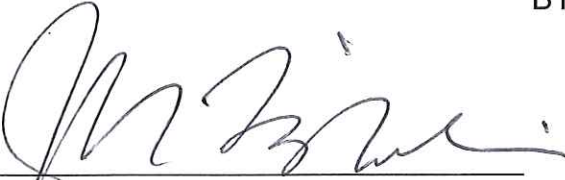
This Order addresses consideration of an exemption from the Act and does not relieve SWNJ, the Township and the MUA of any other obligations that may be required pursuant to any statute or regulation. This order is contingent on the applicant obtaining approvals pursuant to any other statute or regulation.

This Order confirms the vote on this matter taken at the duly noticed open public meeting of the Watershed Property Review Board on September 10, 2018.

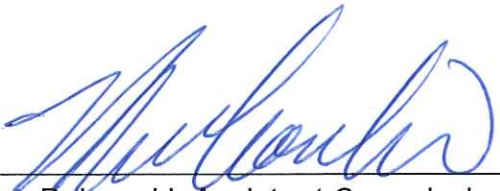
DATED: 9/10/18

WATERSHED PROPERTY REVIEW BOARD

BY:



Joseph L. Fiordaliso
President
Board of Public Utilities



Ray Bukowski, Assistant Commissioner
As designee of
Catherine R. McCabe
Commissioner
Department of Environmental Protection
Pursuant to delegation order dated August 23, 2018



Donald Palombi, Administrative Practice Officer
As designee of *Chief Regulatory Officer*
Lt. Governor Sheila Y. Oliver
Commissioner
Department of Community Affairs
Pursuant to delegation letter dated August 15, 2018

EXHIBIT 1

PROPERTY INVENTORY LIST

Township of West Milford Water and Wastewater Systems

All properties are located in West Milford Township, Passaic County, New Jersey

5/8 List	Survey File	Description	Fee/ Esmt	Address	Tax Block	Tax Lot	Source	Grantee
Bald Eagle Village								
1	2234-A	Sewer Treatment Plant	Fee	Beacon Hill Road	7801	65	DB F-116 pg 262 Tract 1	WM Municipal Utilities Authority
2	2234-B	North Field	Fee	Black Walnut Lane	7801	66	DB F-116 pg 262 Tract 2	WM Municipal Utilities Authority
3	2234-C	South Field	Fee	Concord Road	7801	67	DB F-116 pg 262 Tract 3	WM Municipal Utilities Authority
4	2234-D	Well 3 with Wellhouse	Fee	Concord Road	7801	68	DB F-116 pg 262 Tract 4	WM Municipal Utilities Authority
5	2234-E	Well 2 with Wellhouse	Fee	Quincy Lane	7801	69	DB F-116 pg 262 Tract 5	WM Municipal Utilities Authority
6	2234-F	Water Storage Tank	Fee	Bunker Hill Road	7801	70	DB F-116 pg 262 Tract 6	WM Municipal Utilities Authority
6.1	2234 A-F	Easement, general	Esmt	Bald Eagle Vil. Commons	7801	71	DB F-116, page 269	WM Municipal Utilities Authority
Olde Milford Estates								
7	2235-A	Sewer Treatment Plant	Fee	Camelot Drive	8301	16 & 17	DB I-107, pg 517, Tract 2	WM Municipal Utility Authority
7.1	2235-A	Easement: utility & future R.O.W.	Esmt	WM Twp. Open Space	8002	1	Map 2418	not specified
7.2	2235-A	Easement: poles and guys	Esmt	WM Twp. Open Space	8002	1	DB M-85, page 444	NJ Bell & Rockland Electric
8	2235-B	Well House Site	Fee	King Arthur Court	8303	1	DB E-100, page 88	Municipal Utilities Authority of WM
8.1	2235-B	Esmt: drainage, utility & future R.O.W.	Esmt	WM Twp. Open Space	8002	1	Map 2411 & Map 2418	not specified
9	2235-C	Booster Station	Esmt	29 Continental Road	8601	24	DB O-138, page 456	WM Municipal Utilities Authority
10	2235-D	Water Tank & Wellhouse	Fee	Ridge Road	8602	22	DB O-138, page 461	WM Municipal Utilities Authority
10.2	2235-D	Easement: utility	Esmt	37 & 39 Orleans Lane	8602	25&26	DB O-138 pg 461; Map 3273	WM Municipal Utilities Authority
10.1	2235-D	Easement for water system	Esmt	37 Orleans Lane	8602	25	DB O-138, page 466	WM Municipal Utilities Authority
11	2235-E	Lift Station	Esmt	49 Bradrick Rd	8801	1	Map 2444	not specified
12	2235-F	Wellhouse	Fee	88 Rolling Ridge Rd	8902	3	DB I-107, page 517, Tract 1	WM Municipal Utility Authority
32	2235-G	Wellhouse No. 2	Fee	28 Eagle Rock Road	8802	40	DB I-107 page 514	WM Municipal Utility Authority
13	2235-H	Water Storage Tank & Wellhouse	Fee	22 Rolling Ridge Rd	8903	34	DB I-107 page 521	WM Municipal Utility Authority
13.1	2235-H	Easement for water system	Esmt	28 Rolling Ridge Rd	8903	33	Map 2781	not specified
13.2	2235-H	Esmt: fence and well house	Esmt	28 Rolling Ridge Rd	8903	33	DB I-107, page 521	WM Municipal Utility Authority
Crescent Park								
14	2236-A	Sewer Treatment Plant	Fee	Morris Avenue	9711	17	DB X-98, page 195	WM Municipal Utilities Authority
15	2236-B	Wellhouse	Fee	Morris Avenue	9711	21	DB X-98, page 195	WM Municipal Utilities Authority
16	2236-C	Lift Station	Esmt	25 Morris Avenue	9713	9	DB X-87, page 122	Municipal Sewage Authority &/or Twp.
35	2236-D	Wellhouse, containing Well 13	Fee	Terminus of Sussex Dr.	9901	8	DB V-96, page 81	WM Municipal Utilities Authority
	2236-D	Easement & Right-of-Way	Esmt	WM Twp. Open Space	9901	10	DB V-96, page 81	WM Municipal Utilities Authority
36	2236-E	Water Storage Tank and Wellhouse	Fee	Terminus of Sussex Dr.	9901	9	DB T-81, page 160	n/f Waidy Inc. (title into Twp. not found)
	2236-E	Easement, utility (assumed access)	Esmt	WM Twp. Open Space	9901	10	DB T-81, page 160	n/f Waidy Inc. (title into Twp. not found)

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Birch Hill								
17	2237-A	Sewer Treatment Plant	Fee	Marshall Hill Road	6203	17	DB N-93, page 35, Schedule 1	Township of West Milford
18	2237-A	Esmt for sewer and access	Esmt	184 Marshall Hill Road	6203	13	Not found in title search	
19	2237-A	Additional driveway esmt parcels	Esmt	184 Marshall Hill Road	6203	13	I-114, page 161	Township of West Milford
34	2237-B	Wellhouse Site	Fee	Moore Road	6201	29	DB N-93, page 35, Schedule 3	Township of West Milford
	2237-C	Water Storage Tank Site	Fee	Moore Road	6204	1	DB N-93, page 35, Schedule 2	Township of West Milford
	2237-C	Esmt: Utility & access per tax map	Esmt	12 & 16 Grant Ave.	6204	8.01& 8.02	Not found in title search	
31	2237-D	Wells and Water Treatment Plant	Esmt	15 Lincoln Avenue	6401	6.02	DB 259 pg 233; DB 259 pg 242	WM Twp Municipal Utilities Authority
	2237-D	Sanitary Pump Station and Force Main	Esmt	15 Lincoln Avenue	6401	6.02	Not found in title search	
Highview								
20	2238-A	Sewer Treatment Plant	Fee	1290 Macopin Road	10202	4	DB V-110, page 378	WM Municipal Utilities Authority
	2238-A	Esmt: sewer and access	Esmt	1288 Macopin Road	10202	5.02	DB L-137, page 255	"to sewer treatment plant"
	2238-A	Esmt for existing drive and utilities	Esmt	46 Highlander Drive	10202	9	Not found in title search; draft description in municipal records	
	2238-A	Esmt for existing drive and utilities	Esmt		10202	Deed Gore	Not found in title search; draft description in municipal records	
21	2238-B	Water Storage Tank & Well Site	Fee	Relda Avenue	9401	2	DB B-97, page 42	WM Municipal Utility Authority
	2238-B	Esmt to the north	Esmt	11 Relda Avenue	9401	25	Map 2484	not specified
	2238-B	(a) Esmt east, (b) Existing access and pole line	Esmt	7 Relda Avenue	9401	1	(a) Map 2484 (b) not found	(a) not specified
22	2238-C	Lift Station	Fee	1058 Macopin Road	10204	5.05	DB 684, page 163	WM Twp Municipal Utilities Authority
	2238-C	Easement: access	Esmt	1062 & 1060 Macopin Rd.	10204	5.06 & 5.07	Map 3228	not specified
33	2238-D	Well Site	Fee	29 Wesley Drive	9406	22	DB I-104, page 161	WM Municipal Utility Authority
	2238-E	Sewerage Pump Station	Esmt	53 Bisset Dr.	9501	40	DB N-105 pg 81; DB O-115 pg 118	WM Twp Municipal Utilities Authority
Awosting								
23	2239-A	Sewer Treatment Plant	Fee	Long Pond Road	3802	3	DB T-81, page 659, Article 1	WM Township Muni. Utilities Authority
	2239-A	Limited esmt (15') for existing sanitary sewer	Esmt	Awosting Road	3802	2	DB T-81, page 659, Article 2	WM Township Muni. Utilities Authority
	2239-A	Esmt for existing drive on NUDEP property	Esmt	Awosting Road	3802	2	Not found in title search	
	2239-A	Access easement	Esmt	Awosting Road	3802	4.01	DB T-81, page 659, Article 1	WM Township Muni. Utilities Authority
		Sewer esmt on HOA recreation lot	Esmt	35 Long Pond Road	4105	1	DB 472, page 48	WM Twp Muni. Utilities Authority
24	2239-B	Wells and Reservoir Site	Fee	Awosting Road	4501	1	DB T-81, page 659, Article 6	WM Township Muni. Utilities Authority
30	2239-C	Sanitary Line Easement	Esmt	300 Awosting Road	4501	2	DB T-96, page 71, "subject to"	Awosting Sewer
	2239-C	Limited esmt for sanitary sewer & original STP	Esmt	East Shore Road	4501	3	DB T-81, page 659, Article 4 & 5	WM Township Muni. Utilities Authority

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5/8 List	Survey File	Description	Fee/ Esmt	Address	Tax Block	Tax Lot	Source	Grantee
Greenwood Lake								
25	2240-A	Wellhouse	Fee	Lake Park Terrace	4302	13	DB O-84, page 464	WM Twp Muni. Utilities Authority
26	2240-B	Water Storage Tanks	Fee	East Shore Road	4502	1	DB D-84, page 423	WM Twp Muni. Utilities Authority
	2240-B	Esmt for existing drive & tanks on DEP property	Esmt	East Shore Road	4502	2	Not found in title search	
Greenbrook								
27	2241-A	Tank and Well House Site	Esmt	Reidy Place	3503	18.02	DB B-123, page 325	Township of West Milford
	2241-A	Assets outside of esmt; water esmt on tax map	Esmt	Reidy Place	3503	18.02	Not found in title search	
	2241-A	Esmt for Well 1 which is outside of esmt area	Esmt	Lakeside Road	3401	1	Not found in title search	
	2241-A	Esmt for existing driveway	Esmt	73 Reidy Place	3401	6	Not found in title search	
28	2241-B	Esmt for Well 3	Esmt	Green Brook Drive	6702	1	DB K-132, page 448	WM Municipal Utilities Authority
Parkway								
29	2242-A	Wellhouse	Fee	Ridge Road	5503	1	DB Z-112, page 31	WM Municipal Utilities Authority