

# **RESPONSE DOCUMENT FOR THE FFY2007 PRIORITY SYSTEM DOCUMENT (CLEAN WATER FINANCING)**

The Clean Water Act and its amendments require the United States Environmental Protection Agency (USEPA) and the states to provide for and encourage public participation in the development and implementation of the federally supported Clean Water State Revolving Fund (CWSRF) Program. In New Jersey, the CWSRF is a component of the Environmental Infrastructure Financing Program (EIFP) that provides financing for a wide variety of wastewater, stormwater and nonpoint source pollution projects. The requirements for public participation activities also apply to the development and/or major revision(s) of the State's Priority System, Intended Use Plan and Project Priority List.

The response document addresses the comments made during the public participation process for the FFY2007 Proposal document (held in September/October 2006)

## Public Participation Process

On August 25, 2006, the New Jersey Department of Environmental Protection (Department) issued a notice regarding the availability of the FFY2007 Proposal document to the standard mailing list of approximately 1,200 potential applicants and other interested parties to seek public input. The standard mailing list includes municipalities, consulting engineers, environmental commissions, special interest groups, state legislators, county health departments, environmental groups, county planning boards and commissions and other interested parties. The notice identified various means to obtain complete a copy of the proposal and advised the public that a hearing was scheduled for September 27, 2006 and that the public comment period will close on October 2, 2006. The August 25, 2006 public notice satisfies the 30-day requirement for availability of relevant documents for the public's review in accordance with applicable federal rules.

On September 27, 2006 at 10:00 a.m., the Department held the public hearing at the offices of the New Jersey Environmental Infrastructure Trust located in Lawrence Township, New Jersey. The public hearing was chaired by Scott Shymon from the Bureau of Program Development and Technical Services, Municipal Finance and Construction Element (MF&CE), who presented information relevant to the Clean Water Priority System, Intended Use Plan and Project Priority List proposal. Adequate time was allocated for public comment and questions. However, no individuals from the public attended the hearing and no testimony was provided. A transcript of the hearing is available from the transcription services to any interested person or organization upon request. In addition, a copy of the transcript may be reviewed at the MF&CE's offices in Trenton.

One comment letter was received regarding the FFY2006 Proposal before the close of the comment period (October 2, 2006). The written comment was submitted by several individuals that reside in Denville Township concerning a specific project.

As part of the Department's FFY2007 Priority System proposal document, the Department indicated that it would be updating the Priority List later in the year to add projects that met the initial deadline for the 2007 Financing Program (October 2, 2006) and subject the updated list to a public participation process. The Department will be issuing a notice in early January to initiate that process.

## **SUMMARY OF PUBLIC ISSUES AND RESPONSES**

### COMMENT

One comment letter was received from several homeowners in the Kitchell Road section of Denville Township that do not believe that the sewer collection system project is needed based on the current condition of their septic systems. The homeowners are "very displeased" with the decision making process used by the Township and the financial, environmental and construction associated impacts of this project and requested that the Department consider these issues in the process of considering the Township's application to finance this project. (1)

### RESPONSE

The County Soils Maps indicate that the majority of the Township of Denville contains soils that are classified as either severely or moderately limiting for the construction of septic systems. As a result, a significant amount of septic system failures have been reported in the Township in recent years and have become health and public safety concerns as documented by the Township's Department of Health. Approximately 20 percent (46 of the 226 dwellings) of the properties in the Lower/Upper Kitchell Road area have reported septic system failures. In addition, residents have voiced complaints about odors as a result of the failing septic systems.

To insure a fair and open decision-making process in the allocation of public funds, the Department requires that every project targeted to be financed through the program comply with the provisions of NJAC 7:22-10, Environmental Assessment Requirements for State-Assisted Environmental Infrastructure Facilities. In the case of the Denville sewer collection system project, the project was classified as a Level 2 environmental review, one of the most stringent levels of review. This level of review is intended for projects that by their nature do not qualify for a Level 1 review due to potential long-term impacts to the environment, cultural resources or socioeconomics. The Level 2 environmental review requirements provide for a comprehensive evaluation of the direct and indirect impacts of the project, including water quality and hydrology, air quality, noise, cultural resources, natural resources, environmentally critical areas and social and economic factors. Included in this review is an evaluation of the financial, environmental and construction period impacts of this project that is thoroughly documented in an environmental decision document (EDD).

In addition, sponsors of Level 2 projects are required to conduct a public hearing and to receive public input regarding the proposed project in advance of the Department's preliminary determination to provide financial support for the project. When Level 2 environmental requirements are satisfied, a Level 2 EDD is issued by the Department, and distributed to a list of potentially interested or affected agencies and individuals to again solicit public comment for a 30-day period.

A public hearing was held by the Township of Denville on July 11, 2006 to receive public comments regarding the proposed project. Notice of the hearing was advertised on June 7, 2006. Planning documents were made available to the public and public comment was invited. Comments were made and questions asked by 15 members of the public that were in attendance. The Township and their representatives/consultants responded to the comments and answered questions at the meeting. Several commenters were in favor of the project, others opposed, and others concerned about the project cost and the potential for future development. The comments were generally consistent with those made at other public hearings for Level 2 projects that involve the construction of a new sewer collection system to replace failing septic systems. At that time, there were no substantive issues that the Department would consider an impediment to the project.

On July 28, 2006, the Department issued its Level 2 Environmental Decision Document (EDD) that indicated that the Department has made a preliminary decision to assist this project under the Environmental Infrastructure Financing Program and provided the public a 30-day comment period. No comments were received on the Department's issuance of the Level 2 EDD and the Department and the Trust certified the project for financing as part of its 2006 Financing Program.

The Denville sewer collection system EDD issued by the Department on July 28, 2006 is included as an appendix to this Response Document as additional information detailing the various aspects of review associated with this project prior to approval for financing.

As a final note, the Denville sewer collection system project has been removed from the Project Priority List since it has been awarded loans from the Department and the NJ Environmental Infrastructure Trust and the project is in the process of being implemented.

**RESPONDENT(S) TO THE FFY2007 PROPOSED PRIORITY SYSTEM DOCUMENT  
FOR CLEAN WATER FINANCING**

1. George Theodore Kubly, Nicholas Stecky, and Robert Swenson  
(Residents of Denville Township)

APPENDIX TO THE FFY2007 PRIORITY SYSTEM RESPONSE DOCUMENT

ENVIRONMENTAL APPRAISAL

**I. Project Identification**

Project Name:	Township of Denville Sanitary Sewer Extensions Lower/Upper Kitchell Road Area and Openaki/Franklin Road Area
Name and Address Of Applicant:	Township of Denville 1 St. Mary's Place Denville, NJ 07834
Project Number:	S340466-03
Project Location:	Township of Denville, Morris County

**II. Project Description**

The Township of Denville (township) is a mostly residential community located in the central portion of Morris County, within the Highlands Geophysical Province. The township is bordered by Mountain Lakes Borough to the east, Boonton Township to the northeast, Rockaway Township and Rockaway Borough to the north and west, Randolph Township to the southwest, and Parsippany-Troy Hills to the southeast (Figure 1). The township encompasses approximately 12.57 square miles and has a population of approximately 15,824.

Public sewers service a majority (approximately 87 percent) of the households of the Township of Denville. The township owns and operates a sanitary sewer collection and conveyance system. There are no publicly owned wastewater treatment plants located within the township. The majority of the wastewater generated within the Township of Denville is conveyed to the Rockaway Valley Regional Sewerage Authority (RVRSA) Wastewater Treatment Plant (WTP) in Parsippany-Troy Hills for treatment and discharge to the Rockaway River. A portion of the township's wastewater is conveyed to the Parsippany Sanitary Sewer Department's treatment plant for treatment and discharge to the Rockaway River. The portions of the township not serviced by the existing sanitary sewer collection and conveyance system (approximately 13 percent) use septic systems as a means of wastewater treatment.

The majority of the Township of Denville contains soils that are classified as either severely or moderately limiting for the construction of septic systems. As a result, a significant amount of septic system failures have been reported in the township in recent years and have become health and public safety concerns as documented by the township's department of health. The Lower/Upper Kitchell Road area is located in the northwest portion of the township (Figure 2).

Approximately 20 percent (46 homes in 226) of the properties in this area have reported septic system failures. The Openaki/Franklin Road area is located in the southwest portion of the township (Figure 3). Approximately 24 percent (12 homes in 50) of the properties in this area have reported septic system failures. In addition, residents have voiced complaints about odors as a result of the failing septic systems.

The proposed project will eliminate all existing septic systems in the Lower/Upper Kitchell Road and Openaki/Franklin Road areas of Denville Township and provide sanitary sewer service to 276 homes. The proposed project consists of the construction of a total of approximately 376 linear feet (LF) of 12-inch diameter sanitary sewers, approximately 24,600 LF of 8-inch diameter gravity sanitary sewer main and 5,010 LF of 2-inch and 2½-inch diameter low-pressure sewers including manholes and appurtenances. Grinder pumps will be required for approximately 75 individual dwellings due to topographic constraints. All flows from the proposed project areas will be conveyed to the RVRSA WTP in Parsippany-Troy Hills for treatment and discharge to the Rockaway River.

The Openaki/Franklin Road area is located in the southern portion of the township. The area is zoned residential with 50 existing dwellings that are to be connected to the sanitary sewer system by the proposed project. The proposed collection system in this area would consist mainly of gravity sewer mains. Due to topographic constraints in this area, grinder pumps with low-pressure sewer mains are proposed for approximately five individual dwellings. The portion of the project on Openaki Road that extends from approximately 180 feet southwest of Neben Place to approximately 640 feet northeast of Mount Pleasant Turnpike on Franklin Road will connect with an existing 8-inch diameter township sewer main in Mount Pleasant Turnpike south of Openaki Road. The portion of the project on Franklin Road beginning approximately 590 feet southwest of Semrau Road will connect with an existing 8-inch diameter township sewer main in Semrau Road south of Franklin Road.

The Lower/Upper Kitchell Road area is located in the northern portion of the township. The area is zoned residential with 226 existing dwellings that are to be connected to the sanitary sewer system by the proposed project. Portions of this area have dry sanitary sewers in place, which will be utilized by the proposed project. The proposed collection system in this area will consist of a mix of gravity and low-pressure sewer mains. Due to topographic constraints in this area, grinder pumps are proposed for approximately 70 individual dwellings. A portion of the proposed sanitary sewer mains will require the acquisition of several proposed utility easements. Freshwater wetlands and wetland buffers are present within most of the proposed easements which is further described on page 6 in the Environmentally Critical Areas section of this EDD. The Lower/Upper Kitchell Road area portion of the project will connect to an existing 8-inch diameter sewer main approximately 380 feet east of Spear Lane and to an existing 8-inch diameter sewer main in Kitchell Road approximately 190 feet west of Hillcrest Drive. In addition, the existing roadway along Freeman Lane is inadequate to permit two-way traffic during the installation of the sanitary sewers. Therefore, road improvements will be constructed during the installation of the sanitary sewers to allow emergency access. Full width roadway restoration is proposed along Freeman Lane.

### **III. Evaluation of Alternatives**

#### **A. No Action**

Under this alternative, septic systems in the project area would continue to fail. The probability of contamination of ground and surface water caused by failing septic systems would continue to increase causing health and public safety concerns. Because the no action alternative does not meet the existing water quality needs of the project area it was rejected.

#### **B. Lower/Upper Kitchell Road Area and Openaki/Franklin Road Area Sanitary Sewer Extensions (Selected Plan)**

This alternative, as described in Section 1, is cost-effective and will have the least environmental impact on the project area. The extension of the Denville Township gravity sewer system will eliminate the continued risk of contamination of ground and surface water by failing septic systems in the project area and the resulting health and public safety concerns. Therefore, this was the alternative selected.

### **IV. Environmental Consequences of the Selected Plan**

#### **A. Direct and Indirect Impacts**

##### Water Quality and Hydrology

The entire proposed project area is located within the boundaries of the Unconsolidated Quaternary Aquifer in the Rockaway River Basin, which is a designated sole source aquifer under the Federal Safe Drinking Water Act. Implementation of the proposed project will not have an adverse impact on surface or ground water quality. Water quality will be improved by eliminating the failing septic systems, which degrade water quality. The elimination of septic systems in the project area will reduce groundwater recharge and may cause minor localized reduction of groundwater levels. This impact is expected to be of minimal significance and will be offset by an improvement in groundwater quality resulting from removal of pollutants associated with septic tank effluent. In addition, implementation of the proposed project will not have an adverse impact on wastewater treatment infrastructure capacities of the township sanitary sewer system or the RVRSA facility.

The proposed project will result in a wastewater flow increase of approximately 82,800 gallons per day (GPD) to the township sanitary sewer system. The township's sanitary sewer collection system connects to a RVRSA interceptor located in the center of the township and is conveyed to the RVRSA WTP in Parsippany-Troy Hills for treatment and discharge to the Rockaway River. The RVRSA WTP has a rated design capacity of 12 million gallons per day (MGD) and an average daily flow of 10 MGD. Existing wastewater flows to the Township of Denville and ultimately to RVRSA facilities are consistent with the Water Quality Management Plan's designated service area and New Jersey Pollution Discharge Elimination System (NJPDES) permit flow limitations (NJPDES – DSW permit No. NJ0022349). Treatment Works Approval

permit No. 06-0324 that permits the construction of the sewer extension to serve the proposed project area with a maximum design flow limit of 82,800 GPD is pending.

The majority of the area proposed for sewer service is currently served by an existing water supply system owned and operated by the township. The remaining portion of the project area is served by individual wells. Therefore, it is anticipated that elimination of the failing septic systems will have a positive impact on the water supply in the project area.

The proposed project does provide capacity for infill development, which has the potential to increase nonpoint source water pollutants in stormwater runoff. Nonpoint source water pollution problems in New Jersey are currently in the process of being addressed through a number of initiatives including watershed management planning.

The proposed sewers will involve several crossings and parallel runs with the existing water mains. The existing water supply system is owned and operated by the township. No modifications to the existing water supply system are proposed as part of this project. The sewers are designed at a minimum spacing of 18-inches below the inverts of the water mains where possible; a minimum 12-inch vertical spacing and concrete encasement of the sewer is proposed where an 18-inch minimum spacing is not possible. All sewer mains have been designed at a minimum depth of 3 feet below grade and are typically deeper. In addition, efforts have been made to maintain a minimum horizontal separation of 10 feet from water mains wherever possible.

Water quality and hydrology will not be adversely impacted by the proposed project. No significant direct, long-term adverse impacts on water quality are expected as a result of this project. No significant point sources of water pollution will be created as a result of this project.

Construction activities may result in soil erosion which will be minimized by requiring effective erosion control measures to be used during construction in accordance with the "Standards for Soil Erosion and Sediment Control in New Jersey" and the "Environmental Assessment Requirements for State Assisted Environmental Infrastructure Facilities" (NJAC 7:22-10).

Dewatering may contain silt, which can adversely affect surface water quality, as well as land or aquatic systems to which silt-laden dewatering is discharged. This impact will be minimized by requiring use of settling basins, as necessary, to control silt prior to discharge.

### Air Quality

No significant direct, long-term impacts on air quality are expected as a result of this project. No significant point sources of air pollution will be created as a result of this project.

As a result of construction of this project, there may be some short-term impacts on air quality. These include increased vehicular emissions from construction equipment and generation of dust from earth-moving operations. These impacts will be temporary and localized. Further, these

impacts will be minimized by requiring proper operation and maintenance of construction equipment and daily sweeping and wetting of the construction area for dust control.

### Noise

There will be some short-term, localized noise impacts during the construction period. These impacts are unavoidable but will be minimized by requiring construction vehicles to be equipped with proper mufflers, limiting the number of machines in operation, and limiting construction to avoid weekends and holidays.

### Cultural Resources

A Stage I Cultural Resources Survey was completed to determine if the proposed project in Denville would affect significant cultural resources. Background research and archaeological testing was conducted throughout the project area. There are no buildings that will be affected by the project, and no archaeological resources that will be affected in the Upper/Lower Kitchell Road part of the project area. In the Openaki Road/Franklin Road area, a stone feature with some associated brick was identified near the site of an 1816 schoolhouse that used to stand at the present corner of Openaki Road and Mount Pleasant Turnpike. This feature was uncovered in front of the restored Second Union Schoolhouse, which was built sometime between 1860 and 1870 at the same site as the 1816 schoolhouse. It was described in the report as appearing to be a stone foundation. However, because it is approximately 20 feet from the location of the sewer construction, it will be unaffected by the project. Further, it is believed that the early construction of roads near this foundation makes it unlikely that additional remnants of it exist beneath Openaki Road. The Mount Pleasant Turnpike was built in 1806, some ten years before the schoolhouse. The Department concurs with the findings of the report, and has determined that there will be no effect to cultural resources listed or eligible for listing on the New Jersey or National Registers of Historic Places by the proposed sewer project in Denville.

### Natural Resources

Construction of the proposed project in the Openaki/Franklin Road area will occur by open cut excavation entirely within the existing roadway. In the Lower/Upper Kitchell Road area the majority of the proposed project will be constructed by open cut excavation within the existing roadways and easements. However, construction of a portion of the proposed sanitary sewer mains will require the acquisition of several proposed utility easements. Freshwater wetlands and wetland buffers are present within most of the proposed easements. Potential impacts to wetlands and wetland transition areas are further described in the following Environmentally Critical Areas section of this EDD.

Direct project construction impacts to areas with mature vegetation will be unavoidable. All natural areas disturbed by the project, which will not be needed for continuing operation and maintenance will be restored with native vegetation. Grassed areas will be restored with grass to the maximum extent practical. All landscaped areas will be restored to pre-disturbance condition or better.

### Environmentally Critical Areas

The entire project area is located within the designated Highlands Planning Area. Approximately 6,820 linear feet of the 8-inch diameter gravity sewer alignment will be constructed by open cut excavation through wetlands and wetland transition areas. Construction of the proposed project will result in the temporary disturbance of approximately 2.67 acres of freshwater wetlands of exceptional resource value, freshwater wetland transition areas and state open waters. Trees and understory vegetation will be cleared within the new 20 foot wide utility easements behind the existing homes north of Kitchell Road, Whitman Drive and Cedar Terrace. The majority of this area is moderately forested with typical wetlands understory vegetation. The township will not be maintaining a clearing over the sewer line in areas where it intersects freshwater wetlands or transition areas.

Construction of the proposed project will result in the permanent above ground disturbance of approximately 0.004 acres of freshwater wetland transition areas for the installation of manholes. The proposed construction requires a Land Use Regulation Program (LURP) General Permit No. 2. In addition, the construction alignment will cross two tributaries of Beaver Brook, which will require a LURP stream encroachment permit.

Wood turtle (*Clemmys insculpta*), a State threatened species (Figure 4) and Indiana bat (*Myotis sodalis*), a Federal endangered species, habitat occurs within the proposed Kitchell Road construction area. Wetlands and threatened and endangered species habitat disturbance is subject to LURP requirements. No other endangered and threatened wildlife species are known to exist in the construction area. No plant communities of special concern are known to exist within the project area.

All LURP permits must be issued prior to construction in environmentally sensitive areas. The proposed project will not result in any direct or indirect adverse impacts to Agricultural Development Areas, important farmlands, floodplains, steep slopes, parks and preserves or designated wild and scenic rivers.

### Social and Economic Factors

The project is intended to serve a predominantly developed area. As the Department supports the award of financing to facilitate improvement of inadequate infrastructure to encourage development and the channeling of growth in areas of the State that have already been developed, funding of the proposed project is consistent with New Jersey's smart growth objectives.

Construction of the proposed project will cause short-term nuisances to residents as a result of noise, dust, traffic congestion and impeded access to residences. These impacts will be localized and temporary, and will be mitigated as previously described for noise and dust. In addition, there will be requirements for maintaining access for homeowners and emergency vehicles.

The average per household user charge in the Denville Township service area is approximately \$300 per year and is not expected to increase as a result of the proposed project. The median annual household income within the Township of Denville is \$95,693 (updated to June 2006) according to the U.S. Census Bureau. The existing annual sewer user charge is 0.31 percent of the median annual household income and, therefore, is not considered to be excessive.

B. Steps to Minimize Adverse Effects to the Environment

Siting of facilities to avoid important natural resources and critical areas to the greatest extent possible has been the main mechanism to ensure that there will not be any significant adverse impacts to the environment. In addition, the use of proper construction techniques and constraints will minimize and mitigate any potential for adverse effects of the proposed construction on the environment. Included are:

- ? use of proper erosion and sediment control measures such as hay bales and mulching, in accordance with the "Standards for Soil Erosion and Sediment Control in New Jersey" and the "Environmental Assessment Requirements for State Assisted Environmental Infrastructure Facilities" (N.J.A.C. 7:22-10);
- ? dust control by wetting down and sweeping the construction sites. No chemicals will be used;
- ? noise control by requiring construction vehicles to have proper mufflers, limiting the number of machines in operation, limiting the hours of operation to normal working hours and limiting construction to avoid weekends and holidays;
- ? testing and treatment, as necessary, of dewatering to control silt or other contaminants that may be present;
- ? protection of specimen trees adjacent to construction areas with appropriate measures such as snow fencing or batter boards;
- ? restoration of vegetated areas temporarily disturbed during construction with native species;
- ? avoiding environmentally sensitive areas, such as wetlands, floodplains and sites with mature vegetation, in locating stockpile, storage and erosion/siltation control measures;
- ? scheduling of construction activities to minimize disruption of traffic flow;
- ? use of adequate safety measures associated with excavation, including marking with lights and signs and appropriate detours; and
- ? ensuring that all necessary permits are obtained prior to the installation of construction activities.

## V. Coordination of the Environmental Review

### A. Public Participation

A public hearing was held by the Township of Denville on July 11, 2006 to receive public comments regarding the planning for the proposed project. Notice of this hearing was advertised in "The Citizen of Morris County" on June 7, 2005. Planning documents were made available to the public and public comment was invited. Comments were made and questions asked by 16 members of the public that were in attendance. All questions were answered to the attendee's satisfaction. There are no objections to the project on file with the Department.

### B. Agencies Consulted About the Project

New Jersey Department of Environmental Protection  
-Land Use Regulation Program  
-New Jersey Historic Preservation Office  
-Division of Water Quality  
Denville Township  
Denville Township Department of Health  
Morris County Soil Conservation District  
Rockaway Valley Regional Sewage Authority

### C. Reference Documents

1. Report entitled "Township of Denville, Sewer Feasibility Study," prepared by Hatch Mott MacDonald, dated November 2003.
2. Project Planning Report entitled "Township of Denville, Sanitary Sewer Extensions - Lower/Upper Kitchell Road Area and Openaki/Franklin Road Area, Level II Planning Document," prepared by Hatch Mott MacDonald, dated February 2006.
3. Project Planning Report entitled "Denville Sanitary Sewer Extension, Environmental Report," prepared by Hatch Mott MacDonald, dated May 2006.
4. Project Plans and Specifications entitled "Township of Denville, Morris County, New Jersey, Sewer Extension Project, Lower/Upper Kitchell Road Area and Openaki/Franklin Road Area, State Loan Project No. S340466-03, Contract No. 1" prepared by Hatch Mott MacDonald, dated February 2006.
5. Project Treatment Works Approval permit No. 06-0324 (pending) and all supporting documentation.
6. "Management Summary, Stage I Cultural Resources Survey, Sanitary Sewer Extensions, Lower/Upper Kitchell Road and Openaki/Franklin Road, Township of Denville, Morris County, New Jersey", by Megan Springate, Richard Grubb & Associates, Inc., Cranbury, NJ, July 2006.
7. Project correspondence.