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Public Notice

ENVIRONMENTAL PROTECTION

WATER RESOURCE MANAGEMENT

DIVISION OF WATER MONITORING AND STANDARDS

Adopted Amendment to the Northeast Water Quality Management Plan

Take notice that on May 2, 2019, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Statewide Water Quality Management Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment (Program Interest No. 435442, Activity No. AMD180004) to the Northeast Water Quality Management (WQM) Plan. This amendment expands the sewer service area (SSA) of the Northwest Bergen County Utilities Authority (NWBCUA) by 0.2 acres to serve a proposed residential development on a portion of Block 149, Lot 20, Mahwah Township, Bergen County. The proposed project, identified as "Rizzi-Fasciano Development," consists of two single-family dwelling units that would generate a projected wastewater flow of 600 gallons per day (gpd) to be received by the NWBCUA wastewater treatment facility, NJPDES No. NJ0024813, based on flow calculated in accordance with N.J.A.C. 7:14A-23.3. The Department determined that there are no environmental sensitive areas (i.e. wetlands, Category 1 waters, Natural Heritage Sites, or endangered and threatened species wildlife habitat) located within the expanded SSA. Preliminary notice of this amendment was published in the New Jersey Register on February 4, 2019 at 51 N.J.R. 175(a). No comments were received during the public comment period.

This amendment has been reviewed pursuant to the Water Quality Management Planning rules at N.J.A.C. 7:15. This notice represents the Department's determination that the amendment is compliant with the regulatory criteria at N.J.A.C. 7:15-3.3, 3.5, 4.4 and 4.5, as described below.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to modifications of the eligible SSA needed to address a specific project or activity. N.J.A.C. 7:15-3.5(j)2 requires that site

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specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater flow must update the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b) to include the proposed project or activity. The proposed project involves less than 100 acres and will generate less than 20,000 gpd of wastewater; therefore, update of the wastewater treatment capacity analysis is not required.

In accordance with N.J.A.C. 7:15-3.5(g)6, the Department instructed the applicant to request written statements of consent from Mahwah Township, Bergen County, and the NWBCUA. A statement of consent from a governmental entity must be in the form of a resolution adopted by the entity's governing body. Mahwah Township adopted Resolution #080-19 on February 7, 2019 approving the proposed amendment. Bergen County did not offer a position in support or opposition of the proposed amendment. The NWBCUA adopted Resolution 16-2019 on February 19, 2019 consenting to the proposed amendment.

In accordance with N.J.A.C. 7:15-3.5(h), applicants for proposals in the Highlands Region must simultaneously submit the application to both the Department and the Highlands Council to provide an opportunity for the Highlands Council to submit comments prior to the Department rendering a decision on the application. The proposed project is located within an Existing Community Environmentally Constrained Subzone of the Highlands Planning Area portion of Mahwah Township. Mahwah Township is a Highlands conforming municipality as defined at N.J.A.C. 7:15-1.5 because its Regional Master Plan (RMP) conformance petition has been approved by the Highlands Council and it has adopted a planning area conformance petition ordinance and land use ordinance amendments consistent with that approval. The Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability provisions of the RMP and issued a letter received by the Department on June 12, 2018 stating that the proposed project is consistent with the RMP because the applicant intends to implement water-saving indoor fixtures to reduce the amount of depletive water use, maintain a vegetative filter strip near the

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project site and deed restrict the entire parcel after construction is complete, which should address concerns about flooding and low recharge rate from the high ground water table.

Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSAs, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l): environmentally sensitive areas (ESAs) identified under N.J.A.C. 7:15-4.4(e) as endangered or threatened wildlife species habitats, Natural Heritage Priority Sites, riparian zones of Category One (C1) waters and their tributaries, or wetlands; coastal planning areas identified under N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions under N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the project site using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <http://www.nj.gov/dep/gis/listall.html> and/or other information as noted below, to determine the presence of any such areas in accordance with N.J.A.C. 7:15-4.4(e) through (g) and made the following findings:

- The Department determined that the expanded sewer service does contain areas mapped as Rank 4 endangered or threatened wildlife species habitat for Timber Rattlesnake on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife based on the "Landscape Project Data" Version 3.3 GIS data layers in accordance with N.J.A.C. 7:15-4.4(e)1. However, based upon a habitat suitability determination prepared pursuant to N.J.A.C. 7:15-4.6, the Department determined that the expanded SSA does not feature suitable habitat for Timber Rattlesnake due to the high degree of housing development surrounding the project site and the close proximity to Interstate 287, which do not allow Timber Rattlesnakes to access the site.
- The Department determined that the expanded SSA does not contain any areas mapped as Natural Heritage Priority Sites based on the "Natural Heritage Priority Sites" GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)2.

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- The Department determined that the expanded SSA does not contain any C1 waters or their corresponding 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC-14 watershed of any C1 waters based on the “Surface Water Quality Standards” GIS data layer in accordance with and N.J.A.C. 7:13-4.1(c)1 and N.J.A.C. 7:15-4.4(e)3.
- The Department determined that the project site does contain wetlands based on the “Wetlands 2012” GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)4; however, the expanded SSA includes only 0.2 acres of the 9.2-acre property and, pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File #0233-16-0004.1/FWW160001 and Flood Hazard Verification File #0233-16-0004.1/FHA160002 confirming that there are no wetlands within the expanded SSA. The applicant has executed a Grant of Conservation Restriction/Easement, recorded April 21, 2017, naming the Department as Grantor and establishing the remaining nine acres of the property as a Restricted Area in perpetuity.
- The Department determined that the expanded SSA does not contain any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas mapped on the CAFRA Planning Map based on the “CAFRA Layers” GIS layer in accordance with 7:15-4.4(f).
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project site based on the USEPA list of New Jersey Counties with ESA Grant Conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2> in accordance with N.J.A.C. 7:15-4.4(g).

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans and determined that the expanded SSA is consistent with land uses allowed by local zoning and the county and local master plans. This determination is supported by the aforementioned resolution adopted by Mahwah Township.

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Sewer service is not guaranteed by this amendment. This amendment represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA as a result of the approval of this amendment does not eliminate the need to obtain all necessary permits, approvals, or certifications required by any Federal, State, County, or municipal review agency with jurisdiction over this project/activity.

May 2, 2019

Date

SIGNED _____

Bruce S. Friedman, Director

Division of Water Monitoring and Standards