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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATERSHED AND LAND MANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Adopted Amendment to the Northeast and Upper Raritan Water Quality Management

Plans

Public Notice

Take notice that on **July 22, 2022**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Northeast and Upper Raritan Water Quality Management (WQM) Plans. This amendment, identified as “KRE Mine Hill” (Program Interest No.435442, Activity No. AMD200005 and Program Interest No.435434, Activity No. AMD200010), alters the sewer service area (SSA) of the Rockaway Valley Regional Sewerage Authority (RVRSA) by adding 14 acres to serve a 390-unit residential development with a clubhouse and pool on portions of Block 1102, Lot 1 and Block 1502, Lot 1, Mine Hill Township, Morris County. Additionally, 16 acres of the project site that were in the SSA have been removed from the SSA with this amendment due to the presence of Environmentally Sensitive Areas (ESAs.) As calculated in accordance with N.J.A.C. 7:14A-23.3, the project would generate a projected

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wastewater flow of 80,500 gallons per day (gpd) to be received by the RVRSA Wastewater Treatment Plant (NJPDES No. NJ0022349).

Preliminary notice of this amendment was published in the New Jersey Register on December 6, 2021 at 53 N.J.R. 2091(a). No comments were received during the comment period. This notice represents the Department's determination that the amendment complies with the applicable regulatory criteria at N.J.A.C. 7:15, as described below.

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 Mine Hill Township, the Morris County Board of County Commissioners, RVRSA, New Jersey Water Supply, and the New Jersey Highlands Council. On December 16, 2021, Mine Hill Township passed Resolution 167-21, consenting to the amendment. In an email dated December 7, 2021, Morris County stated that they took no position on the amendment. In an email dated November 30, 2021, in lieu of passing a resolution, the New Jersey Highlands Council reaffirmed the position in their May 6, 2021 letter that the project is consistent with the Highlands RMP. No other resolutions were received for the project.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to alterations 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 specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater flow shall include a proposed modification to 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

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but will generate more than 20,000 gpd of wastewater. Because the project was anticipated at the time of the development of the recently adopted Mine Hill municipal chapter of the Morris County Wastewater Management Plan (WMP), the wastewater flow projections associated with the project were previously included in the current wastewater treatment capacity analysis. However, at the time of the WMP development, the proposed SSA to accommodate the project could not be fully included due to environmental constraints which are addressed by this amendment.

The proposed project is located within the Highlands Region, as defined in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7.a. As delineated in the Highlands Regional Master Plan (RMP), the proposed project property is located within the Protection Zone of the Highlands planning area. Mine Hill Township has not opted to conform with the Highlands RMP. However, pursuant to Executive Order 114 (2008), the Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability (NWA) provisions of the RMP. In a letter dated May 6, 2021, the Highlands Council determined that the proposed project is consistent with the RMP. Although the project is located within a HUC14 with a NWA deficit, Mine Hill Township completed a Scope of Work and signed a Tri-Party Agreement for development of a municipal Water Use and Conservation Management Plan (WUCMP.) The applicant has committed to assisting Mine Hill Township with the implementation of the WUCMP once it is adopted. Implementation of water conservation strategies that are to be adopted by Mine Hill Township will assist with a NWA deficit that is classified as severe. The applicant shall provide documentation to the

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Highlands Council that will describe the anticipated participation and role they will play in the implementation of specific conservation measures.

Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSA, except as otherwise provided at N.J.A.C. 7:15-4.4(i), (j), (k) and (l): ESAs identified under N.J.A.C. 7:15-4.4(e) as any contiguous area of 25 acres or larger consisting of any of the following, alone or in combination: endangered or threatened wildlife species habitat, Natural Heritage Priority Sites, riparian zones of Category One (C1) waters and their tributaries, or wetlands; coastal planning areas identified at N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions pursuant to 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), (f) and (g) and made the following findings:

- The Department determined that the expanded SSA contains areas mapped as endangered or threatened wildlife species habitat for Northern Myotis and Indiana Bat (Rank 5) 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. The Department determined that 5.91 acres of forested area of suitable habitat would be impacted by the project and that, in accordance with N.J.A.C. 7:15-4.4(k)3 and 4.7(e)1ii, implementation of conservation measures to minimize to the maximum extent practicable all adverse modification of

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suitable habitat and to mitigate for any such adverse modifications, was necessary.

Pursuant to N.J.A.C. 7:15-4.4(k), the applicant submitted a Habitat Impact Assessment (HIA) prepared by EcoSciences, Inc., in accordance with N.J.A.C. 7:15-4.7, proposing several conservation and mitigation measures, including the placement of a conservation restriction easement on the undeveloped portions of the project property and removal of 16 acres of the project site from the currently approved SSA. The Department determined that the habitat being impacted is not necessarily of high quality and the amount of acreage to be reforested will increase, over a relatively short time period, the available habitat for the two bat species. In addition, the proposed conservation actions will also serve to restore areas of wetland and wetland transition area historically cleared and serve to minimize impacts to wetlands and waters associated with a C1-Trout Production stream. The Department concluded that the implementation of these conservation measures will minimize to the maximum extent practicable all adverse modification of suitable habitat and will mitigate for any such adverse modification in a manner that provides for no net loss of habitat value to endangered or threatened species including the local potential population of the species. The Conservation Deed Restriction, covering 27.33 acres of the project site, includes the following mitigation measures:

- Adhering to seasonal restrictions to clearing trees of 3-inch or greater Diameter Breast Height from April 1 to November 15;
- Reforesting 12.6 acres on Block 1502, Lot 1 and 2.71 acres on Block 1102, Lot 1 with bat-preferred tree species;

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- Placing Jackson Brook, its associated riparian zone, wetlands, and all wooded portions of the project site not proposed for tree clearing into a conservation easement that permanently preserves the land;
- Tree girdling of red maples, sugar maples, and American elms to encourage habitat enhancement in the short-term for roosting bats;
- Limiting lighting impacts using downward facing lights, shields, and/or timers;
- Avoiding the application of fertilizers or pesticides within 100 feet of wetlands and waterbodies;
- The applicant will avoid use of chemicals (e.g. copper sulfate) in stormwater basins.

The conservation restriction runs with the properties and is binding on all successive owners, their agents and assigns, and was executed, filed and recorded with the Morris County Clerk on June 29, 2022.

- 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.
- The Department determined that there are riparian buffers of the Lamington River and Jackson Brook, both C1 waterways, on the project site; however, the expanded SSA does not contain any C1 waters or 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC14 watershed of any C1 waters based the “Surface Water Quality Standards” GIS data layer in accordance with N.J.A.C. 7:13-4.1(c)1 and N.J.A.C.

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7:15-4.4(e)3. Additionally, the riparian buffers are located within the area that was removed from the SSA and are protected by the conservation easement placed on the project site.

- The Department determined that there are wetlands located on the project site based on the “Wetlands 2012” GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)4; however, pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter of Interpretation/Line Verification (File #1420-17-0005.1, FWW170001) confirming that there are no wetlands within the expanded SSA.
- 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).
- In accordance with N.J.A.C. 7:15-4.4(g), the Department determined that there are applicable 201 Facilities Plan grant conditions based on the U.S. Environmental Protection Agency (USEPA) list of New Jersey Grantees with ESA Grant Conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2>. Wastewater generated by the project will be conveyed to the RVRSA, which is subject to a Federal ESA grant condition included in the grant agreement executed between the RVRSA and the USEPA under Project Number C-34-389-02 and Project Number C-34-389-06. The ESA grant condition prohibits any sewer connection to Federally-funded facilities from any sewage-generating structure located on a parcel of

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property containing wetlands, prime agricultural land or within the 100-year floodplain unless a mapping revision or grant waiver is obtained from the USEPA. A request for a grant waiver for the proposed project was submitted to the USEPA by the RVRSA on May 20, 2021. On July 9, 2021, a partial waiver of the ESA grand condition was approved by the USEPA. The sewer connection restriction remains in effect for the wetlands and floodplains on the site. Any modification to this project resulting in disturbances to wetlands and floodplains will require a resubmittal to the USEPA for a revised determination, and the sewer connection restriction of the special grant condition remains in effect for any future construction.

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. The project is part of a redevelopment plan adopted by Mine Hill Township on February 21, 2019 (Ordinance 06-19) and received a resolution in support of the amendment from the Township Council of Mine Hill on January 7, 2021. In an email dated August 11, 2021, Morris County took no position on the amendment.

Sewer service is not guaranteed by the adoption of this amendment since it 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.

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7/22/2022

Date

SIGNED

Gabriel Mahon, Bureau Chief

Bureau of NJPDES Stormwater Permitting and Water Quality Management

Division of Watershed Protection and Restoration

NJ Department of Environmental Protection