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ENVIRONMENTAL PROTECTION

WATERSHED AND LAND MANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Adopted Amendment to the Northeast Water Quality Management Plan

Take notice that on April 2, 2024, 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 Rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Northeast Water Quality Management (WQM) Plan in accordance with 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 amendment, identified as the “Collins Brook Estates” (Program Interest No. 435442, Activity No. AMD230003) expands the sewer service area (SSA) of the Livingston Water Pollution Control Facility (WPCF) (NJPDES No. NJ0024511) by 0.51 acres to serve a proposed residential development located on a portion of Block 2700, Lots 62 and 63, in Livingston Township, Essex County. Most of the 1.791-acre project site is located within the currently adopted SSA. Two existing homes on the site will be removed and replaced with 32 two- and three-bedroom townhouse/apartment units in five separate buildings (comprised of 3 two-bedroom apartments, 3 three-bedroom apartments, 18 two-bedroom townhouses and 8 three-bedroom townhouses.) The portion of the property that was located outside of the currently adopted SSA will include 2 three-bedroom apartments, one two-bedroom apartment, 2 three-bedroom townhouses and 4 two-bedroom townhouses. The portion of the project that

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was located outside of the SSA will generate 2,325 gallons per day (gpd) of the total 8,025 gpd based on flow calculated in accordance with N.J.A.C. 7:14A-23.3.

Preliminary notice was published in the New Jersey Register (N.J.R.) on February 20, 2024, at 56 N.J.R. 300(a). No comments were received during the comment period. This notice represents the Department's determination that the amendment is compliant with the 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 a written statement of consent from the Township of Livingston and the Essex County Board of County Commissioners. The Township of Livingston adopted Resolution #24-088 on February 5, 2024, consenting to the proposed amendment. The Essex County Board of County Commissioners adopted Resolution #R-2024-00194 on March 16, 2024, consenting to the proposed amendment.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations to 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 project involves less than 100 acres of SSA and will generate

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less than 20,000 gpd of wastewater flow; therefore, update of the wastewater treatment capacity analysis is not required.

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): environmentally sensitive areas (ESAs) identified pursuant to 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 <https://gisdata-nidep.opendata.arcgis.com> 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 sewer service area contains areas mapped as threatened and endangered wildlife species Rank 4 Bald Eagle foraging habitat 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 applicant submitted a Habitat Suitability

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Determination/Habitat Impact Assessment (HSD/HIA), prepared by E2 Project Management LLC, prepared pursuant to N.J.A.C. 7:15-4.6 and-4.7. Based on review of the HSD/HIA and existing information, the Department determined that the project site is sufficiently distant from the Canoe Brook foraging habitat. That factor, combined with the level of development on adjacent parcels and quality of the overall habitat allowed the finding that the project would thus result in minimal or discountable impacts to the bald eagle foraging habitat.

- 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 the expanded SSA does not contain any C1 waters or 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 N.J.A.C. 7:13-4.1(c)1 and 7:15-4.4(e)3.
- The Department determined that the expanded SSA does not contain wetlands based on the “Wetlands 2012” GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4. The applicant provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File # 0710-22-0007.1, confirming that there are no wetlands within the expanded sewer service area.
- The Department determined that the expanded SSA does not contain any areas mapped as Fringe Planning Areas, Rural Planning Areas, or Environmentally Sensitive Planning Areas

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within the Coastal Area Facility Review Act (CAFRA) zone based on the “CAFRA (polygon)” GIS layer and the “State Plan Data” GIS layer, in accordance with N.J.A.C. 7:15-4.4(f).

- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project 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> 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 adopted zoning ordinances, future land uses shown in adopted municipal and county master plans, and other local land use objectives. The project received Planning Board approval, including Conditional Site Plan Approval on September 20, 2022, from the Township of Livingston Planning Board. As stated in the October 6, 2023, Letter from the Livingston Township Engineer, the project received Planning Board Approval and is consistent with the Township Master Plan. The Essex County Department of Public Works Planning Board issued a letter dated November 5, 2023, stating the site plan was approved by the Essex County Planning Board on October 25, 2022, and the project is consistent with the goals of the Essex County Plan and County planning objectives and goals.

Sewer service is not guaranteed should this amendment be adopted as it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA

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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.

4/2/2024

A handwritten signature in blue ink that reads "Gabriel Mahon". The signature is written in a cursive style and is positioned above a horizontal line.

Date

Gabriel Mahon, Bureau Chief
Bureau of NJPDES Stormwater Permitting and Water Quality Management
Division of Watershed Protection and Restoration
NJ Department of Environmental Protection