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DEPARTMENT OF ENVIRONMENTAL PROTECTION

WATER RESOURCES MANAGEMENT

DIVISION OF WATER MONITORING AND STANDARDS

Adopted Amendments to the Ocean County Water Quality Management Plan

Public Notice

Take notice that on August 28, 2018, 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 three amendments to the Ocean County Water Quality Management (WQM) Plan (Program Interest No. 435448, Activity No.'s AMD160002, AMD170003, and AMD170005). These amendments expand the sewer service area (SSA) of the Ocean County Utilities Authority (OCUA) Northern Water Pollution Control Facility to include 3.3 acres for three proposed projects: "Salem Street", "1544 Salem Street", and "Mesivta Nezer Hatorah", all located in Lakewood Township, Ocean County.

Two of these projects, Salem Street (AMD160002) and 1544 Salem Street (AMD170005) were submitted by Aaron Perlow on behalf of Congregation Maalos Hatorah to include in the OCUA SSA a proposed 0.6 acre, three-unit residential development on a portion of Block 1159, Lot 48 and a proposed 1.5 acre, five-unit duplex (two families per unit) residential development on portions of Block 1159, Lots 46 and 47. Both projects are located on the southbound side of Salem Street, west of New Hampshire Avenue (County Route 623). The third project, Mesivta

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Nezer Hatorah (AMDAMD170003) was submitted by Tony D Environmental Permitting on behalf of Mesivta Nezer Hatorah to expand the OCUA SSA to include the 1.2-acre site of an existing private school on Block 1123, Lots 1 and 8 located east of Vine Avenue and north of Essex Avenue (also known as Vermont Avenue). The existing school is currently served by an individual subsurface sewage disposal system (ISSDS) but, due to the increased wastewater flow that will be generated from construction of a proposed 25-bed dormitory within the existing school campus, the ISSDS will be replaced with a sewer connection to the OCUA facility.

Preliminary notice for Mesivta Nezer Hatorah was published in the New Jersey Register on February 5, 2018 at 50 N.J.R. 864(a). Preliminary notice was published in the New Jersey Register on April 2, 2018 at 50 N.J.R. 1115(a) for Salem Street and at 50 N.J.R. 1113(a) for 1544 Salem Street. No comments were received during the comment period.

These amendments have 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 these amendments are compliant with the regulatory criteria at N.J.A.C. 7:15-3.5 and 4.4 and serves as public notice of the Department's final decision on these amendments pursuant to N.J.A.C. 7:15-3.5(g)11. Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as Environmentally Sensitive Areas (ESAs), certain coastal planning areas, or areas subject to US Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

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Pursuant to N.J.A.C. 7:15-4.4(e), ESAs are any contiguous area, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Rank 3, 4, or 5; areas mapped as Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300-foot riparian zones based upon the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered wildlife species Ranks 3 (State threatened), Rank 4 (State endangered), and Rank 5 (Federal endangered or threatened) are not to be included in SSAs except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as threatened or endangered wildlife species habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.3, available at <http://www.nj.gov/dep/gis/listall.html> and determined that portions of both the Salem Street and 1544 Salem Street sites are identified as habitat for Rank 3 Barred Owl and Rank 3 Red Headed Woodpecker and the Mesivta Nezer Hatorah site is identified as Rank 3 Barred Owl habitat. The Department has been consistently

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reviewing activities in and around the two Salem Street sites for several years and has either reviewed Environmental Impact Statements or Habitat Suitability Analysis prepared for these sites, or has conducted site investigations of nearby parcels, including adjacent sites visited in September 1992 and June 2003. The Department has concluded that the area including all three sites is no longer suitable habitat for the Barred Owl based on the location of the actual species sighting (approximately one mile away), as well as the significant increase in development that has occurred in Lakewood since the original Barred Owl sighting in 1990. Regarding the suitability of the habitat for Red-Headed Woodpecker, the Department performed a site inspection of the habitat directly to the south of the Salem Street sites on November 15, 2005 and determined that the habitat was too dense and underdeveloped (i.e., tree size less than 8 inches diameter at breast height) to be considered favorable for this species. Red-headed woodpeckers are commonly associated with mature, closed-canopied forest with a sparse understory (i.e., the shrubs and plants growing beneath the main canopy of the forest). Based on these findings, the Department has concluded that none of the three sites being added to the SSA provide suitable habitat for the Barred Owl or the Red-Headed Woodpecker.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as Natural Heritage Priority sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. Areas mapped as Natural Heritage Priority Sites are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and

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determined that there are no Natural Heritage Priority Sites located within the expanded SSA for any of these three projects.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3. Areas identified as Category One waters and their corresponding 300-foot riparian zones are not to be included in SSAs, except as provided at N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and determined that there are no Category One waters or corresponding 300-foot riparian zones located within the expanded SSA for any of these three projects.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as ESAs, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html> and determined that there are no wetlands located on the Mesivta Nezer Hatorah site. Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicants for Salem Street and 1544 Salem Street provided Letters of Interpretation (LOI) issued by the Department confirming that there are no wetlands located within the expanded SSA for these two projects

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(Salem Street LOI/Line Verification File No. 1514-05-0019.4 FWW160001 and 1544 Salem Street LOI/Line Verification File No. 1514-17-0013.1 FWW170001).

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSA, except, as provided under N.J.A.C. 7:15-4.4(f)1 and 2 to abate an existing imminent public health and safety issue, to accommodate infill development or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/listall.html> and determined that none of these three projects is located within a Coastal Fringe Planning Area, Coastal Rural Planning Area, or Coastal Environmentally Sensitive Planning Area.

In accordance with N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from the SSA, unless documentation can be provided demonstrating that a mapping waiver has been obtained from EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSA to ESAs, the

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Department reviewed the EPA 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> and determined that there are no 201 Facilities Plan grant conditions applicable to any of these three projects.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. Lakewood Township issued a letter dated January 9, 2018 confirming that both Salem Street projects are located in the R-10A residential zone based on the adoption of the 2017 Lakewood Township Master Plan. In a January 24, 2018 email, the Ocean County Planning Board stated that the amendment is not inconsistent with the Ocean County Master Plan's water quality management goals, and that the Planning Board had no objection to the amendment. The applicant for Mesivta Nezer Hatorah received preliminary and final major site plan approval on July 21, 2016 with the adoption of Resolution SP-2129 by the Lakewood Township Planning Board. In an October 26, 2017 email, the Ocean County Planning Board stated that it would not offer a position on the proposed project.

Pursuant to N.J.A.C. 7:15-3.5(j)2, applicants for projects that propose to add 100 or more acres to the SSA or 20,000 gallons per day (gpd) or more of wastewater to the receiving facility, must perform a wastewater treatment capacity analysis to include the proposed project or activity, pursuant to N.J.A.C. 7:15-4.5(b). Together, these three projects: Salem Street (0.6 acres, 900 gpd), 1544 Salem Street (1.5 acres, 3,000 gpd), and Mesivta Nezer Hatorah (1.2 acres, is 3,375

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gpd) add a total of 3.3 acres to the SSA and a total projected wastewater flow of 7,275 gpd to be received by the Ocean County Utilities Authority Northern Water Pollution Control Facility based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. Therefore, no wastewater capacity analysis is required for this amendment.

N.J.A.C. 7:15-3.5(g)6 requires the applicant to request a written statement of consent from all identified governmental entities, sewerage agencies, and BPU related sewer and water utilities that may be affected by, or otherwise have a substantial interest in, adoption of this amendment. Accordingly, the Department instructed the applicant to request written statements of consent from the Ocean County Utilities Authority (OCUA) and Lakewood Township, and a resolution from the Ocean County Board of Chosen Freeholders. OCUA responded that they would not take a formal position in support or objection to any of the proposed amendments (letters dated March 23, 2018 for Salem Street and 1544 Salem Street and April 26, 2018 for Mesivta Nezer Hatorah). Lakewood Township adopted resolutions supporting all three proposed amendments (March 22, 2018 Resolution R2018-176 for Mesivta Nezer Hatorah; April 26, 2018 Resolution R2018-194 for Salem Street; and May 10, 2018 Resolution R2018-211 for 1544 Salem Street). The Ocean County Board of Chosen Freeholders adopted resolutions supporting all three proposed amendments (April 18, 2018 Resolution 2018-000463 for Mesivta Nezer Hatorah; May 16, 2018 Resolutions 2018000611 and 2018000612 for Salem Street and 1544 Salem Street, respectively).

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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 sewer service area 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.

8/28/18
Date _____

SIGNED

Bruce Friedman, Director

Division of Water Monitoring and Standards