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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATERSHED AND LAND MANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Adopted Amendment to the Sussex County Water Quality Management Plan

Take notice that on November 18, 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 Sussex County Water Quality Management (WQM) Plan. The amendment, identified as the Diamond Chip Logistics Park (Program Interest No. 435459, Activity No. AMD220001), is for an onsite discharge to groundwater (DGW) wastewater treatment system to serve a proposed warehouse development. The development will consist of two warehouse buildings totaling 698,000 square feet (sq. ft.), which includes: 10,000 sq. ft. of office space, a maximum of 185 warehouse employees per shift, and a maximum of 85 delivery personnel per day on 48.98 acres of a 69.47-acre parcel, located on Block 12008, Lot 23 in Sparta Township, Sussex County. The project will generate a maximum wastewater flow of 10,000 gallons per day (gpd) based on flow calculated in accordance with 7:9A-7.4. The onsite DGW wastewater treatment system will be regulated under a new New Jersey Pollutant Discharge Elimination System (NJPDES) permit. The amendment also removes 20.49 acres from the currently adopted

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sewer service area (SSA). The site is currently occupied by Sparta Sand and Gravel, which operates under NJPDES permit NJ0098621. This permit will be revoked.

Preliminary notice was published in the New Jersey Register (N.J.R.) on January 16, 2024, at 56 N.J.R. 155(a) and a public hearing was held by the Department and Sussex County, as the Designated Planning Agency (DPA), on May 21, 2024. Comments were received during the public comment period. A summary of the comments and Department responses are provided at the end of this notice. This notice represents the Department's determination that the proposed 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 Sparta Township, Sussex County Municipal Utilities Authority (SCMUA) and the New Jersey Highlands Council (Highlands Council). The SCMUA issued a resolution on January 17, 2024, endorsing the Diamond Chip Logistics Park amendment. Sparta Township adopted Resolution 24-65 on February 13, 2024, stating they did not have enough information to render a decision on the proposed amendment and the consent period closed without a consent or formal objection from the Township. In an email dated December 28, 2023, the Highlands Council reiterated their January 10, 2023, finding of consistency with the Highlands Regional Master Plan (RMP). As the DPA for the Sussex County WQM Planning area, the Sussex County Board of County Commissioners approved the project in a resolution adopted on August 21, 2024, in accordance with the DPA procedures.

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

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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 does not involve any new SSA, will generate less than 20,000 gpd of wastewater flow, and the wastewater is to be treated by a proposed new onsite wastewater treatment facility specifically for this project; therefore, update of the wastewater treatment capacity analysis is not required.

The proposed project is located in the Highlands Region, as defined in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7. a. Areas eligible for sewer service in the Highlands Region are defined at N.J.A.C. 7:15-4.4(c). The proposed project is located within the Protection Zone of the Existing Community Zone of the Highlands Planning Area portion of Sparta Township. Sparta Township has not opted to conform with the RMP for the Planning Area; however, the Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability (NWA) provisions of the RMP and issued a consistency determination on January 10, 2023, in accordance with Executive Order 114. The Highlands Council found that, while the proposed project is located within a Highlands Water Deficit Area, the WQM Plan amendment is consistent with the Highlands RMP based on the execution of an agreement between the Township and the Highlands Council for development and implementation of a Water Use and Conservation Management Plan (WUCMP).

In accordance with N.J.A.C. 7:15-4.4(c)3, in the Highlands planning areas, for municipalities that do not conform with the Highlands RMP, areas eligible for sewer service shall conform to 4.4(d) and (h). 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):

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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-njdep.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 SSA does not contain any areas mapped as endangered or threatened wildlife species habitat Rank 3, 4, or 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 the 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 project site does contain 300-foot riparian zones associated with 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; however, the 300-foot riparian zone onsite is located within the portion of the previously adopted SSA removed by this amendment.

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- 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 (LOI)/Line Verification File # (1918-08-0001.1) confirming no contiguous area of wetlands, alone or in combination with other ESAs, of 25 acres or more are located within the SSA that is to remain on the project site. Areas of isolated wetlands less than the 25-acre criteria threshold do exist within the remaining SSA. Approximately 20.49 acres of the previously adopted SSA, largely comprised of wetlands and wetland transition areas, are removed from the SSA by this amendment. A Conservation Restriction/Easement was previously placed on 4.889 acres of this area, as filed with the Sussex County Clerk, Book 3236, Page 857, pursuant to NJDEP File No. NEA080001-1918-08-001.1.
- The Department determined that the SSA does not contain any areas mapped as Fringe Planning Areas, Rural Planning Areas, or Environmentally Sensitive Planning Areas 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

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plans, and other local land use objectives. Sparta Township issued Resolution No. 21-168, on October 27, 2021, stating the proposed project is consistent with the municipal master plan and local zoning. The Sussex County Policy Advisory Committee (PAC) issued a resolution on March 3, 2022, stating the proposed project is consistent with the Sussex County Strategic Growth Plan and the Sussex County Master Plan. The Sussex County Board of County Commissioners issued a resolution dated May 11, 2022, stating the proposed project is supported by the County Strategic Growth Plan goals and objectives. The Sussex County Municipal Utilities Authority (SCMUA) issued a resolution on February 16, 2022, in support of the proposed project.

The following individuals provided comments on this amendment during the comment period.

1. Birgit Bogler, in an email dated May 30, 2021
2. Harriette Brown, in emails dated January 29, 2024, and May 21, 2024
3. Dr. Marvin Chartoff, in an email dated May 22, 2024
4. Anand Dash, in an email dated February 7, 2024, and at the public hearing
5. Jennifer Dericks, in an email dated May 20, 2024, and at the public hearing
6. David Dewitt, at the public hearing
7. Christine Dunbar, Paulins Kill Watershed Coordinator, in an email dated May 18, 2024, and at the public hearing
8. Kathy Ebbinkhuysen, in emails dated January 22, 2024, May 21, 2024, and at the public hearing
9. Anthony and Barbara Gomes, in emails dated January 26, 2024, and May 20, 2024, and at the public hearing
10. Sue Hannon, in an email dated February 4, 2024
11. Robert Hickey, in emails dated January 24, 2024, and February 5, 2024
12. Julie Killen, at the public hearing
13. Lynn Leitner, in emails dated February 1, 2024, and May 20, 2024, and at the public hearing
14. Bradford and Josephine Lewis, in an email dated February 13, 2024
15. Russell Maitland, at the public hearing
16. Debra Major, in an email dated May 20, 2024
17. Adrian Meerman, in an email dated February 13, 2024
18. Shirley Miller, in an email dated January 27, 2024
19. Robert Otto, in an email dated February 16, 2024, and at the public hearing

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20. Ronald J. Peoples, in an email dated February 10, 2024, and letter dated February 10, 2024, received February 20, 2024
21. Vivian Perlmutter, in an email dated February 5, 2024, and at the public hearing
22. Renuka Ramachandran, in an email dated January 31, 2024
23. Dean Reinauer, in an email dated May 20, 2024, and at the public hearing
24. Daniel Rodrigues, in an email dated February 7, 2024
25. Elliot Ruga, Policy and Communications Director, New Jersey Highlands Coalition at the public hearing
26. Daryl Savage, in an email dated February 13, 2024
27. Marck Scott, at the public hearing
28. Marjy Murphy Scott, at the hearing May 21, 2024
29. Hattie Stone, in a letter received February 20, 2024
30. Heather Stott-Mason, in an email dated February 7, 2024, and at the public hearing
31. Joseph Matthew Wade, in an email dated January 18, 2024
32. Cassidy Walsh, MPH CHES, in email dated February 10, 2024
33. Mark and Joanne Watkins, in an email dated January 22, 2024
34. Christie Whitehouse, in email dated February 10, 2024
35. An identical letter was submitted by 13 individuals who identified themselves as residents of Sparta. The Department has designated this standard letter as commenter 35. Where individuals added comments in addition to those appearing on the form letter, their name is listed separately in the above commenter list.

1. Mary Beth Dowd, in an email dated February 10, 2024
2. Andrew Don and Susan Egan, letter dated January 30, 2024, received February 8, 2024
3. Robert Hickey, in an email dated January 24, 2024
4. Nicole Katz, in an email dated February 12, 2024
5. Susan Knauss, in an email dated January 31, 2024
6. Judith MacDonald, in an email dated January 31, 2024
7. Carol Nerviano, in an email dated January 31, 2024
8. Thomas Nerviano, in an email dated January 31, 2024, and letter dated January 30, received February 6, 2024
9. Mark M. Scott, in an email dated January 30, 2024, and letter dated January 30, 2024, received February 15, 2024
10. Laurie Walsh, in an email dated January 31, 2024
11. Rebecca Williams, in an email dated February 8, 2024
12. Lou Zanetakos, in an email dated February 3, 2024
13. Mary Ann Zanetakos, in a letter dated January 30, 2024

A summary of the comments received, and the Department responses follow. The number(s) in parenthesis after each comment identifies the respective commenter listed above.

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1. COMMENT: Commenters request an extension of the public comment period and that a public hearing be held on the amendment. (2, 4, 8-10, 13-14, 17-22, 24, 26, 29-33, 35)

RESPONSE: The Department granted a public hearing and an extension of the public comment period. A public notice was published in the N.J.R. on April 1, 2024, at 56 N.J.R. 511(a) announcing that a public hearing would be held on May 21, 2024, and the public comment period would be extended to 15 days after the public hearing. The public hearing notice was also posted on the WQM Plan Program's webpage at <https://www.nj.gov/dep/wqmp/wmpnotices.html> and sent out via the Department listserv. The requesters also directly received notification of the granting of the public hearing.

2. COMMENT: Commenters expressed concerns with this application ranging from the intensity of the use and the potential risks to and impacts on the environment and quality of life. (7-9, 11, 14, 18, 20, 22, 29-30, 32-33, 35)

RESPONSE: The WQM Plan amendment is just one approval required from the Department and is not meant to address all possible issues related to the project. The above notice outlines the criteria used in the review of this WQM Plan amendment, which focuses on the eligibility of the property for sewer service, and the results of that review. Approval of this amendment does not eliminate the need to obtain any other necessary permits, approvals or certifications required by any Federal, State, county or municipal review agency with jurisdiction over the project. Many of the issues that are beyond the scope of the WQM Plan amendment review will be addressed as part of the review required to obtain these other approvals.

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3. COMMENT: The contents of the warehouse have not been identified. Although the proposed amendment indicates New Jersey laws for pollution by water treatment systems will be followed, there really is nothing that truly identifies what type of waste will go into this waste management system eventually seeping into the ground and the potential for contamination. An estimated 1000 diesel semitrucks will enter this site daily. Where will the water come from that passes through this wastewater treatment system? Will this water pass through semitruck diesel fuel spills and chemicals from warehouse contents? What guarantee is there that these factors won't pollute the aquifer, surrounding well heads, wetlands and streams? (2)
4. COMMENT: Commenters expressed concern with the proposed project's location in relation to the Germany Flats aquifer, which is a sole source aquifer, in the Highlands, near C1 tributaries and the potential for drinking water contamination. They are concerned with the porous nature of karst and the potential impact to the water supply. (1-2, 5-6, 8-11, 13-14, 17-23, 26, 29-30, 32, 34-35)

RESPONSE TO COMMENTS 3 AND 4: The Department acknowledges the commenters' concerns regarding the potential impacts to water quality due to the construction of an on-site discharge to groundwater treatment system. The impacts of the wastewater treatment system discharge will be reviewed during the NJPDES permit application review conducted by the Division of Water Quality (DWQ), Bureau of Ground Water, Residuals and Permit Administration (BGRPA). The NJPDES regulations, N.J.A.C. 7:14A, establish the regulatory framework upon which the Department regulates the discharge of pollutants to the surface and ground waters of the

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State. In accordance with these regulations, sanitary wastewater discharges to groundwater greater than 2,000 gpd require authorization under a NJPDES DGW permit. The goal of the permit is preventive and includes requirements to ensure compliance with the Ground Water Quality Standards (GWQS) at N.J.A.C. 7:9C.

In regard to the impact of runoff from fuel spills on water resources, the applicant is required to design in compliance with stormwater management standards. The WQM Planning Program does not review for compliance with the Stormwater Management rules at N.J.A.C. 7:8, and compliance with the Stormwater Management rules is not a prerequisite for SSA eligibility. Pursuant to its Municipal Separate Storm Sewer System (MS4) permit issued by the Department, Sparta Township is required to develop, update, implement and enforce a stormwater management program to address post construction stormwater runoff in new development and redevelopment and to ensure compliance with the Stormwater Management rules at N.J.A.C. 7:8 for projects that meet the definition of “Major Development.” This is achieved through its Municipal Stormwater Management Plan (MSWMP) and stormwater control ordinance, which are both required pursuant to N.J.A.C. 7:8-4 and must be at least as stringent as the requirements contained within the Stormwater Management rules.

As stated above, the WQM Plan amendment is just one approval required from the Department and is not meant to address all possible issues related to the project. The above notice outlines the criteria used in the review of this WQM Plan amendment, which focuses on the eligibility of the property for sewer service, and the results of that review. Approval of this amendment does not eliminate the need to obtain any other necessary

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permits, approvals or certifications required by any Federal, State, county or municipal review agency with jurisdiction over the project. Many of the issues that are beyond the scope of the WQM Plan amendment review will be addressed as part of the review required to obtain these other approvals.

5. COMMENT: Will 10,000 gallons of water per day will be pulled from the Germany Flats aquifer? This aquifer area is currently at a midpoint deficit. In 2022, a report was circulated showing that this aquifer was at a deficit of 800,000 gallons of water and currently, 100,000 gallons are being used daily without replacement. (2)

RESPONSE: The Department acknowledges the commenters' concerns regarding water supply; however, the project will discharge 10,000 gpd to groundwater. Water supply and water allocation are beyond the scope of the WQM Planning Program's review. Diamond Sand & Gravel Inc. does have an effective Water Allocation Permit (WAP) (WAP2587P), which will be terminated, and the proposed warehouse will be supplied by Sparta Water Utility and will not require a WAP. The Sparta Water Utility has 4 wells completed in the Germany Flats aquifer. These wells have the capability to divert up to 2.4 million gallons per day, however actual use averages about 0.74 million gallons per day. As such, the proposed project can be accommodated within the current allocations.

6. COMMENT: What is the Total Maximum daily load (TMDL) of the proposed site and Germany Flats aquifer today? (8)

RESPONSE: TMDLs are required by the Clean Water Act (CWA) to be developed when the quality of a surface water does not meet the applicable surface water quality standards (SWQS) for a pollutant(s) listed at N.J.A.C. 7:9B. TMDLs determine how much of a

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particular pollutant can be discharged into a surface water and still meet the applicable SWQS, and how much each contributor, or type of contributors, needs to reduce their discharge(s). Ground water contributions are accounted for in the summary of contributors when developing a TMDL, however ground water dischargers are not assigned a load allocation. The Department does not develop TMDLs for ground waters. The project site is located in a subwatershed with a TMDL for fecal coliform, specifically the “Total Maximum Daily Loads for Fecal Coliform to Address 28 Streams in the Northwest Water Region.” The TMDL document is available at the following link: <https://www.nj.gov/dep/wms/bears/docs/Northwest%20FC.pdf>. As TMDLs are not developed for ground waters, there is not specifically a load allocation for the Germany Flats Aquifer. However, the maximum flow that can be expected from this development with full staffing levels will be calculated and limited during the NJPDES permitting process. In addition, the requirement to meet Ground Water Quality Standards (GWQS) will be incorporated in any NJPDES permit issued to this facility for sanitary discharges to ground water.

7. COMMENT: The proposed project is located over the Germany Flats Aquifer. Aquifer contamination and deficits are of great concern. The proximity to invaluable water resources such as the Germany Flats aquifer, Paulins Kill River headwaters, Sparta Junction tributaries (C1 stream) and wetlands creates risk of long-term adverse impacts. There are also private wells in the residential communities surrounding this area. All of this and more need appropriate study. (2, 7-9, 13, 17-19, 22, 23, 25-27, 29, 32, 35)

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RESPONSE: As stated above, the proposed discharge to groundwater system will only be approved if it has been deemed capable of treating and disposing of the projected volume of sanitary sewage in a manner that is protective of human health and the environment. Potential impacts from nonpoint pollution sources will be addressed during the Township review and approval of the project design in compliance with the Stormwater Management rules at N.J.A.C. 7:8.

In regard to impact to water resources, as previously stated, the Department determined that the project site does contain 300-foot riparian zones associated with C1 waters; however, the 300-foot riparian zone onsite is located within the portion of the previously adopted SSA that is being removed by this amendment. Approximately 20.49 acres of the previously adopted SSA, largely comprised of wetlands and wetland transition areas, have been removed from the SSA by this amendment. Additionally, the Department previously required a Conservation Restriction/Easement to be placed on 4.889 acres of this wetlands/wetland transition area. Removal of the wetlands and previously conserved area from the SSA reduces the potential for negative impacts to and enhances protection of the wetlands.

8. COMMENT: Commenters expressed concerns with the proposed project's impact on flora and fauna in the region. (8, 17, 19-20, 30, 32)

RESPONSE: In accordance with the stated goals of the WQM Planning rule at N.J.A.C. 7:15-1.2(a) to conserve the natural resources of the State and promote environmental protection, the application was reviewed against the criteria for sewer service eligibility at N.J.A.C. 7:15-4.4 and was found to meet those criteria, ensuring that the project is

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consistent with this chapter. As stated above, the Department determined that the SSA does not contain any areas mapped as endangered or threatened wildlife species habitat Rank 3, 4, or 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 or 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.

9. COMMENT: Commenters requested the Department deny the project application. (3, 5, 11, 13, 20, 26)

RESPONSE: The Department acknowledges the comment; however, this project was reviewed in accordance with the WQMP rule at N.J.A.C. 7:15 and was found to meet the criteria for designation as SSA, as outlined in the notice preceding the comment responses. Before moving forward, the project must obtain any other required Department permits and approvals. Those approvals will look at additional factors that are beyond the scope of the WQMP rule.

10. COMMENT: Commenters expressed concerns with the project being located within the Highlands Region, and the Highlands's Council indicating that the aquifer was potentially operating in a deficit. (6, 8-9 11, 13, 23)

11. COMMENT: The Highlands Council has provided the Department with a consistency determination, and the Department is required to give great consideration and weight to the RMP. As a requirement of Executive Order (EO) 114 (2008) the Department is to apply the standards of NWA.

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The Highlands Council adopted its new warehouse guidance, citing the guidance at its April 2024 meeting. This warehouse is in violation of that because no warehouse, can be located in the protection zone, which this is, and it has to be within three miles of an interstate, or an exchange for an interstate. This is almost 14 miles from Interstate 80, so it is in violation of that provision of the Highlands Council's warehouse citing guidance.

(25)

RESPONSE TO COMMENTS 10 AND 11: As specified at N.J.A.C. 7:15-2.9(a), the Department supports the implementation of comprehensive regional plans and coordinates and integrates water quality planning actions with the RMP. For all decisions in or affecting the Planning Area or the Preservation Area, the Department gives great consideration and weight to the RMP (N.J.A.C. 7:15-3.5(h)). EO 114 (2008) states that “The Department shall take appropriate action to ensure that no approval is given to any portion of a WQM Plan amendment in the Protection Zone, the Conservation Zone, or the Environmentally-Constrained Sub-Zones, as delineated in the Highlands Plan, within a Hydrologic Unit Code (HUC) 14 subwatershed that is in, or anticipated to be in, a deficit of NWA, as identified by the Highlands Plan, unless the approval is conditioned on a Municipal WUCMP, consistent with the policies in the Highlands Plan, having been approved by the Highlands Council and having been fully implemented.” In a letter dated January 10, 2023, the Highlands Council determined that the proposed amendment was consistent with the RMP and on December 28, 2023, reiterated their finding of the project’s consistency with the RMP. The proposed project was reviewed against the NWA provisions of the RMP in accordance with EO 114 (2008).

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The site is located in the Economic Development Zone (EDZ) of Sparta Township and is located within the Protection Zone of the Planning Area and in an NWA deficit HUC 14 subwatershed (-0.80249 mgd). The projected 10,000 gpd of wastewater generated by the proposed development will be served by a new onsite wastewater treatment facility with advanced treatment prior to on-site groundwater recharge. The potable water will be supplied by the Sparta Township Water Utilities - Lake Mohawk Water System (Public Water System Identification Number (PWSID) #1918004). The Sparta Township Water Utilities- Lake Mohawk Water System wells are located within the same HUC 14 subwatershed as the proposed project site. Since the potable water source is located within the same HUC 14 subwatershed as the project site and wastewater will be discharged onsite, it is considered a consumptive use. Additionally, the applicant is required to terminate the existing WAP once all final approvals for the proposed warehouse development are obtained. The proposed warehouse will be supplied by Sparta Water Utility and will not require a WAP.

The Highlands Council created a document for use as guidance only entitled, "RMP Amendment 2024-1 Policy Standards for Warehousing in the New Jersey Highlands Region," dated April 18, 2024, that incorporates standards already established in the RMP. The guidance did not create any new standards not established via the RMP Adoption or Amendment processes. The guidance should not be read to in any way require or even suggest that Highlands municipalities must/should permit warehousing or distribution facilities in the locations indicated as potentially viable to support them. It is intended to assist and inform municipal planning efforts by providing full and clear

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information about the Highlands Region, the resources it contains, and the important role each municipality can play in ensuring the future health and vibrancy of the Region. In terms of RMP conformance, local standards that meet or exceed Highlands requirements are conforming. The Highlands Consistency Determination mentioned above noted that the proposed project will redevelop an extensively disturbed quarry, which is provided with freight rail access and located within the EDZ of Sparta Township, and it was deemed consistent with the RMP.

12. COMMENT: Commenters expressed concerns with an increase in truck traffic and air pollution. (3, 6, 8, 10, 12-14, 16, 19-21, 23-24, 28, 33-34)

RESPONSE: The Department acknowledges the commenters' concerns regarding traffic and air pollution; however, the impacts of traffic and air pollution are beyond the scope of the WQM Planning Program. The proposed sewer service was reviewed in accordance with the sewer service eligibility criteria in N.J.A.C. 7:15.

13. COMMENT: Commenters expressed concerns with potential runoff if there was a fire onsite, including per- and polyfluoroalkyl substances (PFAS), as well as impervious coverage, pollution in runoff and stormwater management. (2, 6, 8-9, 11, 13, 15, 17, 19, 23, 26-28, 34)

RESPONSE: The WQM Planning Program does not review for potential contamination resulting from firefighting efforts or, as stated above, for compliance with the Stormwater Management rules at N.J.A.C. 7:8, and compliance with the Stormwater Management rules is not a prerequisite for SSA eligibility

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As stated previously, the WQM Plan amendment required for this project is just one approval required from the Department and is not meant to address all possible issues with the project. Approval of this amendment does not eliminate the need to obtain any other necessary permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over the project.

14. COMMENT: The proposed use is not a permitted use in the EDZ. (4)
15. COMMENT: The proposed amendment notice states that the Department considered the land uses allowed in the adopted zoning ordinances, future land use as shown in adopted municipal and county master plans and other local land use objectives. It goes on to state that Sparta Township issued resolution number 21-168 on October 27, 2021, stating that the proposed project is consistent with the municipal master plan and local zoning. I would like to offer that statement is not accurate as we speak after that resolution, Sparta Township, on or about February 13, 2024, declined approval of the WQM Plan amendment associated with the proposed application by virtue of its meeting held on or about February 13, 2024. (4)
16. COMMENT: Sparta residents were surprised by the changes made to their land use ordinances and have been successful in their push to have ordinances in the zone limit the size of future projects over the aquifer. Sparta Township Council was misled by their professionals about the impact of zoning changes proposed during COVID. Sparta Township Councilmembers were misled when presented with the first WQM Plan amendment for this application. They denied it the second time it was presented. The

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Sussex County Commissioners approved the recent WQM Plan with language that included the original Sparta Township Approval, not the more recent rejection. (5)

17. COMMENT: The resolution is inconsistent because the municipal board declined to affirm the resolution, the WQM Plan amendment resolution, but you're relying on an old ordinance for that zone from 2021. There was a subsequent ordinance to change the land use requirements for that zone in 2022. So that should supersede anything that you're looking at based on the 2021 ordinance. (5)
18. COMMENT: The use proposed in this zone is under question at the Sparta Township Planning Board currently. (9)

RESPONSE TO COMMENTS 14 THROUGH 18: As stated above, on October 27, 2021, Sparta Township approved Resolution No. 21-168 consenting to the filing of the amendment for two warehouses totaling approximately 880,000 sq. ft. of warehouse with 20,000 sq.ft. of that being office space within the EDZ. This amendment includes two warehouse buildings; however, they have been reduced to 698,000 sq. ft., with 10,000 sq.ft. of office space. Per Sparta Township Resolution No. 21-168, warehouses and office building uses are permitted in the EDZ, and the project was determined to be consistent with the municipal master plan. Sparta Township's February 13, 2024, Resolution No. 24-65, stated that they did not have enough current information to render a decision and make a determination as to whether they consent to the amendment; however, it did not state that the proposed amendment was inconsistent with the zoning or master plan, and it did not specifically object to the project.

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The WQM Planning Program does not determine where these projects should occur or the nature of these projects. The role of the WQM Planning Program is to review applications submitted to the Program against the criteria established in N.J.A.C. 7:15. Local government, through master planning and zoning ordinances, determines the type of development and the density level the municipality desires for an area.

19. COMMENT: Commenters state concerns that the remediation of contaminated groundwater by leaded gasoline tanks on the existing site was not conducted with sufficient diligence by the chosen Licensed Site Remediation Professional (LSRP). (4-5)
20. COMMENT: Are there any recorded DEP violations, remediation actions or Reclamation Plans recorded in relation to the proposed Diamond Chip Realty proposed site? (8)

RESPONSE TO COMMENTS 19 AND 20: These issues are beyond the scope of the WQM Plan amendment review and will be addressed by other programs in the Department. Violations affecting water resources are handled by the Department's Water Compliance and Enforcement Program; violations regarding site remediation activities are handled by the Department's Contaminated Site Remediation and Redevelopment Program. The Department's Dataminer database, is located at <https://njems.nj.gov/DataMiner/Search/SearchByCategory?isExternal=y&getCategory=y&catName> and it allows one to search for both water and site remediation violations.

21. COMMENT: Why would an application with such huge environmental implications be approved based on an outdated WQM Plan? The Sussex County WQM Plan has not been updated in 20 years. (5)

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22. COMMENT: What is the purpose of a WQM Plan? Under what circumstances and what factors are considered when the Department considers amending this plan? (8)

RESPONSE TO COMMENTS 21 AND 22: The WQM Planning program originates from the Federal Water Pollution Control Act, commonly referred to as the CWA (33 U.S.C 1251 et seq.). Areawide WQM Plans are developed pursuant to Sections 303 and 208 of the CWA and the New Jersey Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.). The WQM Planning Rule, N.J.A.C. 7:15, located on the Department's website at https://dep.nj.gov/wp-content/uploads/rules/rules/njac7_15.pdf, establishes the Department's WQM policies, procedures and requirements (N.J.A.C. 7:15-1.1). Areawide WQM plans identify and address selected water quality and wastewater management issues for a particular jurisdictional area. The areawide WQM plan is the basis by which the Department and the DPAs conduct selected WQM planning activities for a particular area of the State (N.J.A.C. 7:15-2.3).

Both the Federal and State Acts require a Continuing Planning Process (CPP) for water quality management. The CPP contains regulatory and non-regulatory strategies for the management of water quality and wastewater, including rules, such as N.J.A.C. 7:15, promulgated by the Department to address water quality and wastewater management. WQM Plan amendments and revisions are means by which the WQM Plans are updated to reflect current planning. WQM Plan amendments and revisions are the means by which the WQM Plans are updated. Amendment and revision adoptions can be found at <https://www.nj.gov/dep/wqmp/wmpadopted.html>.

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The WQM Plan amendment is just one approval required from the Department and is not meant to address all possible issues related to the project. The above notice outlines the criteria used in the review of this WQM Plan amendment, which focuses on the eligibility of the property for sewer service, and the results of that review. Approval of this amendment does not eliminate the need to obtain any other necessary permits, approvals or certifications required by any Federal, State, county or municipal review agency with jurisdiction over the project. Many of the issues that are beyond the scope of the WQM Plan amendment review will be addressed as part of the review required to obtain these other approvals.

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 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.

11/18/24
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