

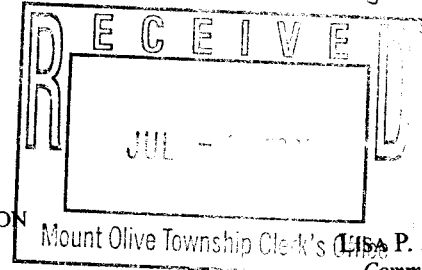
(C)

cc: Admin
DPW
Eng.



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Watershed Management
Bureau of Watershed Regulation
P.O. Box 418, 401 East State Street
Trenton, New Jersey 08625-0418
Telephone: (609) 984-6888
Fax: (609) 984-6505
www.state.nj.us/dep/watershedmgt



LISA P. JACKSON
Commissioner

JON S. CORZINE
Governor

Alan Sleeper, P.E.
Senior Planning Engineer
New Jersey American Water
213 Carriage Lane
Delran, NJ 08075

JUL 3 2008

Re: New Jersey American Water - Academy Well 3 and Pine Grove Well 5 Permitting
Block: 2100, Lot(s): 12 [Academy Well 3] and Block: 2508, Lot(s): 1 [Pine Grove Well 5]
12 Academy Lane and Pine Grove Road
Mount Olive Township, Morris County
Upper Raritan Water Quality Management Plan (WQMP)
Program Interest No.: 435434
Activity No.: CSD080012

Agency Determination: Highlands Act – Exempt
Exemption # 11
Water Quality Management Plan – Not Addressed

Dear Mr. Sleeper:

This letter is forwarded in reply to your recent request for a Highlands Applicability Determination and Water Quality Management Plan Consistency Determination. Based on the information submitted, it has been determined that your proposed project/activity is located within the Highlands Preservation Area. Therefore, your project/activity has been reviewed to determine the applicability of the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38 (Highlands Rules) as well as the requirements defined in the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15.

The project/activity subject of this review includes a proposed Major Modification to New Jersey American Water's (NJAW) existing Bureau of Water Allocation (BWA) Permit for the West Jersey System (Permit # 10317W and WUR040001). The purpose of the proposed permit modification is to bring into service NJAW's existing community water supply wells at its Academy Lane and Pine Grove Road Stations in order to provide backup water supply for its West Jersey System, which at present is a single source system. Providing Firm Capacity to the West Jersey System is a health and safety issue since it will allow NJAW to operate the System reliably in the event that the Academy Well 4 is inoperable. In order to receive the permit modification, the applicant must first receive a

Highlands Applicability Determination. The above referenced wells are located on Block 2100, Lot 12 and Block 2508 Lot 1 in Mount Olive Township, Morris County. The Academy Lane Well No. 3 is depicted on an unsigned and unsealed size-reduced copy of a plan, prepared by Paul J. Paparella, New Jersey Licensed Professional Engineer of Killam Associates Inc., dated July 2000 and November, 2001, titled, "NEW JERSEY-AMERICAN WATER COMPANY SHORT HILLS OPERATIONS CENTER WEST JERSEY WATER SYSTEM IMPROVEMENTS ACADEMY WELL NO. 3 SITE PLAN", sheet 5 of 14. The Pine Grove Road Well No. 5 is depicted on an unsealed size-reduced copy of a plan, prepared by Nicholas M. DeNichilo, New Jersey Licensed Professional Engineer of Killam Associates Inc., dated September 24, 1997, titled, "NEW JERSEY-AMERICAN WATER COMPANY WEST JERSEY SYSTEM IMPROVEMENTS ACADEMY & PINE GROVE SITE PLANS", sheet 2 of 7.

The Department of Environmental Protection (Department) reviewed the materials submitted to determine the applicability of the provisions of the Highlands Rules. As a result, the Department has determined that your project/activity does not meet the definition of "Major Highlands Development" as defined at N.J.A.C. 7:38-1.4 since the project is not defined as a development pursuant to the Municipal Land Use Law N.J.S.A. 40:55D-4 and it does not result in the ultimate disturbance of one-quarter acre or more of forest or a cumulative increase in impervious surface by one-quarter acre or more. Furthermore, the Highlands Rules at N.J.A.C. 7:38-2.3 sets forth various exemptions. After a careful review of the information submitted, it has been determined that your project/activity qualifies for the following exemption:

The routine maintenance and operations, rehabilitation, preservation, reconstruction, repair or upgrade of public utility lines, rights of way, or systems by a public utility, provided that the activity is consistent with the goals and purposes of the Highlands Act.

Therefore, the proposed project/activity is deemed exempt from the provisions of the Highlands Rules, subject to the following limitation(s):

This exemption determination is limited to the land area and specific scope of the activities described herein or as shown on the referenced site plan above. This determination does not eliminate the need for any permits, approvals, or certifications required by the Department or any Federal, State, county or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include, but are not limited to: sewer extension and discharge approvals under the Water Pollution Control Act (N.J.S.A. 58:10A), water main extensions under the Safe Drinking Water Act (N.J.S.A. 58:12A), approval under the Realty Improvement Sewerage and Facilities Act (N.J.S.A. 58:11-23 et seq.), water allocation or registration pursuant to the Water Supply Management Act (N.J.S.A. 58:1A), approvals under the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B) and approvals under the Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 et seq.).

This exemption is limited to the replacement or rehabilitation of existing infrastructure and does not authorize any extension of new public infrastructure in the Highlands Preservation Area. No new water supply service area shall result from this project.

The Department also reviewed your project/activity for consistency with the Statewide Water Quality Management Planning Rules at N.J.A.C. 7:15 and the provisions and recommendations of the Upper

Raritan WQMP. Based on our review, the proposed project is not addressed by the WQMP. This determination is made based on the following:

No wastewater will be generated from this project/activity. According to the applicant, no filter backwash will be generated as part of the operation of the Academy Lane and Pine Grove wells.

A copy of this determination letter must be enclosed with any future permit application(s) filed with the Department.

This Highlands Applicability and Consistency Determination is subject to the following limitations:

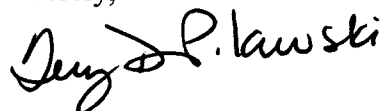
- (1) This determination does not eliminate the need for any permits, approvals, or certifications required by the Department or any Federal, State, County or municipal review agency with jurisdiction over this project/activity. Department approvals that may be required include, but are not limited to, sewer extension and water main extension approvals, a water allocation, approvals under the Freshwater Wetlands Protection Act Rules, (N.J.A.C. 7:7A) and approvals required under the Flood Hazard Area Control Act Rules, (N.J.A.C. 7:13).
- (2) The issuance of this determination shall not obligate the Department to issue any other approvals, permits or certifications required for this project/activity.
- (3) This determination shall be considered null and void if changes are made to the project that would increase the scope or area disturbed by the project, or result in a change in the use or change the method of wastewater treatment; or if the information submitted to obtain this determination from the Department is later determined to be inaccurate.

Let it be noted that this project, New Jersey American Water - Academy Well 3 and Pine Grove Well 5 Permitting, was published in the May 28, 2008 DEP Bulletin and no public comments were received.

If the applicant disputes the Department's factual findings or any of its conditions or if anyone is aggrieved by this determination, that person may request an adjudicatory hearing. A request for an adjudicatory hearing shall be submitted in writing by certified mail, or by other means which provides verification of the date of delivery to the Department, within 30 days of notice of this decision published in the DEP Bulletin in accordance with N.J.A.C. 7:38-1.5. The adjudicatory hearing request must be accompanied by a completed Adjudicatory Hearing Request Checklist and Tracking Form (form enclosed).

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Division of Watershed Management. If you have any questions or require further assistance, please call Meghan Gosselink at (609) 984-6888.

Sincerely,



Terry Pilawski, Chief
Bureau of Watershed Regulation

Enclosure(s)

- c: Bruce Fowler, Senior Hydrogeologist, Sevee & Maher Engineers, Inc
Lisa M. Lashway, Mount Olive Township Clerk
Gary Lindsay, Mount Olive Township Construction Code Officer
Kathy Murphy, Mount Olive Township Environmental Commission
Catherine Natafalusy, Mount Olive Township Planning Board
Raymond Zabihach, Morris County Planning Board
Morris County Environmental Commission
Chris Ross, Highlands Council
Scott Brubaker, NJDEP, Bureau of Compliance and Enforcement (w/o encl.)
Michael Nystrom, NJDEP, Bureau of Compliance and Enforcement (w/o encl.)
Diane Dow, NJDEP, Bureau of Inland Regulation (w/o encl.)
Barry Miller, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Meghan Gosselink, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Abigail Amutah, NJDEP, Bureau of Watershed Regulation (w/o encl.)
Bureau of Watershed Regulation – File (w/o encl.)

Adjudicatory Hearing Request Checklist
and Tracking Form

I. Highlands Applicability and Water Quality Management Plan Consistency Determination Decision (Applicability Determination) Being Appealed:

Issuance Date of Document

Document Number (if any)

II.

Name of Person Requesting Hearing

Name of Attorney (if applicable)

Address

Address

Telephone #

Telephone #

III. If you are the applicant, please include the following information with your hearing request:

- A. The date you received the applicability determination which you are appealing;
- B. A copy of the decision document;
- C. The findings of fact and conclusions of law you are appealing;
- D. A statement as to whether or not you raised each legal and factual issue during the applicability determination process;
- E. Suggested revised or alternative applicability determination conditions;
- F. An estimate of the time required for the hearing;
- G. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- H. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
- I. This form, completed, signed and dated with all of the information listed above, including attachment, to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625-0402

with a copy to:

2. New Jersey Department of Environmental Protection
Bureau of Watershed Regulation
Attention: Bureau chief
401 E. State St 6th Floor
P.O. Box 418
Trenton, NJ 08625-0418

Signature: _____

Date: _____

IV. If you are a person other than the applicant, please include the following information with your hearing request:

- A. The date you or your agent received notice of the applicability determination (include a copy of that determination with your hearing request);
- B. Evidence that a copy of your hearing request has been delivered to the applicant for the determination which is the subject of your hearing request (e.g., certified mail receipt);
- C. A detailed statement of which findings of fact and/or conclusion of law you are challenging;
- D. A description of your participation in any public hearings held in connection with the application and copies of any written comments you submitted;
- E. Whether you claim a statutory or constitutional right to a hearing, and, if you claim such a right, a reference to the applicable statute or explanation of how your interests are affected by the applicability determination decision;
- F. Suggested revised or alternative applicability determination conditions;
- G. An estimate of the time required for the hearing;
- H. A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- I. A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of the hearing request to the Office of Administrative Law; and
- J. This form, completed, signed and dated with all the information listed above, including attachments to:

1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 East State Street, P.O. Box 402
Trenton, New Jersey 08625-0402

with a copy to:

2. New Jersey Department of Environmental Protection
Bureau of Watershed Regulation
Attention: Bureau chief
401 E. State St 6th Floor
P.O. Box 418
Trenton, NJ 08625-0418

V. Signature: _____ Dated: _____