

## Raskin, Morgan

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**From:** Donna Mahon <Donna.Mahon@dep.nj.gov>  
**Sent:** Wednesday, July 16, 2014 1:09 PM  
**To:** Raskin, Morgan  
**Cc:** 'neil.sullivan@icfi.com'; 'kenneth.Rock@icfi.com'; Laura Henne; Shaw, Heather; Mankoff, Evan  
**Subject:** Finalization of NEP0226  
**Attachments:** pinewald est st of utilities.pdf; Lot 34Soil.pdf; Lot 1Soil.pdf; Lot 7Soil.pdf; Lot 9Soil.pdf; Lot 15Soil.pdf; Lot 24Soil.pdf

**Importance:** High

Morgan,

Please proceed to finalize this ERR by:

1)amending all relevant sections that reference water quality, SSA, wastewater, etc. to include the appropriate discussion and conditions as indicated in the emails between myself and Stephen Gould.

Water Supply: Discuss that the proposal was to include wells as the potable water supply but the Berkeley Township MUA has indicated that individual wells are not acceptable and that connection to the BT municipal water supply is required. Therefore, compliance with this requirement is a condition of approval. Specifically, they must obtain a Statement of Utilities that conditions them to connect to the municipal water supply system. The Statement of Utilities must be issued before any construction can commence and all conditions within the Statement of Utilities must be satisfied to maintain CDBG-DR funding eligibility. Include attached email from Michele Nugent to support that they are eligible to connect and the requirement.

There also needs to be a discussion about the soil suitability maps indicating that the project proposal included individual septic systems and that the review of maps indicated soil was not suitable but the applicant has subsequently provided soil surveys and septic design based on those survey results to support a septic permit application to Ocean County for the permitting of the six individual septic systems. The approval, is therefore, conditioned on the applicant applying for the septic system permits and Ocean County issuing these permits prior to start of construction.

The above does not have to be exact but you get the gist. Including these conditions in the EA and attaching the email below from Steve Gould that indicates that he is willing to sign off on these conditions will keep this project moving pending the official letter. I have attached the soil survey and design plans as well as an attachment to the ERR.

Please let me know if you have any questions.

**From:** Gould, Stephen [<mailto:Gould.Stephen@epa.gov>]  
**Sent:** Thursday, July 10, 2014 4:47 PM  
**To:** Donna Mahon  
**Subject:** RE: Berkeley Township CDBG proposal

Donna,

I received your e-mail and am prepared to give my approval from the standpoint of the SSA program. However, the official letter won't go out until the week after next because both Rajini and I will be out of the office.

**From:** Donna Mahon [<mailto:Donna.Mahon@dep.nj.gov>]  
**Sent:** Thursday, July 10, 2014 2:23 PM  
**To:** Gould, Stephen  
**Subject:** FW: Berkeley Township CDBG proposal  
**Importance:** High

Hi Steve- can you confirm that you received the below yesterday? We had email difficulties.

**From:** Donna Mahon  
**Sent:** Wednesday, July 09, 2014 5:11 PM  
**To:** Gould, Stephen  
**Cc:** 'musumeci.grace@epa.gov'; Donna Mahon; Ramakrishnan, Rajini  
**Subject:** RE: Berkeley Township CDBG proposal  
**Importance:** High

Steve- this is a follow up to the call with Rajini and you on Thursday, July 3<sup>rd</sup>. You had to leave prior to the call concluding so I wanted to provide some follow up and clarifications.

The initial question of our Thursday conversation was if other project sites were considered before selecting these proposed site? The simple answer is no. The background is that the federal appropriation of Community Based Development Grant – Disaster Recovery monies must be fully spent in two years from the date of the grant award to the State Department of Community Affairs. The end date then by which all these monies must be spent is May 13, 2015.

To meet that funding deadline, one of the criteria for projects solicited for the Neighborhood Enhancement Program (which provides affordable housing to low and moderate income families in blighted neighborhoods) was that the applicant have ownership of the land or an agreement to purchase and where possible that the projects had local approvals. This would help ensure that the monies could be granted to the applicant and the applicant would be able to be fully reimbursed within the federal funding deadline. It is also important to note that if lands were not in ownership of the applicant at the time of their grant application that they could not purchase the properties until the required NEPA/HUD review as complete. This impacts that completion timeline significantly. Thus, no other sites were identified and the potential for environmental impacts was mostly unknown until DEP commenced the environmental review.

At this time, based on the information below this project will become ineligible for federal funding because of the potential impacts to the sole source aquifer. As we have discussed, my goal is to get to a finding of no significant impact for this project to maintain its funding eligibility.

I recognize the EPA's concerns concerning the potential water quality impacts to the Coastal Plain aquifer, and I certainly agree there should be no impacts. I believe that potential impacts can be avoided through appropriate permitting and I would again like to make the case for conditioning this funding approval on the following conditions.

- 1) Connection to the municipal water supply. You had indicated in your email below based on your discussions with Michele Nugent, Executive Director of the Berkeley Township MUA that private wells would not be permitted and that connection to the municipal water supply is required. I discussed this with the applicant O.C.E.A.N. Inc. a non-profit organization and they have indicated that they will connect to the municipal water supply system. To do so they will seek a Statement of Utilities from the Berkeley Township MUA. The Statement of Utilities will require that they connect to the municipal supply upon construction of the project. I spoke to Michele today and she 1) confirmed that a water allocation permit is not needed to connect to the municipal water supply system; and 2) the appropriate approval is the Statement of Utilities.

Therefore, the specific condition that would be included in this environmental assessment would state that the applicant MUST connect to the Berkeley Township Municipal Water Supply. Specifically, they must obtain a Statement of Utilities that conditions them to connect to the municipal water supply system. The Statement of Utilities must be issued before any construction can commence and all conditions within the Statement of Utilities must be satisfied to maintain CDBG-DR funding eligibility.

- 2) I want to clarify the referenced comment in #2 below from Peter Cunningham, Executive Director of the wastewater component of the MUA, "The New Jersey Department of Environmental Protection (NJDEP) has determined that all lots in Blocks 569 and 573 contain Endangered and Threatened Species Habitat. The NJDEP has prohibited sewer service to these Blocks without their specific approval." First, and foremost the habitat concerns that were identified in the original project environmental assessment study are not applicable to the project area now proposed for construction. That was for the larger project of 37 homes.

The project before us now has been screened for threatened and endangered species. The GIS screening tool used tool that is used has been endorsed by the USF&WS (and also used by FEMA for their reviews). This threatened and endangered screening on of the lot and blocks of the current proposed project identified only northern long eared bats. We completed the required Section 7 consultation with the USF&WS. The condition for construction in areas where suitable bat habitat has been identified includes a timing restriction that prohibits the removal of trees during the period of May 31<sup>st</sup> through September 30<sup>th</sup>. In this case, they allowed the removal of the timing restriction. See attached email from USF&WS and map of proposed project area that identifies the northern eared bat as the only species of concern.

Therefore, the prior comment by Peter Cunningham that sewer service would not being permitted because of potential habitat is irrelevant to the current project. NJDEP has done the due diligence on which species are on the project site and satisfied the consultation with USF&WS.

- 3) Lastly, the remaining concern that would affect water quality are the proposed septic fields; the EPA review references the maps and statement of the NJDEP **draft** environmental assessment document performed by the NJ Department of Consumer Affairs (*it is NJDEP who conducts these reviews*), dated November 14, 2013, found that the soil types present at the proposed site have "very limited septic tank rating, indicating that the soil has one or more features that are unfavorable for septic systems. This statement is based on mapping. However, soil studies being performed by the applicant will determine the suitability of the soil for a septic system.

To follow up on the matter of ensuring that a septic system does not affect the water quality, I have outreached to the applicant's engineer who is using a qualified consultant to perform soil studies. The results of that study will drive the septic design. The septic design would have to meet all state and local permitting requirements. I have confirmed with both the Ocean County Health Department, Rick Brown, and within my own department, Jeffrey L. Hoffman who is in our water quality program with the sole source aquifer program, and both have indicated that 1) the permit is a local issue; and 2) the permit would only be approved if the design is compliant with all state and local requirements. There are no additional design requirements related to the sole source aquifer as permitting for a septic field would only be approved if it can percolate to handle the capacity and not have an impact on water quality. Any soil amendments needed or a raising of the septic bed would be a design criteria that would have to be satisfied to obtain a permit.

To ensure that a septic system does not leach out and affect water quality, the condition of the permit to protect water quality and thus avoid impacts to the Coastal Plain aquifer would be: This project approval is conditioned upon the issuance of a septic permit from the Ocean County Health Department. This permit must be issued prior to the start of construction.

In conclusion, I am again making a case for EPA's approval of this project as long as it is conditioned upon all required permitting. There are local permitting requirements in place that incorporate state requirements that would preserve

the water quality. I am seeking your concurrence on this condition as opposed to the issuance of these permits prior to EPA's approval. My reason for that relates back to the short time remaining to complete this project and be able to reimburse the applicant. The EPA approval is the last remaining piece of this review. If you agree to these conditions, then we must finalize this environmental assessment and then put it out for public comment which is a 15 day public comment period. Realistically, upon your anticipated consent, this will be another 30 days before this project is fully authorized. At that point there will only be a few months remaining for the project to get constructed and completed prior to May. Local permits will be obtained during this interim period. If these conditions are not acceptable to you then we will not be able to seek funding approval from US HUD. There is not another opportunity for this applicant to identify other sites to provide housing for low and moderate income families.

Please call me if you have any questions. I believe the above responses and the proposed conditions that none of this work occurs without the local approvals satisfies the EPA's concerns about water quality and potential impacts to the aquifer. Timing is critical to keep this project moving and I understand that you are on vacation next week. I would like to work with you to resolve this before your vacation.

Thank you for your consideration.

**From:** Gould, Stephen [<mailto:Gould.Stephen@epa.gov>]  
**Sent:** Monday, June 16, 2014 2:05 PM  
**To:** Mahon, Donna  
**Subject:** RE: Berkeley Township CDBG proposal

Donna,

You wrote, "If they connect to private water this issue is then resolved. Correct?" What did you mean by "private" water? The Berkeley Township MUA is a *public* water supply, a municipal water supply.

**From:** Mahon, Donna [<mailto:Donna.Mahon@dep.nj.gov>]  
**Sent:** Wednesday, June 11, 2014 5:05 PM  
**To:** Gould, Stephen  
**Cc:** Henne, Laura  
**Subject:** RE: Berkeley Township CDBG proposal

Steve- thank you for this information, I will follow up with Grace tomorrow. However, I do have some comments as noted below in red. I will discuss this with Grace tomorrow and my ask will be what else would satisfy this requirement other than moving to another location.

**From:** Gould, Stephen [<mailto:Gould.Stephen@epa.gov>]  
**Sent:** Wednesday, June 11, 2014 11:38 AM  
**To:** Mahon, Donna  
**Cc:** Ramakrishnan, Rajini  
**Subject:** Berkeley Township CDBG proposal

Donna,

As you requested, I'm sending my comments on the proposed project, with the understanding that my comments represent only the preliminary stage in our NEPA review. The final comments on the proposed project will come from Grace Musumeci:

As requested by Rajini Ramakrishnan, the Drinking and Ground Water Protection Section has reviewed information on the proposed development in the Pinewald section of Berkeley Township, NJ consisting of the construction of six single-family homes. The project will be funded by a Community Development Block Grant. We offer the following comments:

- The proposed project is above the New Jersey Coastal Plain Aquifer which was designated by EPA as a Sole Source Aquifer on June 24, 1988 (citation 53 F.R. 23791). Therefore our review has been conducted in accordance with Section 1424(e) of the Safe Drinking Water Act (SDWA).
- The property to be developed consists of four forested areas totaling 2.75 acres and would involve the construction of six single-family homes. Private wells and individual septic systems are proposed for each of the homes. Heat and hot water will be provided by natural gas.
- There are a few problems with the choice of location for this project:

According to Michele Nugent, Executive Director of the water supply component of the Berkeley Township MUA, “if six homes are constructed at the referenced site, the developer would be required to extend the water main to service those properties with public water. The Authority would not allow private wells to service the potable water needs.” The nearest existing line is on Nolan Avenue at Warwick Place. **If they connect to private water this issue is then resolved, correct?**

According to Peter Cunningham, Executive Director of the wastewater component of the MUA, “The New Jersey Department of Environmental Protection (NJDEP) has determined that all lots in Blocks 569 and 573 contain Endangered and Threatened Species Habitat. The NJDEP has prohibited sewer service to these Blocks without their specific approval.” We assume that the installation of septic systems would also be problematical. **The only threatened and endangered species issues are the long eared bat which is proposed for listing. However, we had concurrence from USF&WS (see attached) that the removal of 2 acres of trees on this project will not have an adverse effect on the species. It should be noted that this project is less impactful than the previously developed project (37 houses I believe) for which there were many species issues. However, as noted the only relevant and current concern is the long-eared bat. Therefore, there are no species restrictions that would affect this project. Please see attached map – this represents the current project and the identified species. Also, please see the recent email from the USF&WS indicating that the clearing of two acres will not have an impact.**

An environmental assessment performed by the NJ Department of Consumer Affairs, dated November 14, 2013, found that the soil types present at the proposed site have “very limited septic tank rating, indicating that the soil has one or more features that are unfavorable for septic systems.” **If they satisfy local and DEP code requirements for a septic tank does this issue become moot?**

- On the basis of these findings and comments, we would suggest that a new site be chosen, perhaps elsewhere within the *existing* Pinewald Estates development. **Moving them to another site would require a complete new environmental review which may impede their ability to get federal funding. If the**

applicant connects to public water supply and meets all State and local code requirements for the septic tanks would this not mitigate or alleviate the impacts to the aquifer and drinking water supply?

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