

**CMP POLICY & IMPLEMENTATION COMMITTEE MEETING**

This meeting was conducted remotely

All participants were present via Zoom conference

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666.

**September 25, 2020 - 9:30 a.m.**

**MINUTES**

**MEMBERS IN ATTENDANCE:** Chairman Richard Prickett, Sean Earlen, Ed Lloyd and Mark Lohbauer

**MEMBERS ABSENT:** Jordan Howell and Jerome H. Irick

**STAFF PRESENT:** Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Charles Horner, Brad Lanute, Ed Wengrowski, Gina Berg, Marci Green, Brian Szura, Jessica Lynch, Ernest Deman and Betsy Piner. Also present was Craig Ambrose, with the Governor's Authorities Unit.

**1. Call to Order**

Chairman Prickett called the meeting to order at 9:36 a.m. and Ms. Wittenberg identified all staff attending or participating in the meeting,

**2. Adoption of minutes from the August 28, 2020 CMP Policy and Implementation Committee meeting**

Commissioner Lohbauer moved the adoption of the minutes of the August 28, 2020 Committee meeting. Commissioner Lloyd seconded the motion and the minutes were adopted with all voting in favor.

Commissioner Lohbauer announced that the next meeting of the Land Use, Climate Impacts and Sustainability (LUCIS) Committee has been scheduled for October 7, 2020 at 9:30 a.m. He said New Jersey Department of Environmental Protection (NJDEP) Assistant Commissioner (*for Watershed and Land Use Management*) Vincent Mazzei will be present.

**3. Executive Director's Reports**

**Manchester Township Ordinance 20-022, adopting a Redevelopment Plan for the Whiting Landfill Redevelopment Area in the Pinelands Preservation Area District**

Mr. Lanute said Manchester Township Ordinance 20-022 adopts a Redevelopment Plan for the former Whiting Landfill with the intention of facilitating the proper closure of the inactive landfill in accordance with the CMP and NJDEP regulations. He said this is to be done in conjunction with the development of a solar energy facility. He said Manchester has been selected as one of the first-round projects for the Board of Public Utilities (BPU) Community Solar Pilot Program. Manchester's application to the BPU proposed a 3.2 MW community solar project at the Whiting Landfill and the Township expects the solar facility to offset the costs associated with the landfill closure.

Mr. Lanute said the closure of the landfill, the development of solar facilities and any other development activities at this site would be subject to a Pinelands Public Development Application that would come before the Commission.

Mr. Lanute displayed Exhibit #2 from the Executive Director's report and identified the 98-acre Redevelopment Area on the north side of Route 70 and its proximity to various management areas. The Redevelopment Area consists of a single Township-owned lot in the Township's Pinelands Preservation Area (PPA) zoning district within the Pinelands Preservation Area District. He also displayed Exhibit #1 which depicts the various uses on the site including a firearms training range, a composting facility, a recycling center, and a salt storage shed.

Mr. Lanute said the Redevelopment Plan establishes the Whiting Landfill Redevelopment Overlay (WLRO) District which aligns with the boundary of this single lot Redevelopment Area. The underlying regulations of the PPA zoning district remain in effect for the Redevelopment Area, except where explicitly modified by the Redevelopment Plan. All development in the Redevelopment Area remains subject to the minimum environmental standards set forth in the Township's land use ordinance and the CMP. He said permitted uses in the WLRO include uses permitted in the underlying PPA zoning district, existing municipal facilities on the site, and solar energy facilities.

Mr. Lanute said, of the existing municipal facilities, a recycling center and a composting facility were approved by the Commission in 1990. However, the firearms training facility and a salt storage dome are recognized in the Redevelopment Plan but any expansion of those uses will require completion of public development applications in which the Township must demonstrate that they meet CMP standards for non-conforming uses.

Mr. Lanute said the Redevelopment Plan incorporates CMP standards for siting solar facilities on properly closed landfills. He presented Exhibit #3 from the Executive Director's Report, an aerial view of the landfill site and noted that no solar facilities could be located here until the landfill is capped or a determination made that it is not necessary to do so. He said this exhibit depicts what has been disturbed in the past and where future disturbance might occur as well as various test pits and monitoring wells.

Mr. Lanute noted that the Township's proposed landfill closure plan had been approved by the Commission in 1990 but has yet to be implemented due to the cost. Commission staff is working

with the Township on a pending landfill closure application and will make a recommendation as to whether an impermeable cap remains necessary or if other methods for closure permitted by the CMP are appropriate. He concluded by saying staff conducted a public hearing, at which no testimony or written comments were received, and it is recommending approval of Ordinance 20-022.

Mr. Wengrowski responded to questions from Commissioner Lohbauer regarding the area enclosed by a green line on Exhibit #3, identified as the interpreted landfill boundary. He said the Township's old closure plan indicated that a portion of the landfill had been used for vegetative waste. He said he had not seen a plan that distinguished the vegetative waste area from the municipal solid waste and septage portion of the landfill but, if it appeared in the original closure plan, such an area would be excluded from the impermeable cap requirement. He said staff was meeting with the Township's consultants, Maser Consulting, and NJDEP staff to discuss alternatives. He said that staff had advised Maser of the original closure plan of which it has been previously unaware. He said NJDEP had issued a minor landfill disruption permit to allow the consultants to determine the extent of the vegetative landfill. He also said that he had not seen any proposed solar facility plan for the site.

In response to a question from Commissioner Lloyd, Mr. Lanute said the solar facility would connect to the grid of the Jersey Central Power and Light (JCPL) Company but he did not know where.

In response to Commissioner Lloyd's question regarding the maximum megawatt limit for the utilities participating in the community solar program, Ms. Grogan said this is one of three facilities that has been approved by the BPU for the Pinelands, the other two project being in Woodbine. She said yes, this would count toward JCPL's limit for the first round of community solar projects. She said the details may be available with the BPU and these are likely to be the same questions the Commission will ask when an application for the project is submitted.

Ms. Grogan reiterated that the landfill closure has to be completed prior to the installation of a solar facility. She said she saw this as a good first step as it has opened a dialog with the Township to discuss landfill closure alternatives that meet the goals of the CMP while allowing the Township to have the solar project it wants.

In response to Chairman Prickett's question if it is possible that there is only a minimal amount of leachate coming from the landfill, Mr. Wengrowski said it is possible but, if leachate is reaching nearby wetlands or streams, then remediation is necessary.

In response to Commissioner Lohbauer's question if PITF funds could assist with landfill closure costs, Ms. Grogan said those funds can be used only in the Regional Growth Area (RGA), although she did like the idea. She noted that there is a long list of these landfills including the two in Woodbine.

In response to Commissioner Prickett's questions about the salt shed and firing range that pre-date the CMP, Mr. Lanute said the Township had initiated applications for these two uses but paused when they started the solar proposal.

Mr. Horner said the Township must establish that the two non-conforming uses were in existence in 1981 to qualify for a 50% expansion under the CMP and that this will all be addressed before an application can move forward.

Commissioner Earlen moved the recommendation that the Commission certify Manchester Township Ordinance 20-022. Commissioner Lloyd seconded the motion and all voted in favor.

**Winslow Township Ordinance O-2020-019, adopting a Redevelopment Plan for the Churchill Redevelopment Area in the Pinelands Regional Growth Area**

Mr. Lanute said Winslow Township Ordinance O-2020-19 adopts a Redevelopment Plan for the Churchill Redevelopment Area, a 15-acre parcel consisting of four lots in the Regional Growth Area (RGA). Mr. Lanute presented Exhibit #1 from the Executive Director's report identifying the Redevelopment Area, located between New Jersey Route 73 (NJ-73) and Cooper Folly Road. He said most of the land was zoned Pinelands Major Commercial with a quarter-acre portion zoned High Density Residential. He said the Redevelopment Area contains an existing professional office, while the remainder is vacant and wooded. The purpose of the Churchill Redevelopment Plan is to encourage redevelopment of the area with a mix of uses including professional offices and senior housing.

Mr. Lanute presented Exhibit #2 and identified the two overlay zoning districts established in the Redevelopment Plan. He said the Professional Office Overlay District comprised approximately six acres and permits offices as well as any other uses permitted in the underlying PC-2 zoning district, which includes a variety of non-residential uses such as research facilities, retail stores, banks, and restaurants. He said the Senior Residential Overlay District is 8.64 acres in size and permits memory care facilities, assisted living facilities, independent living facilities, and any other similar senior residential facility. A maximum of 213 units is permitted in the Senior Residential Overlay, inclusive of memory care units even though they are considered an institutional use under the CMP.

Mr. Lanute continued his review of the Redevelopment Plan, noting that all the uses included in the Plan are permitted in the RGA, that the use of Pinelands Development Credits (PDCs) is appropriately accommodated and that infrastructure is available to support this increased residential density. The Plan also contains appropriate design regulations, including a maximum height of 4 stories or 60 feet. A 15-foot landscaped buffer is required around the entirety of the tract.

He noted that the Senior Residential Overlay District is adjacent to the Camden County Library and in the vicinity of the Winslow Township Senior Center and that nearby development is compatible.

Mr. Lanute said the Redevelopment Plan requires the acquisition and redemption of PDCs for 25% of all residential units in the Redevelopment Area, with limited exemptions applicable to affordable units. Residential units include both assisted living and independent living units. Memory care facilities are considered institutional uses under the CMP and are therefore not subject to the PDC requirements. This will result in an opportunity for the use of 43 rights (or 10.75 PDCs).

He concluded by saying that a public hearing had been conducted but no testimony or written comments were received and staff is recommending Commission certification of Winslow Ordinance O-2020-19.

Commissioner Lohbauer said he thought having senior housing adjacent to the commercial uses along NJ-73 was sensible but he was concerned that a landscape buffer between the commercial and residential uses would preclude access by the residents to those services they needed.

Similarly, Commissioner Lloyd asked about facilitating access for seniors, promoting mixed use development and also if the development would be clustered.

In response, Ms. Grogan said, for the most part, clustering involves single family detached dwellings clustered with dedicated open space. Here there will be apartment buildings, perhaps 200 units in two buildings, in a small space. She said this will not be sprawling development across the property. She said staff finds most municipalities are interested in mixed use development, and in a sense, that is close to what is occurring here. But, she said, the Plan was developed to recognize the existing commercial building. She said Winslow Township has long had an interest in commercial development along NJ-73 with residential uses to the rear to support that commercial development. She said the Township is working with a specific developer with a specific project in mind and staff would ask if there will be a connection between the two areas.

Commissioner Lohbauer said having the two areas connect might make it easier for the redeveloper to attract the tenants to occupy the commercial area.

In response to a question from Commissioner Earlen, Ms. Grogan said, yes, a formal development application to the Commission is required and that process has not yet started.

In response to Commissioner Earlen's question if assisted living facilities allow the occupants to come and go at will, Commissioner Lohbauer said such facilities generally offer varying levels of independence.

Mr. Lanute added that there are parking space requirement with a number of spaces per unit specified so that recognizes that there will be a level of independence. Also, generally these facilities have a small van or bus to transport residents.

Commissioner Earlen moved the recommendation that the Commission certify Winslow Township Ordinance O-2020-19. Commissioner Lohbauer seconded the motion.

In response to Chairman Prickett's question about the Memorandum of Understanding with Winslow Township regarding water supply, Ms. Grogan confirmed that there is a maximum amount of water that can be withdrawn from the Kirkwood-Cohansey aquifer. She said although it may not be an issue with this project, there is a trigger that requires the Township to seek an alternate water source and it may become an issue for a number of upcoming projects in Winslow.

All voted in favor of recommending certification of Winslow Township Ordinance O-2020-19.

### **3. Update on the Monroe Township Municipal Utilities Authority monitoring agreement**

Ms. Grogan said, at its August 28, 2020 meeting, the Committee had asked about the status of the Monroe Township Municipal Utilities Authority (MUA) monitoring agreement and today Ms. Berg will provide an update.

Ms. Berg made a PowerPoint presentation (*Attachment A to these minutes and posted on the Commission's website at <https://www.nj.gov/pinelands/home/presentations/MTMUA%20Sept%202020%20presentation.2.pdf>*)

Ms. Berg said a hydrologic monitoring agreement was developed when Monroe Township had wanted to change its sewer service area to extend further into the Pinelands Area back in the late 1980's. She said such an extension would allow more Kirkwood-Cohansey water to be transferred, through the sewer, out of the Atlantic Basin and into the Delaware River Basin. Through several years of negotiation amongst the Commission, the NJDEP and the Monroe Township Municipal Utilities Authority (MUA) a water quality management plan agreement (then referred to as a "208" plan) allowed the extension of the sewer, with the discharge to the Delaware River through the pipe operated by the Gloucester County MUA. She said the 1990 agreement had an obligation for stream monitoring in the Great Egg Harbor River basin, monitoring of the sewer discharge and regular reporting.

Ms. Berg said the stream monitoring occurred for long enough to establish a baseline but staff receives monthly reports on sewer discharge, and water use from the entire system and from the Atlantic Basin portion of the system, which makes up 90% of the system. She said the Monroe Township MUA is limited to a daily sewer discharge of 3 million gallons per day (mgd). She

said Commission staff had established a trigger point of sewer discharge of 2.4 mgd to 2.7 mgd which would require the resumption of stream flow monitoring to see if there were any environmental impacts.

Ms. Berg provided a map of Monroe's portion of the Atlantic basin both in and out of the Pinelands Area and a graph of the results of the sewer discharge since January 2017. She noted that any gaps in the data are likely the results of paperwork errors at the Commission, not the reporting obligation. She noted that the discharge was maintained below 2.5 mgd for the most part. She said about a year ago, those levels started to rise. The MUA responded in March 2019 by instituting a program to detect and repair infiltration (groundwater flow into the pipes) and inflow (stormwater inflow from the surface) (I&I). Ms. Berg noted that this was also a very wet season which may have contributed to the discharge. She said since that time, the discharge volume has leveled back to average.

In response to Commissioner Lohbauer's observation that the MUA appeared to be doing a better job of keeping stormwater out of the sanitary sewer system, Ms. Berg said inflow can often be addressed through manhole cover replacements but infiltration is more challenging as it may require lining pipes, replacing pipes, etc.

Chairman Prickett said by introducing this program it was likely the MUA was saving taxpayer dollars.

Ms. Berg said she didn't know the details of the relationship with the Gloucester County MUA but no doubt there was a contract with a rate schedule as well as the cost to Monroe Township to treating wastewater, so less is better.

Ms. Berg shared a graph of the water use since January 2018 noting that the Water Supply Advisory Council had determined that water use has been higher this year due to social distancing and the quarantine. She said that is reflected in the data.

She summarized by saying that Monroe Township MUA is meeting the terms of the agreement and staff sees no reason to implement a second round of stream monitoring.

Commissioner Lloyd said he thought this is exactly what the Commission should be doing, addressing I&I and saving water everywhere.

The Commissioners thanked Ms. Berg for a useful presentation that brought them up to date.

## **5. Discussion of recommended CMP amendments related to stormwater management**

Ms. Wittenberg said that staff has been building up to this presentation over several meetings by discussing stormwater and Ms. Marci Green has been doing a wonderful job writing rules. She noted that as a consolation to Commissioner Lohbauer for the delay of the LUCIS meeting, much of what is written in the stormwater rules addresses climate change.

Ms. Grogan said that today's presentation was a collaborative effort throughout the office and Mr. Szura and Mr. Wengrowski were here to answer technical questions.

Ms. Green made a PowerPoint presentation (*Attachment B to these minutes and posted on the Commission's website at:*

[https://www.nj.gov/pinelands/home/presentations/PowerPoint%20for%209\\_25%20P&I%20.pdf](https://www.nj.gov/pinelands/home/presentations/PowerPoint%20for%209_25%20P&I%20.pdf))

Ms. Green said Mr. Gabe Mahon, had presented the new NJDEP rules at the Committee's May 29, 2020 meeting and since that time, staff have been determining how best to adapt the CMP to the NJDEP rules. She reviewed the key points of the NJDEP rules and goal of new CMP amendments to adopt the NJDEP rules but modify them to meet the needs of the Pinelands Area, establish reasonable requirements for developers and homeowners, and to minimize increased stormwater impacts resulting from climate change. Her detailed presentation provided an overview with successively increased detail which is best explained through the slides themselves.

Following Ms. Green's presentation, Chairman Prickett invited Commissioner to ask questions.

Commissioner Lloyd said there was a lot to absorb and he commended staff on a great job. He said it sounds as though these rules exceed NJDEP standards, where they can, and will continue to promote Pinelands protection.

In response to Commissioner Lohbauer's question as to why nitrogen would be regulated in relation to stormwater management, Mr. Wengrowski said typically there is little nitrogen in runoff from roads except where landscapers and homeowners use broadcast spreaders to apply granular fertilizer to lawns and there is some spillage onto those surfaces. He said most nitrogen in stormwater comes from lawns, particularly when fertilizers are applied in excess, and from animal waste, both domestic animals and wildlife, particularly geese. He said the Pinelands targets nitrogen as it is the limiting nutrient in the ecosystem that allows excessive nitrogen blooms leading to eutrophication. He said typically the phosphorus found in fertilizers is not a problem in the Pinelands due to the iron rich soils; phosphorus binds to the soil particles rather than moving through it like nitrogen and reaching the water.

Mr. Wengrowski said NJDEP applies various nitrogen removal rates to various best management practices (BMPs) or stormwater devices as some capture more nitrogen than others. He said he and Mr. Szura did some calculations and concluded that a developer can link two of these devices together and obtain 65% nitrogen removal. He said any single device, listed in NJDEP's chart, will provide no more than 50% removal. He said, for example, 50% removal would occur in an infiltration basin or a rain garden but, by linking the devices and obtaining 65% nitrogen removal, staff feels that this will be a highly protective standard and can be met with a reasonable degree of effort by a developer.

Ms. Green said staff has reviewed these changes with NJDEP and they are supportive.

In response to Chairman Prickett's question if one could measure the effectiveness of these measures from site to site to remove nitrogen and get water back into the ground., Mr. Szura said NJDEP has a Best Management Practices (BMP) manual that is referenced in the Commission's regulations. It offers guidance by establishing design standards based on factors such as types of soils, soil permeability, etc. Stormwater facilities must be built to certain specifications and the municipalities and Commission staff assure that those requirements are met. Mr. Szura said, over time, these measures have been studied and proven to be effective. Also, he said, NJDEP is now mandating the use of green infrastructure on a smaller basin; rather an area of the five acres draining to a basin, the new regulations reduce that maximum drainage area to 2.5 acres. Mr. Szura also said that a new Pinelands requirement will be for two BMPs (e.g. a vegetative swale or a vegetative filter strip prior to discharge to a basin) for water draining from lawns as well as from impervious surfaces to achieve that same 65% nitrogen reduction.

Commissioner Lloyd said it sounded as though great progress was being made in reducing nitrogen discharge from non-residential and small residential development, but how does that compare with nitrogen runoff from agricultural sources.

Ms. Grogan said this issue also comes up with water supply but she reminded the Committee that the Pinelands Protection Act and the rules generally exempt agricultural activities from Commission oversight unless someone is building something that is strictly for non-agricultural use. She said the Commission is restricted in what it can do and there is little opportunity to apply the rules, including those for stormwater, to agricultural activities.

Chairman Prickett said he always hopes that the costs to farmers of pesticides, herbicides, diesel fuel all encourage them to use best management practices and reduce their use.

Ms. Grogan noted that the State Agricultural Development Committee (SADC), which has provided several presentations to this Committee, is looking at these issues. She said since they have the ability to regulate agricultural activities, perhaps something could be done in coordination with SADC.

Ms. Grogan said she recognized that this was a lot of material to absorb but the Committee will have time to ask questions and review the slides on the website. She said the next steps will include Ms. Green drafting rules and the formal proposal including the background material. She said those documents will hopefully be on the Committee's November agenda for review. She encouraged the Committee to reach out with questions or concerns in the interim. She said NJDEP has told the Pinelands municipalities not to adopt implementing ordinances just yet while the Pinelands goes through its own rulemaking process. She said she hoped to have the proposal

out for public comment before the end of the year and for an effective date closely following NJDEP's deadline of March, 2021.

Mr. Wengrowski said that at the beginning of the meeting, Ms. Wittenberg had noted how the stormwater rules relate to many climate change issues. He said the NJDEP is looking at their definitions of 100-year storms, ten-year storms and two-year storms, noting that their data are 20 years old and perhaps not reflective of current conditions. Mr. Wengrowski said the Pinelands rules are structured to reflect automatically any changes to NJDEP rules, e.g. if the volume of water from a 10-year storm is determined to be larger than currently defined, there is an automatic requirement to recharge that larger volume.

Commissioner Lohbauer said that, at the moment, this provision of the rule is "below the surface" as the public would not see that it is a means of addressing climate change. He said he wants language in the CMP that will empower the Commission to address climate change in its policies and practices and was optimistic that something might be developed before the end of the year.

## **6. Public Comment**

Mr. Fred Akers, with the Great Egg Harbor Watershed Association, said he liked what he had heard today. He said his organization's concern is the cumulative impact with the amount of interbasin transfer from Winslow and Monroe townships. He said it is important for river flows that more water get into the ground at the head of the watershed. He said his group is working on repairing a basin in Winslow Township (outside the Pinelands Area) He said the Winslow Mayor is very enthusiastic about the project and that the Camden County Soil Conservation District is assisting with the research.

Ms. Rhyan Grech, with the Pinelands Preservation Alliance (PPA), thanked staff for the presentation on the stormwater rules. She asked Mr. Szura to expand upon his comments about locally treating stormwater by reducing the acreage of the drainage area directed towards a particular BMP. Also, she asked how long Pinelands municipalities will have to adopt implementing ordinances once the new stormwater rules go into effect.

Mr. Szura said the NJDEP rules will be incorporated by reference. Currently the CMP has a requirement for smaller more discreet stormwater measures; ideally multiple BMPs are used unless it is a small site. There is no specific guidance in the CMP regarding the size of the drainage area now but the CMP will be incorporating NJDEPs rules.

Ms. Grogan said whenever the Commission amends the CMP, Pinelands municipalities must adopt implementing ordinances within a year. She said once the Commission has authorized the formal proposal, staff will begin drafting ordinances for each of the Pinelands municipalities. They will be distributed once the amendments are adopted and then the municipalities will have a year in which to adopt them. Hopefully, by distributing the model ordinances promptly, the

municipalities will adopt them well within that one year time frame and closer to the March 2021 date when NJDEP's new rules must be implemented.

Ms. Green said she wanted to clarify that currently the CMP references the NJDEP rules but the modifications will be specific to the Pinelands.

Chairman Prickett said he appreciated all the information provided by staff today.

Commissioner Lohbauer invited the public to attend the LUCIS meeting at 9:30 a.m. on Wednesday October 7, 2020 at 9:30 a.m. Mr. Leakan said it is posted on the website.

There being no further business, Commissioner Lohbauer moved the adjournment of the meeting. Commissioner Earlen seconded the motion and all agreed. The meeting adjourned at 11:41 a.m.

Certified as true and correct



October 22, 2020

Betsy Piner  
Principal Planning Assistant

# Monroe Township Municipal Utilities Authority

## Monitoring Agreement

CMP P&I Committee 9/25/2020  
Attachment A

## Purpose

Monitor export of Kirkwood Cohansey water out of the Pinelands and to address inter-basin transfer from the Atlantic Basin to the Delaware River Basin

CMP P&I Committee 9/25/2020  
Attachment A

## Agreement

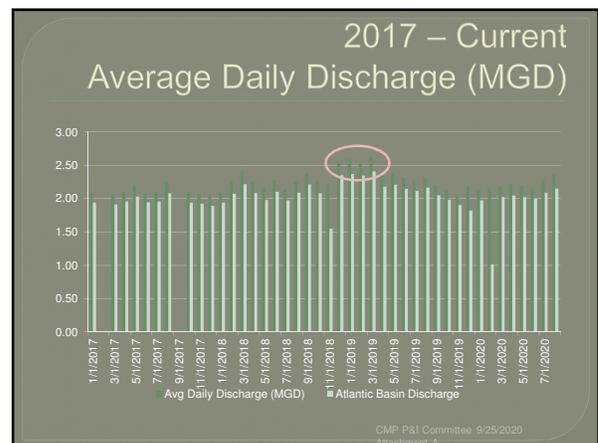
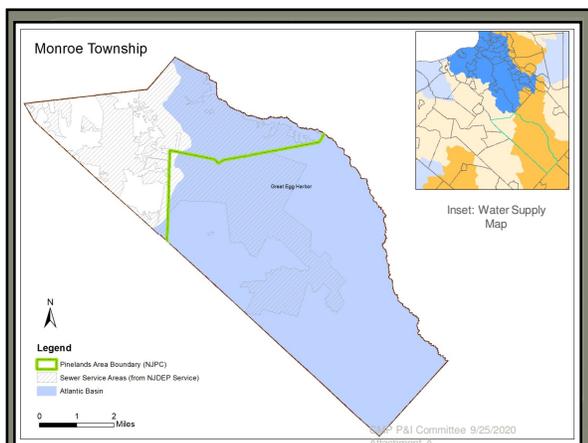
- Sewer Service Area (WQMP) amendment generated need to review water export
- Sewers discharge to the Delaware River via the Gloucester County Utility Authority pipe
- Water supplied from public and private wells in K/C (& other sources)
- Hydrologic monitoring agreement signed in March 1990

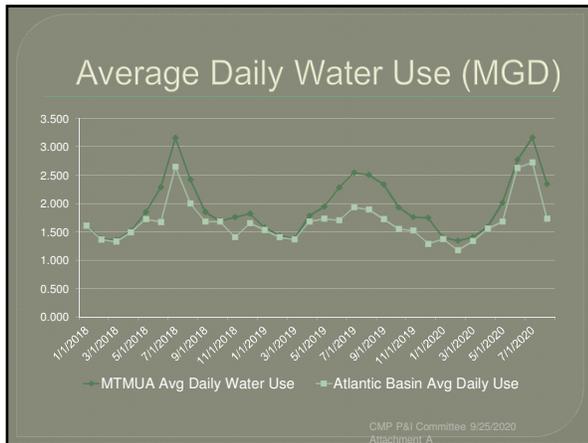
CMP P&I Committee 9/25/2020  
Attachment A

## Limits

- MTMUA is limited to discharging up to 3 MGD wastewater
- MTMUA reports sewer discharge, water use from the entire system and from the Atlantic Basin portion of the system
- Approximately 90% of that discharge is from the Atlantic Basin
- “Trigger Point” – sewer discharge of 2.4 – 2.7 MGD (2001; RAZ)

CMP P&I Committee 9/25/2020  
Attachment A





- ### Review and Conclusion
- Continue monitoring sewer discharge (export) not water use
  - If discharge consistently greater than 2.4 – 2.7 MGD, then new stream monitoring is required
  - MUA instituted a program to detect and repair infiltration and inflow (I&I) to the system in March 2019
  - System is operating within parameters of agreement
- CMP P&I Committee 9/25/2020  
Attachment A

## Stormwater management in the Pinelands

Proposal to amend CMP in response to DEP's recent stormwater rule adoption

Pinelands Policy & Implementation Committee  
September 25, 2020

### Brief recap from May 29, 2020 P&I meeting

DEP recently amended its stormwater rules, effective March 2021

- Mandatory use of Green Infrastructure BMPs to manage stormwater close to source
- Treat stormwater runoff through infiltration into the subsoil
- Treat stormwater through filtration by vegetation or soil
- Storing stormwater runoff for reuse
- Goal is to create hydrologically functional landscapes to maintain or reproduce the natural hydrologic cycle for the developed area

### Goals of CMP stormwater protection amendments

- harmonize CMP stormwater provisions with DEP's new stormwater management rule in a manner best suited for the Pinelands Area
- continue to strengthen and enhance stormwater management in the Pinelands Area while establishing reasonable requirements for home builders and developers
- minimize impacts of increased stormwater runoff due to climate change.

### Proposed major changes to CMP

1. Require stormwater management for minor residential development and some minor non-residential development
2. Incorporate DEP provisions on waivers for meeting CMP stormwater management on-site ("exceptions")
3. Add specific recharge standard for nitrogen removal

### Areas where CMP will exceed DEP standards

#### Proposed additions:

1. Require stormwater management for minor residential development and some minor non-residential development
2. Additional conditions for off-site recharge of stormwater
3. Specific recharge standard for nitrogen removal

#### Current CMP:

1. 10-year storm recharge requirement
2. Prohibition on discharging stormwater to wetlands/streams
3. Special treatment of runoff from HPLA
4. Emphasis on soil testing and as-built certification

### Overview – stormwater management requirements

- Minor residential development: require rain gardens, pervious pavement systems, dry wells, or any recharge GI accepted by DEP that will meet CMP requirement for groundwater recharge from new roof surfaces
- Minor non-residential development: require stormwater management if there's an increase in regulated motor vehicle surface

Minor residential development

**Current CMP definition:** division of land into < 5 lots/construction of < 5 dwelling units

**Current CMP requirement:** subject to CMP stormwater management requirements *only if development involves construction of new roads*

**Proposed CMP change:** add groundwater recharge requirement to reduce localized flooding and to maintain K/C aquifer levels – based only on *size of roof*.

(continued)

Minor residential development

**Proposed CMP changes:**

1. The storm volume (10-year storm) generated on the roof must be retained and infiltrated onsite through 1 or more of the following green infrastructure (GI) BMPs to be installed and maintained by applicant:
  - rain garden/small scale bioretention system
  - pervious pavement system
  - dry well
  - other GI measures that meet DEP requirement for groundwater recharge
2. Applicant required to:
  - conduct soil and permeability tests at site of infiltration of GI structure
  - provide engineering plan showing type and location of each green infrastructure and cross section drawing showing distance from high water table

Minor non-residential development

**Current CMP definition for stormwater purposes:** construction or expansion of any non-residential use or structure on a site less than 3 acres OR grading, clearing or disturbance of <5,000 square feet within any 5-year period

**Current CMP stormwater requirement:** not subject to CMP stormwater management requirements

**Proposed CMP change:** if development results in increase of > 1,000 square feet of regulated motor vehicle surface (defined in DEP rule) it will be subject to DEP's minimum design and performance standards to reduce post-construction load of total suspended solids (TSS) in stormwater runoff through infiltration.

Major residential development (no change)

**Current CMP:** division of land into 5 or more lots; any construction or expansion of any housing development of 5 or more dwelling units

**Current CMP requirement:** Major residential development subject to CMP stormwater requirements

Major non-residential development (no change)

**Current CMP definition:** construction or expansion of any non-residential use or structure on a site of more than 3 acres OR grading, clearing or disturbance of > 5,000 square feet within any 5-year period

**Current CMP requirement:** subject to CMP stormwater management requirements

Overview - exceptions (waivers)

for development that can't meet stormwater management requirements

- CMP currently authorizes municipality and Commission to grant waiver/exception for development that can't meet stormwater management requirements.
- Propose to adopt DEP's more-detailed provisions for granting waiver/exception for development that can't meet stormwater management requirements, with modifications.

Private major development

+

Public non-linear development

**Current CMP:** authorizes municipality and Commission to grant waiver/exception; guidance is very general.

**Proposed CMP change:** incorporate DEP variance rule (N.J.A.C. 7:8-4.6) for the granting of waiver/exceptions, which provide more guidance and detail than is currently in CMP, with some modifications.

- Waiver/exception would be granted only to the design/performance standard(s) that can't be met onsite. If the standard(s) can be met onsite, no exception would be granted.

(continued)

**Conditions for granting exception:**

- off-site stormwater management measures ("off-site mitigation") have to be located in the Pinelands Area and same HUC-14 watershed area as the major development.

**(modifications to DEP variance rule):**

- if no such mitigation site is available within the Pinelands Area, applicant can propose another site within same HUC-11 watershed as the major development, in the Pinelands, and in the same municipality as the major development
- proposed mitigation project has to be consistent with stormwater management plan certified by Commission unless the stormwater plan doesn't provide for mitigation for the circumstances at hand
- an exception from the CMP's recharge standards may be granted only if the total volume of stormwater infiltrated by a mitigation project equals or exceeds the volume required in the CMP. (Note: CMP required volumes for infiltration exceed DEP standards)

**Public linear major development projects (e.g., roads)**

**Current CMP:** authorizes Commission to grant exceptions.

**Proposed CMP change:** Incorporate DEP rule on waiver from strict compliance for public linear projects (but call it an "exception" to maintain consistency with CMP terms). Proposed changes provide more detail than is currently in CMP.

**DEP rule:** An applicant can get a waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quantity, and stormwater runoff quality requirements for the enlargement of an existing public roadway or railroad if development meets certain conditions.

Stricter recharge standard for nitrogen removal

**DEP rule:**

Requires reduction of nutrients (nitrogen and phosphorous) from stormwater runoff to the maximum extent feasible.

**Current CMP:** same as DEP rule, through incorporation of rule.

**Proposed CMP change:**

Require reduction of total nitrogen load in stormwater runoff by a minimum of 65% from new development site, including permanent lawn and turf areas intended for active human use, lawns associated with a residence or other principal non-residential use.

Summary

**Proposal will further enhance stormwater management in the Pinelands**

- stormwater management for small-scale residential development through use of rain gardens, pervious pavement systems and dry wells that would not be required under DEP rule.
- stormwater management for small-scale non-residential development that would typically not be required under DEP rule
- specific standard for nitrogen reduction
- In most cases, CMP changes will result in a much larger amount of stormwater being retained and infiltrated than DEP stormwater rule requires.