

**equity
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PEER REVIEW REPORT

BHT Properties Stickles Pond Road Site

**Subject Property Address: 248 Stickles Pond Road, Andover NJ
Subject Property Block: 151 Lot: 21
Prepared For: Andover Township**

April 12, 2022

Prepared by:
Equity Environmental Engineering
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Matt Morris, L.L.A., P.P., LEED G.A.

Harold E. Pellow & Associates, Inc.

17 Plains Road

Augusta, N.J. 07822

Dear Mr. Morris,

As requested, on behalf of Andover Township Land Use Board, Equity Environmental Engineering LLC “Equity” has conducted a review of Preliminary/Final Site Plan Application by BHT Properties for their Proposed Development of the property at 248 Stickles Pond Road (Block 151, Lot 21) “Subject Site”. The primary application materials provided for the approximately 100-acre Construction Equipment and Material Storage Facility and 12,860 square foot building include the following (see **Figure 1** Site Boundary Map in Appendix to Memorandum);

1. Preliminary and Final Major Site Plan – Dated 12-12-2019 (last revision 03/08/2022) – Prepared by E&LP
2. Environmental Impact Statement - Dated February 8th, 2020 – Prepared by E&LP
3. Freshwater Wetland Report – General Permit 6 and Transition Area Waiver – Dated January 20, 2020 – Prepared by E&LP
4. Flood Hazard Area Verification Report – Dated January 20, 2020 – Prepared by E&LP
5. Stormwater Management Report – Dated November 28, 2019 (last revision March 8, 2022) – Prepared by E&LP
6. Other application materials, presentations and correspondence

Our review has focused on the existing natural resource conditions associated with the Subject Site and review of the above primary materials prepared by BHT Properties & associated consultants, supporting their Proposed Development at the Subject Property. Specifically, the evaluation of Application materials was oriented toward an assessment of the sufficiency and completeness of the documentation provided regarding the protected Category I waters of the Pequest River, associated surface waters including wetland areas and wetland transition areas, features such as vernal ponds and the potential presence of rare and endangered plant and animal species habitats on the Subject Site.

At this time our scope of work has not included a detailed site investigation to document the presence and significance of such features or their relationship to the proposed development. A preliminary site visit was performed by Equity staff in March of 2022 to confirm presence/absence of wetlands and applicable flagging and to gain an understanding of the general ecology present on the Subject Site. Further investigation would be needed during April and May to confirm presence of state threatened or endangered species. As such, this review does not provide a comprehensive independent characterization of the ecosystem present on the Subject Site and the potential impact of the Proposed Development on this ecosystem. Rather, this memorandum focuses simply on what we believe to be the required State Agency reviews and approvals for a project of this nature and this location, and our review of the environmental studies submitted by BHT Properties in support of the application to determine if they have met these requirements.

1 BACKGROUND

BHT proposes to construct and operate an equipment and materials storage facility. We understand this facility is intended to support BHT's activities at construction sites in the northern New Jersey area. Per the "Overall Site Plan" by E&LP revised 3/08/2022 there are plans for three separate areas onsite:

- **Area 1 (Sheet 5)**
 - A proposed 12,860-sf building with 40 parking spaces located in the southeastern portion of the property. We understand that by letter dated March 8, 2022, the applicant's attorney has indicated a willingness to reduce the number of parking spaces to 25.
 - A 7.26-acre storage area for construction materials with gravel surface and asphalt milling drive paths.
 - A 3.4-acre storage area for aggregate and construction equipment storage with gravel surface and asphalt milling drive pat and asphalt milling drive paths.
 - A 2.95-acre storage area for construction equipment with gravel surface and asphalt milling drive paths.
 - Two infiltration basins and a portion of infiltration basin running parallel to Stickles Pond Road
 - Wetland E - classified as ordinary with a 150-foot transition area.
- **Area 2 (Sheet 6)**
 - A 14.09-acre storage area for construction material with gravel storage surface and 25' asphalt access roads.
 - An infiltration basin oriented to run contiguous with northeast section of the proposed construction material storage area. A portion of infiltration basin running parallel to Stickles Pond Road at the southwest corner of area 2.
 - Wetlands B, C and D – classified as ordinary with a 150-foot transition area.
- **Area 3 (Sheet 7)**
 - Wetlands F, Transition Area and Riparian Zone Boundary located on the northwestern portion of the property close to Stickle Pond Road.

2 SUMMARY OF GENERAL FINDINGS

We have identified four primary deficiencies in the materials provided for review by Equity. (*A detailed review is provided after this section*).

Business Operational Plan - The documents provided to Equity do not describe adequately the proposed regular operation of the facility post-construction. Specifically, no information is provided as to the identity and location of the active construction sites that would be supported by this facility, the direction, timing, volume, and vehicle type of movements between the facility and these construction sites, or the volume and type of equipment and materials movements onto and off of the site. Without this information, it is not possible to get a meaningful sense of the intensity of activity on-site and on surrounding roadways to assess the operational impact on ecology including plant and animal species as well as the impact on existing wetlands, vernal pools and groundwater generally. We would request a

detailed operational plan that describes the estimated arrival and departure of vehicles by class, detailed data identifying expected noise and air emissions and measures to control dust and noise emissions to minimize the impact to the ecosystem present on the Subject Property. We understand that the applicant, by letter from their attorney dated March 8, 2022, has indicated willingness to stipulated that ‘there will not be more than 150 truck trips to the site, not more than four (4) times per month.’ This statement is not clear as it does not indicate whether these are combined trip ends or simply arrivals with a comparable number of outbound trips, and does not address on-site vehicle movements and associated dust generation.

Wetlands Classifications – A NJDEP verification letter for the Letter of Interpretation (LOI) for delineation, verification or resource value was not provided. Although wetlands were flagged and presumably reviewed by NJ DEP and a 150-foot transition area has been defined for wetlands (B-H) mapped on the Subject Property, there is no NJDEP verification letter of the LOI provided in the Freshwater Wetland Report indicating that the boundaries, transition areas, and resource value classification accorded to all wetlands on the Project Site was concurred with by NJDEP.

Rare/Endangered Plant and Animal Habitat – The NJDEP, Office of Natural Lands Management provided a Natural Heritage Database and Landscape Project data search for the Subject Property dated October 10, 2019. This database indicates the following; Report 3: Rare Wildlife Species or Wildlife Habitat on the Project Site Based on Search of Landscape Project 3.5 Species Based Patches, Report 4: Vernal Pool Habitat on the Project Site Based on Search of Landscape Project 3.5, Other Animal Species on the Project Site Based on Additional Species Tracked by Endangered and Nongame Species Program. The database search lists multiple Federally Listed Endangered Plant and Animal Species and State Endangered Species and Species of Special Concern that may have habitats, breed, or forage on sight – including Bald Eagle, Barred Owl, Jefferson Salamander, Kennedy’s Emerald, Bobcat, and Indiana Bat to name a few. None of the materials provided, including the Environmental Impact Statement, indicate that any field verification was performed for either the presence of these species at the Subject Property or a characterization of the potential presence of such species based on site ecology. **Figures 3, 4 and 7** in the Appendix to this memorandum identify natural resources areas associated with Rare and Endangered Plant and Animal Habitats.

Environmental Impact Statement (EIS) – The EIS dated February 7, 2020 has not been updated for the current Site Plan and Business Operation. The EIS provides a cursory identification of existing conditions particularly as they relate to general Subject Site ecology. Moreover, in the two-page statement of Probable Impacts & Mitigation, the EIS provides a profoundly insubstantial assessment through unsubstantiated assertions regarding potential impact of the Proposed Development, either during construction, related to the footprint of the Proposed Development or due to operations of the Proposed Construction Material and Equipment Storage Facility. It is not clear at this time whether the Project is considered as-of-right an whether per Township Ordinance, an EIS is required for site plan approval.

3 DETAILED REVIEW

Environmental Setting: Surface Waters – Review of Freshwater Wetland Report

The “Overall Site Plan” by E&LP revised 03/08/2022 indicates wetland boundaries and wetland transition areas (~150-feet) as well as the riparian zone boundary (~300 feet) marked on the Site Plan. Documentation has not been provided in materials provided that Riparian Zones and Flood Hazard Areas were verified and approved by NJDEP. The Flood Hazard Area Verification Report dated January, 2020 indicates that a 150-foot offset from the existing tops of bank was provided. Proof of an accepted complete permit application as of April 6, 2020 must be provided.

- . Regulatory issues may include the following:
 - ✓ A Category 1 water is defined in the Surface Water Quality Standards rules at N.J.A.C. 7:9B 1.4 as waters protected from any measurable changes in water quality because of their exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources. Category 1 waters have more stringent anti-degradation requirements than Category 2 waters.
 - ✓ The Category 1 designation provides additional protection to water bodies that helps prevent water quality degradation and discourages development where it would impair or destroy natural resources and water quality. The maintenance of water quality is important to residents, particularly to the many communities that depend on surface waters for drinking water supplies, recreation, and fishing.
 - ✓ If a property owner is planning new construction in the vicinity of a water body which is given the Category 1 Water designation, then it is important to determine the distance of the proposed construction in relation to the waterway.
 - ✓ Buffers are vegetated areas adjacent to waterways that provide protection to New Jersey’s water quality. These special areas are established and protected through various rules and may vary in width.
 - ✓ A 300-foot buffer or Special Water Resource Protection Area (SWRPA) is required for all “Major Development” (1/4 acre increase in impervious surface or 1 acre of disturbance), that is adjacent to a waterway that is designated as C1 or to an upstream tributary within the same HUC 14 AND that is mapped on either the County Soil Survey or the USGS Quad map. → The proposed development is proposing ± 59.79 acres of disturbance and ± 15.76 acres of increase in impervious coverage per the “10/01/2020 – Stormwater Management Report”. They will be greater than 1 acre of disturbance and greater than ¼ acre of new impervious surface.
 - ✓ Based on the Plan Set updated 3/8/2022, it appears that no site disturbance is proposed within this 300’ SWRPA. All disturbances in the SWRPA must be approved by the Department of Environmental Protection in a DLUR permit or by the Division of Watershed Management, when no DLUR permit is required. Development in the SWRPA is permitted in limited circumstances, for example, for a project that involves: a linear development, a unique hardship, or disturbance of the outer 150 feet of the

- SWRPA that is already disturbed only if the overall functional value of the SWRPA is maintained or improved.
- The Applicant is applying for a Fresh Water Wetlands General Permit 6 FWW GP 6. When an isolated FWW or isolated State Open Water (SOW) is proposed to be disturbed, filled, excavated or drained, a GP 6 is required. In order to determine whether or not an area of FWW or SOW is isolated, detailed information about that wetland and the site must be obtained, and an inspection of the property by a representative of the Department is required.
 - The Department issues a LOI, which is a document that states whether there are wetlands on the property and where they are located based upon a site inspection. The LOI letter may sometimes identify areas of FWW as isolated within the site. If an area of wetlands on the LOI looks isolated, but is not identified as such in the letter, it is assumed NOT to be isolated unless the owner/applicant can provide evidence that the area has no connection to a surface water tributary system. A GP 6 may be combined with other general permits or permits provided the total disturbance of all GPs do not exceed the one-acre threshold for multiple general permits.
 - ✓ A non-tributary wetland is an isolated freshwater wetland that is not part of a surface water tributary system, which means an isolated wetland cannot be connected to and discharge into a lake, pond, river, stream, ocean, or any other surface water feature.
 - The Freshwater Wetland Report indicates that Wetlands A, B, C, D per Section 3 are isolated, while F, G and H are identified as draining into the Pequest River. The Report indicates that Wetlands B through H are classified as Exceptional Resource value due to their size, location and threatened and endangered species present in the area and provides a 150-foot transition area. This statement is concerning when reviewing the Statement in A.3 of the same Report which simply states, “The proposed regulated activities will not destroy, jeopardize, or adversely modify a habitat for threatened or endangered species”, but provides no substantiation for this statement and provides no discussion in the EIS for the Proposed Development regarding threatened and endangered plant and animal species.
 - Section 2 – EL&P states the construction will be filling 930 sq ft of wetlands. In order to effectuate the fill of wetlands - a NJDEP transition waiver is needed. Pursuant to N.J.A.C. 7:7A-8.3(a), The Department can only issue a special activity waiver if the activities will not result in a substantial impact on the adjacent freshwater wetlands, and the proposed project will minimize impacts to the freshwater wetland and transition area. To determine whether impacts are minimized, the Department will consider an alternative location feasible if it is available and capable of being used after taking into consideration cost, existing technology, and logistics in light of the overall project purpose, but will consider an alternative location infeasible if its use for the project would cause other, more significant adverse environmental consequences.
 - ✓ Redevelopment TA waiver (N.J.A.C. 7:7A-8.3(f)) → The Department will issue a waiver for redevelopment of a significantly disturbed area if all of the following conditions are met:

- a. The area of proposed activity is significantly disturbed, so that it is not functioning as a transition area at the time of application, for example, the area is covered by an impervious surface such as pavement, by gravel or paver blocks, or by a deck that is less than five feet off the ground. *Area does not meet these criteria.*
 - b. The significant disturbance in the area of proposed activity was legally existing in the transition area prior to July 1, 1989, or has been permitted under this chapter. *This would need to be documented if such activity existed at the time identified.*
 - c. No additional disturbance is proposed that would expand the disturbed area; *There appear to be potentially impactful disturbance related to Site activities and wetland buffer zones that are directly proximate to these disturbance areas. The combination of downgrade location of wetlands from storage areas and the movement of heavy vehicles and presence of open-air construction material that has the potential to release dust and leak vehicle fluids into permeable storage areas is not considered in any of the materials received.*
 - d. Where practicable, any remaining disturbed portion of the transition area shall be planted with indigenous plants that are beneficial to the wetland and protected from future development by a conservation restriction that meets the requirements at N.J.A.C. 7:7A-12. *NJDEP correspondence regarding this was not provided for our review.*
- Section 2 – E&LP states they will need a “Soil Erosion & Sediment Control Plan” certified by **Sussex County**. A Soil Erosion & Sediment Control Plan must be submitted; however, it will need to be submitted to the **Upper Delaware District**, which includes Warren and Sussex County.

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Environmental Setting: Habitat

- **Section 4 – Wetlands Permit Compliance Bullet A.3** – Absent further documentation, Equity disagrees with E&LP’s characterization that “*The proposed regulated activities will not destroy, jeopardize, or adversely modify a habitat for threatened or endangered species*”. No documentation has been provided that shows that an appropriate seasonal field evaluation for the presence of rare/endangered plant and animal species has been performed. Other than the assertion identified above, no evidence has been provided to demonstrate plant and animal species will not be impacted by the Proposed Development.

- As shown in the Natural Heritage Program Letter; habitat exists onsite for mammals, birds, amphibians, reptiles, insects, and plants that have a status of State Endangered and/or State Threatened/ Special Concern, examples include:
 - Aves: Bald Eagle, Barn Owl, Long Eared Owl (In New Jersey, breeding Long-eared owls are rare, but could be found in the north-western portion of the state).
 - Insects: Kennedy’s Emerald (type of dragon fly)
 - Mammals: Bobcat and Indiana Bat
 - Amphibians: Long-Tailed Salamander
 - Reptiles: Bog Turtles and Wood Turtles

- In section 3 E&LP states *“the Site drains outward from the center of the property towards Pequest River (i.e. Category 1 Water), which flows from northwest to southwest near the northwest property line, the street and Stickles Pond.”* For paved portions of the Site, runoff into these areas ultimately may affect the overall water chemistry and possibly erode/filling in, or removal/altering and or impacting the vernal pool habitats that is within the Site. Further, in those areas that are permeable, material and vehicle storage over time may subject the adjacent wetland areas to erosion, airborne dust particulate, vehicle fluid and fuel leakage penetrating into the ground, and noise and human activity that may disturb the ecosystem and its suitability as animal habitat.

- It should also be noted that Natural Heritage Database indicates the presence of rare vascular plants and Dry-mesic Calcareous terrestrial community. No mention of the presence of rare plants is provided in any material or the potential impact of the Proposed Development including regrading and paving 60% of the Subject Site.

- The Site is surrounded by “NJDEP Natural Heritage Priority Sites” as shown in **Figure 7** in the Appendix per NJDEP GeoWeb database. These Natural Heritage Priority Sites represent some of the most important remaining habitat for rare species and rare ecological communities in the state. Although the primary focus of these sites is rare plant species and ecological communities, the DEP Endangered and Nongame Species Program also provides key information and assists with the delineation of a number of the sites that encompass significant habitats for rare animals. These areas should be considered to be top priorities for the preservation of biological diversity in New Jersey.

- **Section 4 – Wetlands Permit Compliance Bullet A.15** – Development activities authorized under a general permit shall not take place in a vernal habitat, with the exception of activities associated with general permits 1, 6, 6A, and 16 which shall be reviewed on a case-by-case basis. **Figures 3 and 4** in the Appendix to this memorandum identify vernal pond habitat and Skylands endangered species habitat areas as mapped by NJDEP.

Although the General Permit 6 is specific to Wetland A – identified in the Wetland Report as an isolated and ordinary wetland, no documentation has been provided in materials

indicating an LOI concurred with this finding. Further, as shown in the NJDEP Landscape Project Mapper, a significant portion of the Subject Site is identified as a potential vernal pool habitat area. Given that wetland investigation was performed in late October, it is highly questionable as to whether vernal habitats were properly documented and whether any reasonable and thorough investigation of the presence of vernal habitat or pools, or rare plant and animal habitat could have been performed with such a limited, late season investigation. Amphibians/Turtles are usually hibernating by the first week of October. Plant species are also usually going dormant as well. The salamanders listed on the NH Database are threatened and live in these areas. A multi-season habitat/wetland/vernal pool delineation should be provided for such a sensitive site ecology. New vernal habitat regulations to account for wetlands smaller than 1-acre include the following certification criteria;

- ✓ Occurs in a confined basin depression without a permanently flowing outlet.
 - ✓ Provides documented habitat for obligate or facultative vernal habitat species (these species are identified in N.J.A.C. 7:7A, Appendix 1).
 - ✓ Maintains ponded water for at least two continuous months between March and September of a normal rainfall year.
 - ✓ Free of fish populations throughout the year, or dries up at some time during a normal rainfall year.
- **Section 4 – Wetlands Permit Compliance** → See bullet 6 E&LP do not discuss how they plan to determine the soil is free of contaminants. Should provide some assurance as to what measures the Applicant will provide to assure incoming fill is free of contaminants.
 - **Section 4 – Wetlands Permit Compliance** → See bullet 9 E&LP will need to comply with the last amended version of the stormwater management standards dated March 2, 2020 (N.J.A.C. 7:8 STORMWATER MANAGEMENT). Question as to whether Applicant can file Stormwater Management Plan under the old or the new stormwater management ordinance. Previous application was deemed complete before effective date of the new regs, but the present application differs significantly, and the question arises as to whether they can be grandfathered. Main difference is the Plan will need more/smaller basins to meet new limit of 2.5 acres per basin
 - **Section 4 – Known or Suspected Contaminated Site** → E&LP state “The site is neither known nor suspected to be contaminated”. This is an inaccurate statement. Statements in the EIS indicate that multiple Recognized Environmental Conditions “RECs are present on the Subject Site. Including Historic Underground Storage Tanks (USTs), agricultural use (fails to mention past use as an airport and presence of fueling stations of that use), and an Unidentified UST and two old Aboveground Storage Tanks (ASTs). **Figure 6** -NJDEP GeoWeb shows the Subject Site is within the NJEMS¹ (New Jersey Environmental Management System), UST (Underground Storage Tank Facilities) were associated with the Site, and CEAs (Certified Exceptional Areas) are near the Site (see **Figure 6** in Appendix). Andover should inquire about what happened to the USTs onsite, did they receive an NFA (No Further Action) from the State or a RAO (Response Action Outcome) from a NJ LSRP (Licensed Site Remediation

¹ NJEMS Sites are points representing sites regulated by NJDEP under one or more regulatory permitting or enforcement programs, or sites that are otherwise of some interest to a NJDEP program.

Professional). The Statement by E&LP does not identify the site's past airport use, the RECs identified in the Phase I ESA, or the activities of the site's LSRP, or whether the Site should undergo Phase II Remedial Investigation to properly evaluate the presence of the RECs identified in the Phase I. It should be noted as shown in **Figure 5** in Appendix to this memorandum that in addition to the findings of the Phase 1, that the Subject Site is surrounded by documented instances of contamination.

- **Section 4.G** – As noted above, based on the documentation provided, Equity does not agree with the summary statement of E&LP that no impact to endangered or threatened species habitat will occur as a result of the proposed regulated activities. No investigation of plant or animal species appears to have been performed and none of the documentation provided attempts to justify how the significant clearing and grading of 70 acres during construction and during operation, and operations bringing construction material and equipment in and out on a daily basis will not irreparably harm the ecology of the Subject Site and surrounding lands and waters. In terms of historic or archeological significance, a Phase 1A Archeological Assessment was not made available nor referred to in the EIS.
- **Section 4.I** – Again as above, a summary statement of how bog turtle habitat will not be disturbed is neither proof nor reassurance that such disturbance will not happen during construction and operations particularly as noted above regarding the potential for dust generation due to movements of heavy vehicles on unpaved gravel and loading and movement of construction material.

Environmental Impact Statement Review

Equity's review focuses on issues related to surface water features and their role as wildlife habitat. As noted above, the EIS is stale and needs to be updated. Further, the EIS should serve as a summary document that in a detailed fashion provides graphic and narrative material that properly documents the existing conditions and evaluates the potential impacts to multiple aspects of the natural, built, and human environment resulting from construction and operation of the Proposed Development. Equity finds the 11 pages plus supporting Appendices completely inadequate to properly document the Potential Environmental Impact of the Proposed Development. Specifically, the EIS is materially deficient in multiple ways. It lacks a natural resources section which should identify the known species on the Subject Site. There is no reference made to supporting documentation such as a Wetland Report, Stormwater Management Report, Flood Hazard Report, any meaningful characterization of operational or construction, absence of a noise study or air quality assessment related to the movement of heavy trucks in and out of the Subject Property. However, we also note the following, with regard to other aspects of the environmental documentation presented in support of the project:

- **2.1 Phase 1 Environmental Site Assessment** – Identifies multiple Recognized Environmental Conditions (RECs). The Phase 1 Report is not appended to the document and has not been reviewed for sufficiency. However, the summary alone raises the question why a Phase II Remedial Investigation has not been performed. Specifically, per New Jersey Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11, et seq., "Appropriate Inquiry" under the Spill Act is defined as "the performance of a preliminary assessment, and a site investigation, if the

preliminary assessment indicates that a site investigation is necessary.” N.J.S.A. 58:10-23.11g(d). Under any standard of Appropriate Inquiry, a Phase II Site Investigation should be performed. Statements indicating that the Subject Site is not potentially contaminated in materials supplied by the Applicant cannot be confirmed without additional investigation. As noted in **Figure 5** of the Appendix, the Site is adjacent to many known contaminated sites, further indication that more investigation should be performed.

- **2.2/3.1 Topography** – This section of the EIS should really integrate with the drainage section of the EIS to address how the Site drains naturally and to provide some understanding of how wetlands may be connected to the Pequest River and Stickle Pond. The proposed grading plan and efforts to retain a semblance of surface hydrology and runoff should be discussed.
- **2.3/3.2 Air Quality** – The EIS uses generalized AQ index from a location some 70 miles away which seems completely inapplicable to the conditions at the Subject Site. Further, the statement is made: “*During Phase I Environmental Investigation, no noxious odors were detected*”? A Phase I ESA per ASTM 1527-21 does not include any air sampling (i.e. PID, etc.) This appears to be an unsupported assertion. The Probable Impacts & Mitigation Section provides no analysis and lacks any context. Collection of air samples at the Subject Site should be required to give an accurate statement about the impact of the Proposed Development on air quality at the Site and surrounds. Further, given the size and intensity of the Proposed Development and the fact that they are storing material and equipment for use at construction sites warrants an assessment of the impact of heavy-duty vehicles emissions and fugitive dust emissions from storage piles and truck movements.
- **2.4/3.3 Noise Levels** – There is no documentation of existing ambient noise levels – i.e. 24-hour noise monitoring to document existing conditions. No information is provided as to the noise-generating characteristics of the on-site and mobile equipment that would be used when the facility is in operation and whether it would be compliant with local code. Ideally, noise monitoring at a comparable facility would be conducted, to compare future ‘with-project’ conditions to existing noise at the site and adjacent properties.
- **2.5/3.4 Water Supply and Freshwater Wetlands Protection** - In addition to the items previously identified related to the status of the Pequest River as a Category 1 Water, and accurately describing the site’s context within the Upper Delaware watershed management area and the Pequest River watershed area, assessment of the project should address the presence of a Tier 3: 12 Year Well Head Protection area on the northern portion of the property. (**Figure 2** shows water resources present and adjacent to the Subject Property.
 - ✓ *A Well Head Protection Area (WHPA) is both an area modeled around an unconfined Public Community Water Supply (PCWS) well in New Jersey that delineates the horizontal extent of groundwater captured by a well pumping at a specific rate over two-, five-, and twelve-year periods of time for unconfined wells and a fifty foot radius delineated around each confined PCWS well (This corresponds to the water purveyor controlled wellhead area as defined in the Safe Drinking Water Regulations (see NJAC 7:10-11.7(b)1)). WHPA delineations are*

created in compliance to the Safe Drinking Water Act Amendments of 1986 and 1996 as part of the Source Water Area Protection Program (SWAP).

This area needs to be considered when installing well and/or the septic systems so as to limit impacting the draw or potable water.

- ✓ There is a Ground Water Classification Exception Area (CEA) associated with Thorlabs located at 437 & 435 RT 206, Andover Twp. The ARRCS at N.J.A.C. 7:26C-7.3 contain the requirements for establishing, revising and removing a CEA for existing ground water contamination at a contaminated site, which includes use of the CEA/Well Restriction Area (WRA) Fact Sheet Form. The CEA is an approx. 3.81-acre area originating at the western part of the property and extending off-site approx. 200 feet to the south and 75 feet to the west under Route 206. The CEAs delineated by wells.
- ✓ As noted in previous sections, it is unclear how operations associated with the proposed storage of construction material will be managed to prevent runoff into wetland areas and how fugitive dust will be controlled to prevent damaging identified plant and animal habitats associated with wetland on the Subject Property. Further, no evidence has been provided that Wetlands A, B, D, E, and F were previously disturbed by prior development (many years in the past).
- **2.6/3.5 Drainage and Flood Protection** - Portions of the property are within Zone A which is a special flood zone area with 1% annual flood (100-year flood). Should a 100-year, 250-year, and or 500-year event occur it could impact portions of the property.
 - ✓ It is likely possible that the Proposed Development will require a Flood Hazard Area General Permit and storm water drainage will need to be in compliance with NJDEP's Storm Water Best Management Practices Manual, requiring use of Green Infrastructure.
- **2.7 Critical Impact Areas** - The site is located in the Skylands Landscape Region, an area of exceptional significance for endangered species. Further, no assessment of Potential Impact or Mitigation resulting from the Proposed Development related to Critical Impact Areas is supplied in the EIS
 - ✓ The Skylands Landscape Region (as shown in **Figure 3**) supports three federal endangered and threatened, 15 state endangered, 15 state threatened, and 67 special concern wildlife species. The only known hibernacula for the Federal Endangered Indiana bats occur in the region's abandoned iron mines. Bog turtles persist on wet meadows and fens in the vast limestone valleys of the Skylands. The region provides riverine and wetland habitat for wood turtles and the only viable population of federal endangered dwarf wedgemussels in New Jersey. The large, contiguous tracts of northern hardwood forest in the Skylands Region are habitat for forest-interior wildlife, including cavity nesting birds, interior forest nesting passerines, and raptors. Bobcats persist throughout the region in forests and forested wetlands that are not yet highly fragmented by development or agriculture. Rocky

outcroppings along mountain ridges provide habitat for timber rattlesnakes. The agricultural landscape of the valleys provides habitat for grassland birds.

- ✓ Successful management of the Skylands Landscape is essential to preserving numerous species and suites of species in New Jersey, such as Indiana bat, forest-dwelling bats, bobcat, red shouldered hawk, northern goshawk, barred owl, forest passerines, grassland birds, scrub-shrub birds, bog turtle, wood turtle, timber rattlesnake, blue-spotted salamander, long-tailed, salamander, and dwarf wedgemussel. The majority of the state's remaining native brook trout populations occur in this region's high-water-quality streams, including the Pequest River. The Skylands Landscape plays a crucial role in the conservation of the following species or species groups: the northern copperhead, eastern box turtle, spotted turtle, northern spring salamander, and vernal pool breeders and special concern mussels. The Skylands Landscape plays an accessory role in the conservation of the Fowler's toad, freshwater wetland birds, and rare dragonflies, damselflies, moths and butterflies.
- ✓ The region's numerous limestone fens, vernal pools, and emergent, riparian and forested wetlands provide critical habitat for freshwater wetland birds, bog turtles, blue-spotted salamanders, and a host of other special concern reptiles and amphibians. The clear, unpolluted rivers and streams provide critical habitat for dwarf wedgemussels and other mollusks, wood turtles and long-tailed salamanders. We note that vernal ponds are found in the vicinity of the project site.
- ✓ The whole southwestern portion (i.e. Sheet 5 of overall site plan) of the Site is covered by Vernal Habitat Area as mapped by NJ Geoweb. The definition of a vernal habitat includes four criteria that must be satisfied as described above. Equity's March 2022 visit to the Site confirmed the existence of a large potential vernal pool area. As discussed above, no documentation has been supplied in materials reviewed that the presence and extent of vernal habitat and pools was reviewed by NJDEP.
- ✓ The Site is mapped on Geoweb to be a NJDEP wetland mitigation bank area. A mitigation bank is a site in which wetlands, uplands, riparian zones, and/or other aquatic resources are restored, created, enhanced, or preserved by a mitigation bank operator in advance of any specific need for compensatory mitigation.
- ✓ As discussed above, there is no indication that wetlands as delineated received an LOI verification letter from NJDEP. If the applicant wants to have clear knowledge of whether there are freshwater wetlands, freshwater wetlands transition areas and/or State open waters on a site, they will have to apply for a LOI. A "Line Verification" LOI identifies the boundaries of any freshwater wetlands, transition areas, and/or State open waters on a site, regardless of its size, or a municipal tax lot no larger than the site, and the resource value classification of any freshwater wetlands. For a line verification LOI, the applicant must submit a proposed delineation of wetlands, transition areas, and/or State open waters, which the Department will confirm or modify.

- **3.8 Soil Stability and Erosion Control** - Pursuant to the New Jersey Soil Erosion and Sediment Control Act, applicant will need to submit an application to certify applicable SESC (Soil Erosion and Sediment Control) Plans to the UPPER DELAWARE (Warren & Sussex) District:

P.O. Box 198
51 Main Street, Suite B
Blairstown 07825
Phone: 908-852-2579
Fax: 908-852-2284
E-mail: smyers@upperdelawarescdnj.com

- **2.11/ 3.9 Vegetation** - The EIS discusses very briefly the presence of woody vegetation, without discussion of specific species, either woody or herbaceous. The Natural Heritage Report that documents the communities that are present onsite and/or in close proximity to the Site indicates a number of endangered plant species, patterns of population extirpations, and extant population occurrences examined in the Upper Delaware River Watershed Management Area (UDRWSMA) and Sussex County (SC) per the *“Endangered Plant Species Populations in NJ Health and Threats Report dated 2006:*

UDRWSMA

Species: 107 Extant Populations: 197 Extirpated Populations: 28

SC

Species: 142 (102*) Extant Populations: 188 Extirpated Populations: 27 Undetermined Populations: 168

** Number in parentheses represents the number of species of extant and extirpated populations, omitting species of undetermined populations.*

- ✓ An assessment of the presence and extent of endangered Plant Species and the impact due to the Proposed Development is absent from the EIS. It is clear from the Site Plan that significant amounts of forested land will be cleared. No tree removal plan or tree protection and mitigation plan is provided in the EIS. Two sentences are provided basically stating that wooded areas will be altered. By altered if this means clear cut, the extent and nature of this alteration should be documented in detail.
- **2.14/3.12 History** – The EIS provides no basis for the statement that no impacts are to any historic resources are anticipated. A Phase IA Archeology Assessment or other evidence if available should be provided to back-up this statement. The EIS documentation does not provide any indication of the adjacent St. Paul’s Abbey – a Roman Catholic Benedictine Monastery, a historic site directly directly contiguous to the Subject Property as documented in **Figure 6** of the Appendix.

- **3.20 Construction Impact** – The EIS provides limited and summary discussion of construction term impacts. This EIS provides no assessment of the duration or schedule for construction vehicles on site, soil removal or grading equipment utilization. No discussion of airborne dust or noise generation on existing habitat is discussed. No mention of potential traffic impacts during construction are provided. No discussion of how wetland and potential habitat areas in wooded sections of the Subject Site would be affected is provided and no documentation of where habitats are present and may be relocated is discussed.

Very truly yours,
equity environmental engineering



By: Kevin Williams, AICP, PP
Managing Director – Planning

FIGURES

Figure 1

SITE BOUNDARY MAP



Figure 3

SKYLANDS LANDSCAPE PROJECT MAP



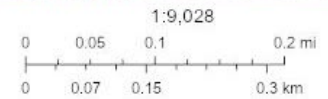
Figure 5

CONTAMINATED SITES MAP



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- Wetlands (2012)
- County Boundaries
- Groundwater Contamination Areas (CEA)
- NJEMS Sites
- Parcels Data (Block and Lot)
- Site Remediation Program Preferred ID Sites
- Underground Storage Tank Facilities
- Terminated
- Closed



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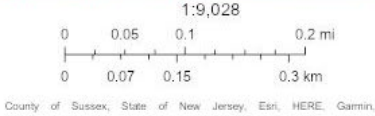
Figure 6

HISTORIC RESOURCES



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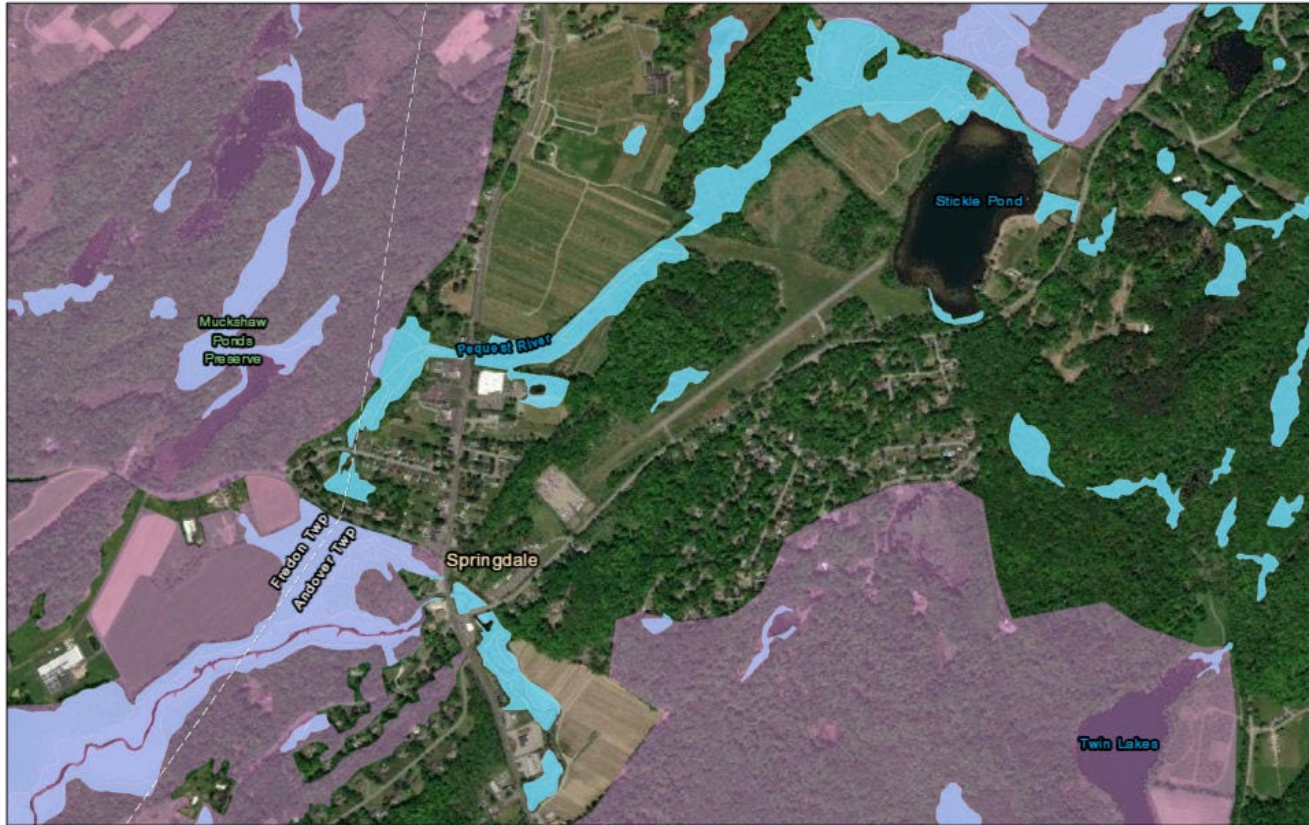
- Wetlands (2012)
- County Boundaries
- Historic Properties
- Identified INDV
- Parcels Data (Block and Lot)



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Figure 7

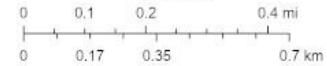
NATURAL HERITAGE MAPPED AREAS



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- Wetlands (2012)
- Natural Heritage Priority Sites
- County Boundaries

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