DEP Upgrades of NJ Water Bodies to Category One Status Trigger Significant Land Use and NJPDES Discharge Restrictions on Neighboring Properties

The New Jersey Department of Environmental Protection (DEP) published its final rule on April 6, 2020 approving Category One status for 600 of the 749 miles of New Jersey streams and lakes that it had originally proposed for upgrade in March 2019. The purpose of the upgrade to Category One is to protect the streams and lakes from any measurable change to their existing water quality because of their exceptional ecological significance or their significance as an exceptional fisheries resource.

The new protections implemented by the upgrade to Category One status will have significant impacts on owners or developers of land adjoining the streams and lakes and municipal or industrial wastewater treatment facilities that discharge treated effluent directly or indirectly into the newly classified streams and lakes. For landowners or developers, the increased restrictions on use of property adjoining the upgraded streams and lakes includes a 300-foot buffer, which results in large areas of virtually undevelopable land. For wastewater treatment facilities, the upgrade to Category One triggers an "antidegradation provision" that will restrict any new or expanded activity that has the potential to lower water quality in the receiving Category One stream or lake.

After reviewing comments from the public on its proposal and other data, DEP concluded that 149 miles of its originally proposed 749 miles of New Jersey streams and lakes did not meet the ecological and water quality criteria for the proposed Category One classification. Although DEP withdrew the 149 miles from the list of streams and lakes being upgraded, it stated that it will continue to monitor those water bodies for possible upgrades in the future.

The streams and lakes upgraded by the final rule are as follows:

Basin

Surface Water Body

Extent of New Category One Listing

Atlantic Coastal Basin

Old Robins Branch

Pinelands Area boundary to Dennis Creek.

Shark River Brook

All tributaries including all tributaries of Reevy Branch

Tuckerton Creek

Segment from the Pinelands Area boundary to Pohatcong Lake including all tributaries.

Westecunk Creek

Segment from the Pineland Area boundary to Railroad Ave., including all tributaries.

Upper Delaware River Basin

Beaver Brook

Segment from Honey Run to the Pequest River, and

the tributary East of Manunka Chunk.

Blair Creek

All tributaries for segment from source to Bass Lake and all lakes and tributaries for segment from Bass Lake outlet to Paulins Kill.

Brookaloo Swamp

Entire length.

Jacksonburg Creek

All tributaries of entire length.

Jacobs Creek

All tributaries for segment from source to Woolsey Brook.

Lubbers Run

Entire length, including all lakes and all tributaries/

Mine Brook

Entire length of tributaries in Drakestown, including tributaries, but not including Burd Reservoir

Mountain Lake Brook

Portion running from the Lake Bog Preserve lower boundary to the Pequest River.

Musconetcong River

Entire length of tributary northwest of Stephensburg and entire length of tributary south of Asbury.

Paulins Kill

Segment from Warbase Junction Road to the confluence with East branches,

All tributaries of Paulins Kill mainstem from the confluence of East and West Branches to Route 15 bridge, and

Segment of the Paulins Kill mainstem from Paulins Kill Lake dam to the Delaware River including all tributaries except Blair Creek and tributaries described separately.

Pequest River

Segment from source to Kymer Brook except Northwesterly tributaries, including Big Spring, located within the boundaries of the Whittingham Wildlife Management Area, southwest of Springdale, from their origins to their confluence with the Pequest River

Segment from Kymer Brook to Tranquility Bridge, including all tributaries,

Segment from Tranquility Bridge to eastern tributary below Route 80, including all unnamed tributaries.

Segment from Route 46 to Perquest Road in Townsbury, except Barkers Mill Brook,

Segment from the upstream most boundary of Pequest Wildlife Management Area boundary to the Delaware River.

Pond Brook

Segment from Swartswood Lake outlet to the Paulins Kill.

Pophandusing Brook

Entire length, including all tributaries

Scout Run

Entire length, including all tributaries

Swartswood Creek

Entire length, including all tributaries and Crandon Lake, Lower Crandon Lake, Mecca Lake, Plymouth Pond, Quick Pond, and Willow Crest Lake.

Lower Delaware River Basin

Cohansey River

Segment from Finley Road to Loper Run in Cumberland County, including all unnamed tributaries.

Cooper River

Segment from Route 30 to the Delaware River.

Crystal Creek

Segment from Route 130 to the Delaware River.

Green Branch

Entire length, including all tributaries including Endless Branch.

Maurice River

Segment from Willow Grove Road to the confluence with Blackwater Branch.

Segment from West Sherman Avenue to Union Lake, including Union Lake.

Menantico Creek

Segment from Mays Landing Road to the confluence with Berryman Branch, including all tributaries.

Muddy Run

Portion of the Run within Parvin State Park.

Portion of Run within Union Lake Wildlife Management Area.

North Run

Segment of the tributary to North Run that originates North East of Wrightstown Borough in Burlington County, from source to the Pinelands Area boundary, including all tributaries.

Oldmans Creek

Segment from eastern boundary of the Harrisonville Lake Wildlife Management Area to Kings Highway by Porches Mill, including all tributaries.

Raccoon Creek

Entire length of Basgalore Lake Tributary, including Basgalore Lake and all tributaries.

Salem River

Portion that runs from Mill Street to Chestnut Run, and

Tributary originating at Pilesgrove in Salem County, including all tributaries.

Woodbury Creek

Segment from Hessian Run to the Delaware River including all tributaries in Gloucester County.

Passaic, Hackensack, and New York Harbor Complex Basin

Bear Brook

Segment from source to Spring Valley Road.

Segment from Spring Valley Road to Woodcliff Lake, including all tributaries.

Creskill Brook

Entire length, including Rionda's Pond and all tributaries.

Fox Brook (Mahwah)

Entire length, including all tributaries

Jackson Brook

Spring (Granney) Brook removed from Category 1

Ramapo River

Portion from confluence with Fox Brook to Little Pond Brook, including all unnamed tributaries.

Tributary from source west of Bald Mountain to the State line, including all tributaries.

Rockaway River

Entire length of tributary located west of Woodstock, including all tributaries.

Stone House Brook

Segment from Route 23 bridge to Valley Road in Butler.

Whippany River

All tributaries of segment from source to Whitehead Road bridge.

Segment from Whitehead Road bridge to Gillespie Hill tributary, including all tributaries.

Upper Raritan River Basin

Beaver Brook

Segment from the lower most I-78 bridge to the South Branch Raritan River, including all tributaries.

Lake Solitude

Entire lake

Lamington River

Segment from Camp Brady Bridge to the confluence with Cold Brook in Hunterdon County, including all tributaries, and

All unnamed tributaries along the Lamington River between the Route 206 bridge and the confluence of Rinehart Brook.

Neshanic River

Segment from Back Brook to South Branch Raritan River, including all tributaries, and

Tributary known as Third Neshanic River, including all tributaries except the tributary originating east of Sergeantsville.

Prescott Brook

All tributaries for the entire length of Prescott Brook.

North Branch Raritan River

Entire length of tributary located southeast of Ravine Lake, including tributaries.

Entire length of tributary located southeast of Bedminster, except the northeast tributary.

South Branch Raritan River

Segment from the County Route 512 Bridge to Spruce Run, including all tributaries, and

Segment from confluence with, the first westerly tributary below Main Street (County Route 613) bridge to the confluence of the Neshanic River, including all tributaries.

Rock Brook

Segment from source to Camp Meeting Road in Montgomery Township, including all tributaries.

Turtleback Brook

Entire length.

Wallkill River Basin

Beaver Run

All tributaries, except tributaries that originate in Wantage Township.

Clove Brook

Segment from the source to its confluence with an unnamed tributary originating from south of Mt. Salem, including all tributaries except the tributary originating from south of Mt. Salem to Papakating Creek and those portions of the two northern-most tributaries located entirely within High Point State Park boundaries, immediately east of Lake Marcia.

West Branch Papakating Creek

Segment from Libertyville tributary to its confluence with Papakating Creek, as well as the two tributaries immediately west of Plumbsock.

Wallkill River

Portion between Glenwood road to the confluence with Wantage Brook in Sussex County, including all unnamed and unlisted tributaries.

Entire length of unnamed standalone tributary that is located south of Pimple Hills in Sussex County.

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