

RULS - AD - 1984 - 480

10/25/84

Letter to Judge re enclosed letter from NJ Dept.  
of Environmental Protection

Pg. 6



State of New Jersey  
DEPARTMENT OF THE PUBLIC ADVOCATE  
DIVISION OF PUBLIC INTEREST ADVOCACY

CN 850  
TRENTON, NEW JERSEY 08625

JOSEPH H. RODRIGUEZ  
PUBLIC ADVOCATE

RICHARD E. SHAPIRO  
DIRECTOR  
TEL: 609-292-1693

October 25, 1984

Honorable Eugene Serpentelli  
Ocean County Court House  
CN 2191  
Toms River, NJ 08754

Re: Bedminster:

Dear Judge Serpentelli:

Enclosed please find a letter from the New Jersey Department of Environmental Protection which I believe is relevant to the court's review of the proposed settlement.

Sincerely,

KENNETH E. MEISER  
Deputy Director

KEM:id  
encl.

cc: All Counsel

RECEIVED

OCT 26 1984

JUDGE SERPENTELLI'S CHAMBERS

RULS - AD - 1984 - 480



State of New Jersey

JOHN W. GASTON JR., P.E.  
DIRECTOR

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER RESOURCES

DIRK C. HOFMAN, P.E.  
DEPUTY DIRECTOR

CN 029  
TRENTON, NEW JERSEY 08625

October 16, 1984

Mr. Kenneth Meiser  
Deputy Director  
Department of the Public Advocate  
CN 850  
Trenton, N.J. 08625

Dear Mr. Meiser:

This is in response to your letter of October 4, 1984 regarding Bedminster Township. Please be aware that this letter represents general policy responses to your questions and is not to be interpreted as a conceptual approval or disapproval, for any specific sewerage treatment proposal. As you stated in your letter, the Department's primary goal is the maintenance and enhancement of water quality. As such this objective is foremost in any decision related to the provision of sewerage facilities.

The answers to your questions are as follows:

1. The Department bases its decisions on appropriateness of sewer service on the Upper Raritan Water Quality Management Plan and the Upper Raritan Watershed Wastewater Facilities Plan. Any expansion of either the Bedminster-Far Hills or the Environmental Disposal Corporation (E.D.C.) plants, over the design capacities indicated in these plans, would require a plan amendment in accordance with the Water Quality Management Planning and Implementation Regulations (N.J.A.C. 7:15-1 et seq.).

Prior to reviewing such an expansion amendment, the Department would require a report detailing the following information: description of proposed plan, location of plant, location of discharge, name of receiving water, projected design capacity, existing and projected sewer service area, projected treatment process and effluent limitation, anticipated service population, identification of environmentally constrained areas (based on NJDEP defined environmentally sensitive features), and an identification of the owner and operator of the facility.

2. The Department would prefer that flows for these developments go to the Bedminster plant if environmentally and economically feasible. The Department encourages the utilization of private funds to upgrade and expand municipal domestic wastewater treatment facilities. If this is not feasible, expansion of the E.D.C. plant could be considered.

3. As per #2 above, we would prefer that the Township examine expansion of the Bedminster plant first. If this examination shows that such an expansion is not feasible, then resolutions of endorsement would be required from the township governing body, the Bedminster MUA governing body, and the Somerset County Board of Chosen Freeholders (the designated 201 Wastewater Planning Agency), prior to consideration of an E.D.C. expansion amendment.

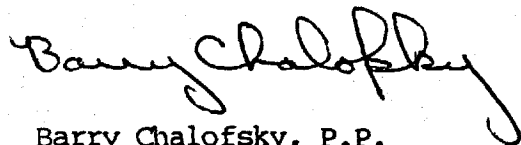
4,5 & 6. The Department strongly discourages the construction of private "package" treatment plants, as proposed by Mr. Dobbs. The reason for this policy involves the problems with long-term operation and maintenance of such facilities. Only if neither the Bedminster Plant, nor the E.D.C. plant could accommodate these flows, would the Department consider such a proposal. However, either the Township, or the MUA, would be required to be either the sole permittee, or co-permittee, for the NJPDES permit for the plant.

7 & 8. If a separate plant is considered, its effluent limitation would have to meet the water quality of the receiving stream. In addition, the design capacity would be evaluated on the basis of anticipated population, and would also effect the effluent limitation. Without any supporting documentation, the Department cannot make a determination, at this time, as to the sizing and effectiveness of the proposed plant.

9. As stated in #2 above, the Department prefers expansion of the Bedminster plant first, then expansion of the E.D.C. plant, prior to the consideration of a new treatment facility.

I hope that these responses meet your needs. If you have any further questions please contact me.

Sincerely,



Barry Chalofsky, P.P.  
Supervising Planner

cc. Director Gaston  
Assistant Director Clark  
George Horzepa  
Lee Cattaneo



## State of New Jersey

DEPARTMENT OF THE PUBLIC ADVOCATE

CN 850

TRENTON, NEW JERSEY 08625

JOSEPH H. RODRIGUEZ  
PUBLIC ADVOCATE

October 4, 1984

TEL. 609-292-7087

Barry Chalofsky  
Supervising Planner - Water Resources  
Department of Environmental Protection  
1474 Prospect Street  
Trenton, New Jersey 08625

Dear Mr. Chalofsky:

On October 2, 1984, I called you with certain questions about the Department of Environmental Protection's policy concerning applications for approvals of wastewater treatment systems. You requested that these questions be submitted to you in writing, and indicated that you would submit written responses.

A background to this request may be helpful to you. We represent plaintiffs in exclusionary zoning litigation against Bedminster Township. The litigation was instituted in 1971, and has been in the courts for thirteen years. Recently, the plaintiffs and the Township entered into a settlement agreement which could resolve this litigation. The settlement, however, must be reviewed and approved by the Mt. Laurel judge who has jurisdiction over the case before it can take effect.

The parties to the settlement reached agreement among themselves as to what Bedminster's fair share of low and moderate income housing should be. Furthermore, they recognized that it would be impossible to accommodate this fair share unless there was an increase in sewage capacity within the Township. There are presently two sewage plants in Bedminster, the Bedminster-Far Hills plant and the Environmental Disposal Corporation (E.D.C.) plant, and both are nearing capacity. Therefore, to make possible achievement of the goals of the settlement, E.D.C. agreed to seek a permit for expansion of its plant from D.E.P., and Bedminster agreed to support the E.D.C. application.

A developer, Leonard Dobbs, is objecting to the settlement and is urging the court to reject or modify it. The developer asserts that the fair share number for lower income housing in the settlement is too low. Dobbs, in addition, is asking the court to grant him a builder's remedy, permitting him to build a high density development with a percentage of lower income housing on his site within the Township. The developer's proposal includes a plan for on-site sewage treatment through a Rotating Biological Disk tertiary treatment plan with denitrification facilities. The plant, as proposed, would have a capacity of 280,000 gallons per day.

It has become apparent that the issues of rezoning and sewage expansion in Bedminster are inextricably linked together. Any rezoning of the Township which attempts to provide a realistic opportunity for low and moderate income housing will in large measure be an academic exercise if there is not also expansion of the sewage capacity in some form. Both the decision of the court in reviewing the settlement and the decisions of D.E.P. in approving or denying sewage treatment permits will be of crucial importance in determining what low income housing will be built in Bedminster. Because the issues are so interrelated, I feel that it would be extremely beneficial if the court were informed of some of the policy considerations which enter into D.E.P. decisions on the subject of sewage expansion. Such information could aid the court in its review of the zoning settlement.

In writing this letter, I recognize that D.E.P. cannot make official permit decisions, except after a full review of all the facts in a particular case. I also recognize that D.E.P.'s primary goal is maintenance of water quality standards, and that water quality considerations would be a crucial factor in any decision that D.E.P. makes. While recognizing these caveats, I would still appreciate as detailed answers as you can give to the questions in this letter. If there is any other information about D.E.P. policies which you feel would be helpful for the court to be aware of, I would invite you to include it, even if it is not specifically raised by one of the questions.

These are the questions which I have:

1. Assuming that E.D.C. submits an expansion plan which satisfies D.E.P.'s water quality standards, what other criteria or policy considerations would D.E.P. utilize in reviewing the application?
2. Assuming that the E.D.C. expansion plan satisfies D.E.P. water quality standards, what is the likelihood that D.E.P. would approve its expansion plan?
3. Are there any actions which Bedminster Township must take, or any commitment from the Township which D.E.P. would require, before D.E.P. would approve the E.D.C. application?
4. Assuming that Leonard Dobbs submitted a plan for an on-site Rotating Biological Disk tertiary treatment plan with denitrification facilities which satisfied D.E.P.'s water quality standards, what other criteria or policy considerations would D.E.P. utilize in reviewing the application?
5. Assuming that the Dobbs' on-site plant satisfies D.E.P. water quality standards, what is the likelihood that D.E.P. would approve this application?
6. Are there any actions which Bedminster Township must take, or any commitment from the Township which D.E.P. would require, before D.E.P. would approve the Dobbs application?
7. Does the type of on-site plan which Dobbs proposes, a Rotating Disk tertiary treatment plan with denitrification facilities, increase or decrease the likelihood of D.E.P. approval?

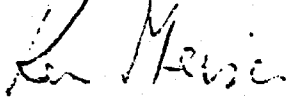
October 4, 1984

8. Does the capacity of the proposed plant, 280,000 gallons per day, increase or decrease the likelihood of D.E.P. approval?

9. Are there policy considerations which would cause D.E.P. to prefer the expansion of the E.D.C. site over approval of the Dobbs application, or vice versa?

I want to thank you for your offer to answer these questions in writing and I appreciate the assistance which you are providing me and the court. Because this matter will be heard relatively soon, I hope you can respond to this letter within ten days.

Very truly yours,

  
KENNETH E. MEISER  
Deputy Director

KEM:id

cc: Alan Mallach  
George Raymond