

ENGINEERING DEPARTMENT

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Sussex County

DELAWARE
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October 21, 2022

Delaware Department of Natural Resources and Environmental Control
Division of Water
89 Kings Highway
Dover, DE 19901

Attention: John Rebar Jr., Environmental Program Manager II

Regarding: Request for Additional Information, Public Hearing (Docket #2022-P-W-0008)
Application(s) submitted for Permits to Construct and Operate Phase 2 Upgrades &
Expansion at the Inland Bays Regional Wastewater Treatment Facility,
Delaware Spray Irrigation Operations Permit (No. 359141-05)

Dear Mr. Rebar:

In response to your letter dated August 24, 2022, we are embedding the answers on the following pages. In addition, we are transmitting copies of the requested materials in connection with the above referenced permit applications.

If you have any questions regarding the County's responses, feel free to contact me at 302-855-7728.

Sincerely,

Hans M. Medlarz, P.E.

CC: Steve Smailer, P.G., DNREC
Jennifer Roushey, DNREC
Marlene Baust, DNREC
Derrick Caruthers, DNREC



1. A table providing updated tax map parcel numbers. Include the name of each site/field, wetted acreage, etc.

Response: An updated table is below.

FIELD AREA	WETTED ACRES	Parcel Number
North Field	103	234-22.00-10.00
South Field	103	234-22.00-16.00
North Burton Field	52	234-22.00-10.00
South Burton Field	41.9	234-22.00-10.00
North Hettie-Lingo Field	47.5	234-22.00-19.00
South Hettie-Lingo Field	30.48	234-22.00-19.00
East Hettie-Lingo Field	34.46	234-22.00-19.00
West Hettie-Lingo Field	20.16	234-22.00-19.00
'A' – Proposed	117.7	234-21.00-151.00
'B' – Proposed	10.3	234-21.00-151.03
'C' – Proposed	70.7	234-22.00-10.00
'D' – Proposed	149.2	234-22.00-8.00

2. A revised site map(s) of the existing and proposed facility layout in its entirety including:
 - a. Wastewater treatment facility, including lift stations, basins, clarifiers, storage structures, and biosolids facilities – **Site Map 1**
 - b. Irrigation fields including acreage of each pivot or zone with contour elevations – **Site Map 2**
 - c. Depiction of the distribution loop, as well as the proposed wetted areas affiliated with the proposed distribution - **Site Map 2**
 - d. Denote property owned/utilized by the IBRWF (or County) – **Site Map 4**
 - e. Depict the proposed constructed wetland system – **Site Map 2**
 - f. All Monitoring Well, Observation Wells, Lysimeters, and Piezometers (identified by both DNREC and Local ID) – **Site Map 3**
 - g. Tax Map Parcel Numbers and local field names – **Site Map 4**
 - h. Access roads and utilities, as applicable – **Site Map 2**
 - i. Buffers to property lines, watercourses, and wetlands, as applicable - **Site Map 2**
 - j. Location of any storm water control structures or drainage structures - **Site Map 2**
 - k. FEMA 100-year floodplain line – **100-year floodplain elevation is below the site elevation**
 - l. Location of any wetlands, refer to the 2007 Statewide Wetlands Mapping Project (SWMP) map, and State Tidal Wetlands maps, if applicable - **Site Map 2**
 - m. Watercourses within or contiguous to the site, if applicable - **Site Map 2**
 - n. Residences and habitable structures within or contiguous to the site, as applicable - **Site Map 4**

Response: Site maps are attached showing the requested information

3. *An updated facilities process flow diagram*

Response: An updated M00.02 drawing is attached.

4. *A list of all facilities that the IBRWTF is interconnected with and what capabilities the connection provides (i.e., treatment and disposal, or just disposal)*

Response: A table of the interconnected facilities and their function is shown below.

FACILITY	TREATMENT/DISPOSAL
Existing Stonewater Creek Wastewater Treatment and Disposal Facility State Permit No. 202221-02	Disposal
Proposed Constructed Submerged Gravel Wetland	Disposal

5. *A biosolids management plan. Include copies of all applicable permits.*

Response: The Inland Bays Biosolids PDR was submitted to DNREC October 2021 and contains operational information on the existing biosolids facilities. The Inland Bays applicable biosolids permits are as follows:

**DNREC Distribution and Marketing, State No. DM 2102-S-03
DNREC Class B Land Application, State No. AGU 2005-S-03
DNREC Solid Waste Transporter Permit, No. DE-SW-1733
DSWA Solid Waste Collection Class A, No. SSW22.016
DSWA Solid Waste Collection Class B, No. SSW22.017
DSWA Solid Waste Collection Screening Dumpster Waste, No. SSW22.035**

6. *A Forest Stewardship Plan for the proposed wooded irrigation fields: Fields A, B, C and D*

Response: The draft Forest Stewardship Pan is attached. It is currently under review by the Department of Agriculture

7. *A listing of all proposed construction changes that differ from the original application submission in accordance with Section 6.6.3.13 of the Regulations. Note any affected section and verbiage of the draft Construction or Operations Permits*

Response: Proposed changes include:

- **Location and configuration of the irrigation loop pumping station**
- **Discharge compliance point locations 1 and 2**
- **Diversions management piping isolation**
- **Added cover to Storage Lagoon No. 1**

These updates are shown on the revised Process Flow Diagram attached.

8. *An Agricultural Spray Agreement with each farmer receiving treated wastewater. The agreement must include a point of contact and mailing address for the farmer, and Land Zoning/Ownership verification of the farmers' properties. If the farmer does not own the property, the property owner must also sign the agreement.*

Response: The spray agreements are included for the following parcels & partners:

- 234-16.00-28.00 w/ M&M Farms, LLC
- 234-16.00-23.00 & 21.01 w/ Double H Farm, LLC
- 234-21.00-171.00 w/ Hollyville Farms, LLC

The Ag Disposal Design Report has been updated accordingly and is attached for reference.

9. *A Diversion Management Plan addressing the requirements of Section 6.3.2.3.2.4 of the Regulations requiring: automatic diversion of wastewater that fails to meet the operating criteria must be included in the system design. Discuss methodology of diversion and options for re-treatment and/or addressing non-compliant effluent including use of interconnections if applicable. Include depiction of relevant components on a Process Flow Diagram.*

Response: A description of the Diversion Management Plan is included below. The Process Flow Diagram has been updated accordingly.

Diversion Management Plan

The IBRWF will have (2) compliance points for validation of effluent quality prior to discharge from the irrigation pumping stations. The Filtration Facility effluent will have continuous turbidity monitoring and an automated diversion system to distribute flow based on effluent quality. During normal operation, effluent flow within Compliance Point 1 (CP1) limits will be conveyed to Irrigation Pump Station No. 1 which feeds the unlimited public access irrigation loop. If there is a non-compliance condition at CP1, flow will be automatically diverted to Effluent Storage Lagoon No. 2, which feeds Irrigation Pump Station No. 2. Compliance Point 2 (CP2) will be located at Irrigation Pump Station No. 2 where flow is pumped to the limited access spray fields. If there is a non-compliance condition at CP2, flow will be diverted back to the aeration distribution box to be re-treated. This configuration is shown on the revised M00.02 schematic.

10. *The proposed locations and details of signage for the disposal system in accordance with Section 6.3.2.3.13.2 & 6.5.1.5.3.17 of the Regulations.*

Response: The signage plan is attached.

11. *A Contingency Plan (Plan) to address effluent flow management and spray irrigation field maintenance during periods of compromised crop growth/density, flooding or freezing in accordance with Section 6.3.2.3.13.7 of the Regulations. The Plan must demonstrate preparedness should the wastewater treatment facility experience a significant natural occurrence. The Plan must address, but must not be limited to, extended periods of excessive precipitation, and extended periods of subfreezing temperatures causing prolonged periods of frozen soil conditions. The Plan must delineate the County's available options to reduce, eliminate and/or prevent non-compliant conditions.*

Response: A Contingency Plan is included below.

Contingency Plan

Effluent discharge from the IBRWF is mainly impacted by excessive precipitation and sub-freezing temperatures but impact has historically been limited during periods when the fields have low crop density.

To address the risk of low crop density (preventing discharge onto barren ground), the County will convert the limited public access spray fields to meadow, which will provide a permanent

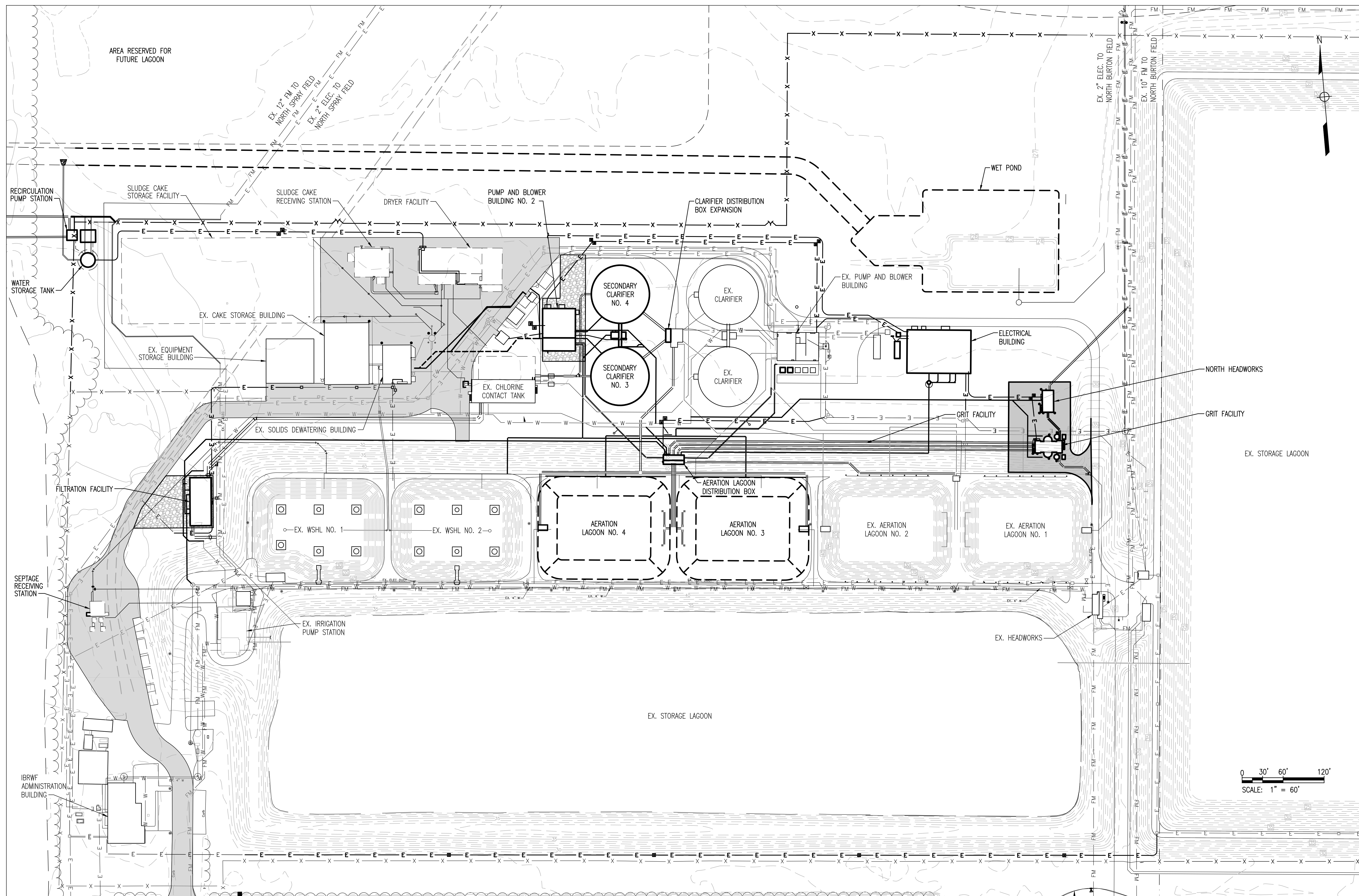
crop and ground cover. Discharge to the unlimited access wooded spray areas will be always available except during periods of excessive precipitation and sub-freezing temperatures.

In addition to these wooded spray areas, the proposed disposal scheme will incorporate connections to RIBs & constructed wetlands. The RIBs and constructed wetlands may remain available even during periods of excessive precipitation and sub-freezing temperatures. The diversified disposal options will enable the County to maintain a seasonally varying reserve storage capacity in the storage lagoons equivalent to the effluent generated during design weather events based on historic maximums.

For example, the County will utilize the RIBs, constructed wetland, wooded spray areas, and limited access spray fields in the winter months to maintain a level in the storage lagoons that leaves capacity to store 7 days' flow, the period corresponding to the largest number of consecutive days with sub-freezing maximum temperatures recorded in the last 10 years. Flow that cannot be discharged during a sub-freezing weather event will be stored in the lagoons for discharge when weather conditions permit.

12. *Documentation resulting from coordination/correspondence with Delaware's Division of Fish and Wildlife in response to the attached request (see enclosure).*

Response: Delaware's Division of Fish and Wildlife were able to walk the site on 9/14 and findings are attached.



AREA RESERVED FOR FUTURE LAGOON

EX. 12" FM TO NORTH SPRAY FIELD
EX. 2" ELEC. TO NORTH SPRAY FIELD

EX. 2" ELEC. TO NORTH BURTON FIELD
EX. 10" FM TO NORTH BURTON FIELD

WET POND

RECIRCULATION PUMP STATION

SLUDGE CAKE STORAGE FACILITY

SLUDGE CAKE RECEIVING STATION

DRYER FACILITY

PUMP AND BLOWER BUILDING NO. 2

CLARIFIER DISTRIBUTION BOX EXPANSION

EX. PUMP AND BLOWER BUILDING

SECONDARY CLARIFIER NO. 4

EX. CLARIFIER

ELECTRICAL BUILDING

EX. CAKE STORAGE BUILDING

EX. EQUIPMENT STORAGE BUILDING

EX. CHLORINE CONTACT TANK

SECONDARY CLARIFIER NO. 3

EX. CLARIFIER

NORTH HEADWORKS

GRIT FACILITY

GRIT FACILITY

EX. SOLIDS DEWATERING BUILDING

EX. STORAGE LAGOON

FILTRATION FACILITY

AERATION LAGOON NO. 4

AERATION LAGOON NO. 3

EX. AERATION LAGOON NO. 2

EX. AERATION LAGOON NO. 1

EX. WSHL NO. 1

EX. WSHL NO. 2

AERATION LAGOON DISTRIBUTION BOX

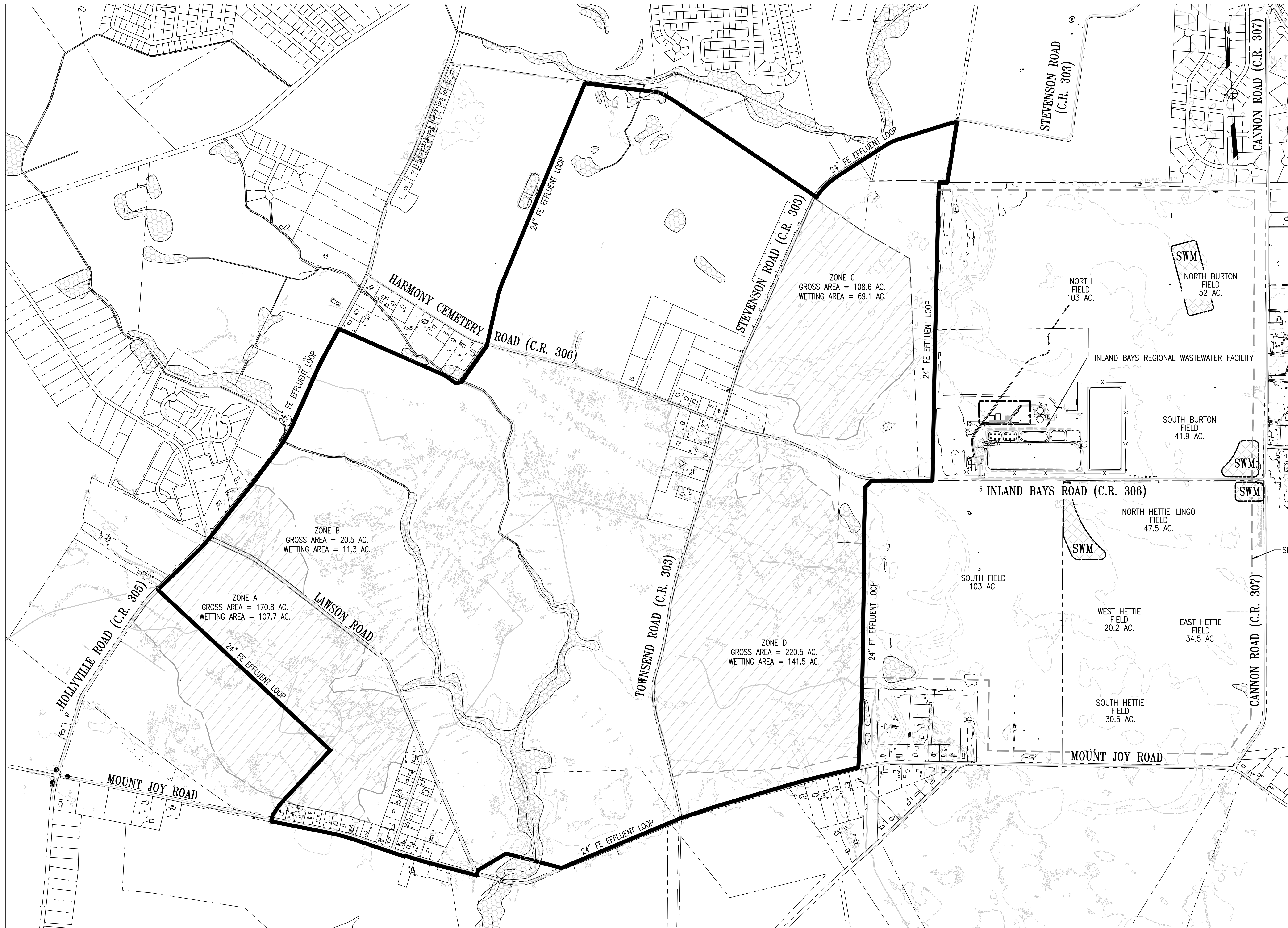
EX. HEADWORKS

EX. IRRIGATION PUMP STATION

EX. STORAGE LAGOON

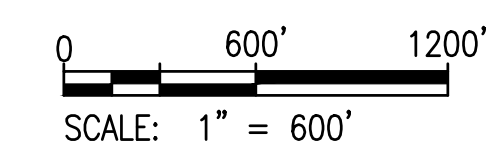
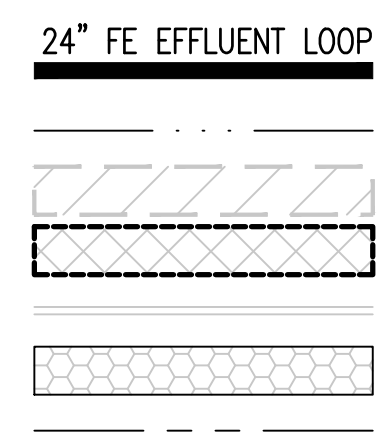
IBRWF ADMINISTRATION BUILDING

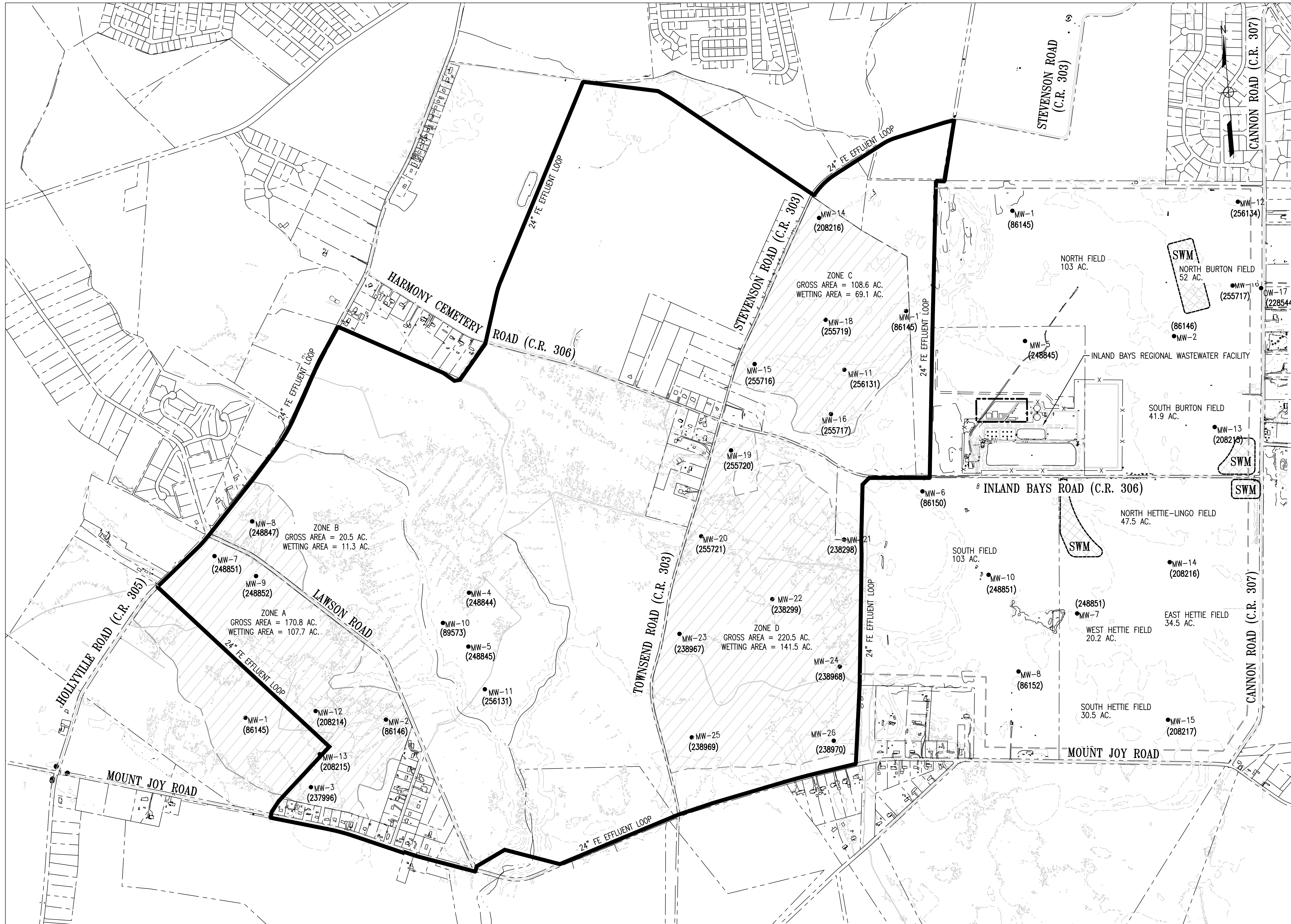
0 30' 60' 120'
SCALE: 1" = 60'



LEGEND

- EFFLUENT PIPE LOOP
- STREAM
- SPRAY FIELD
- CONSTRUCTED WETLANDS
- EXISTING ROAD/DRIVEWAY
- WETLANDS
- PROPERTY LINE



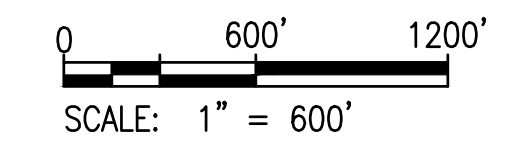


LEGEND





- EFFLUENT PIPE LOOP
- STREAM
- SPRAY FIELD
- STORMWATER MANAGEMENT
- EXISTING ROAD/DRIVEWAY
- PROPERTY LINE
- MONITORING WELL AND (PERMIT NUMBER)

24" FE EFFLUENT LOOP

MW-5 (256134)



IBRWF Spray Areas

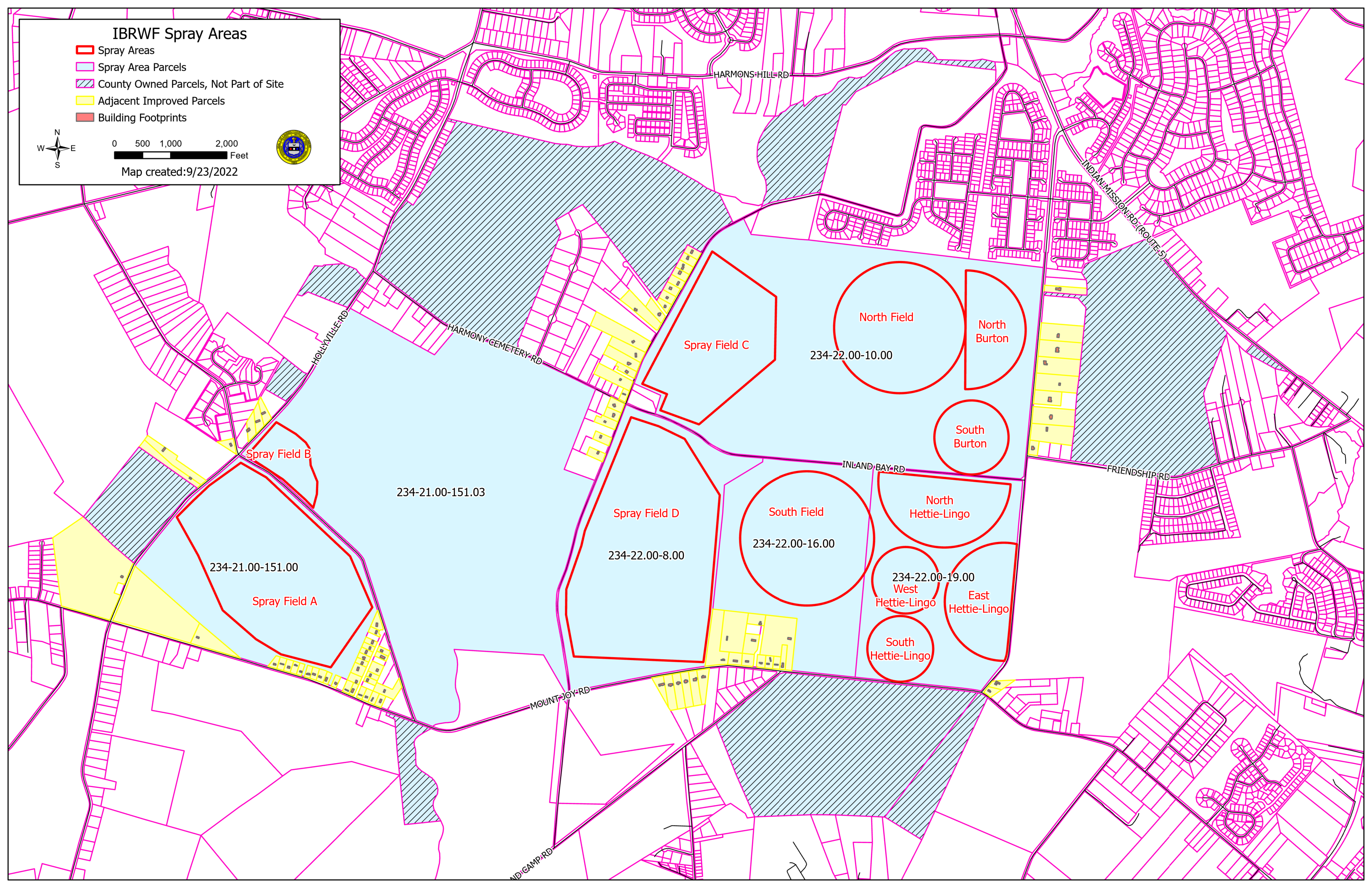
-  Spray Areas
-  Spray Area Parcels
-  County Owned Parcels, Not Part of Site
-  Adjacent Improved Parcels
-  Building Footprints



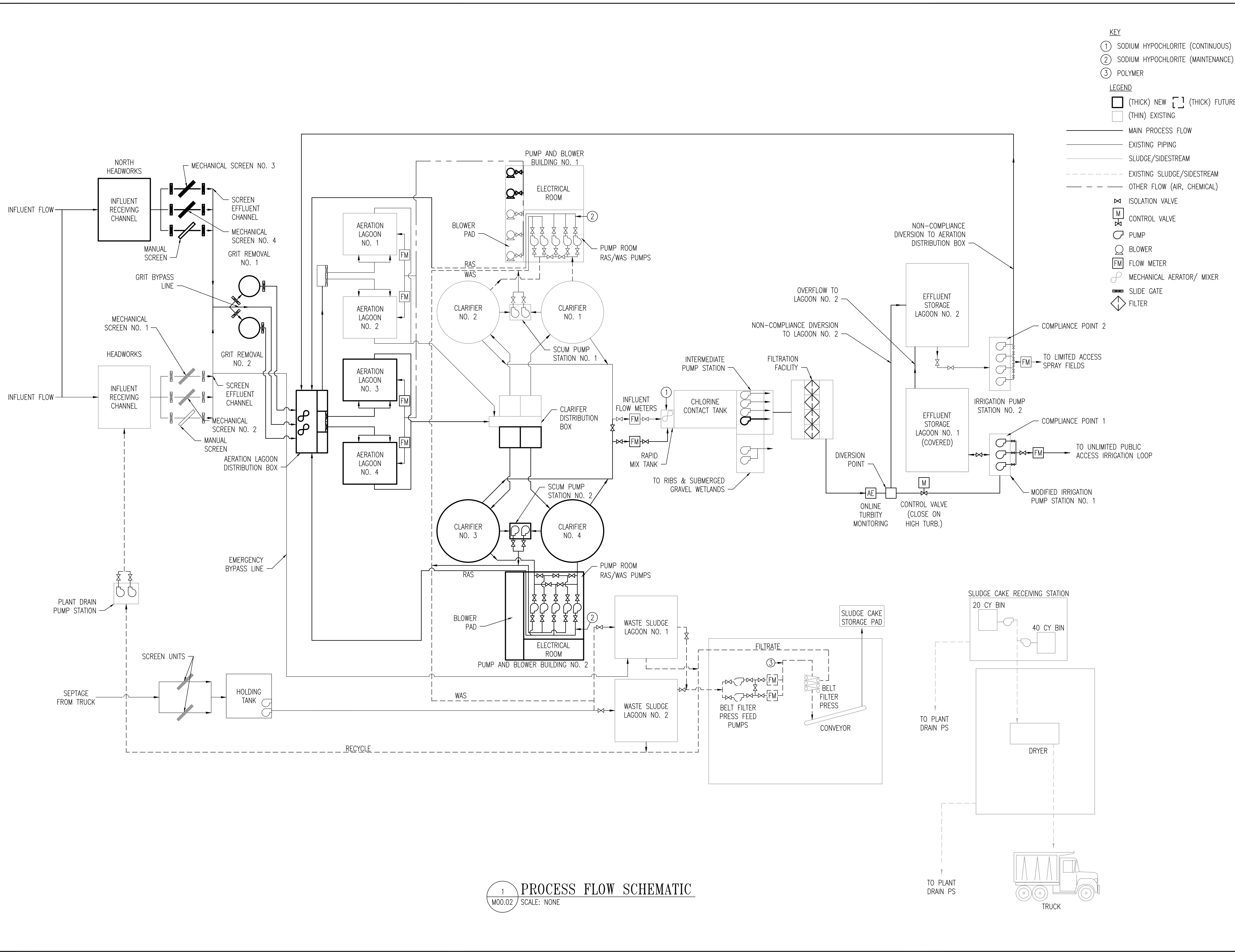
0 500 1,000 2,000 Feet



Map created:9/23/2022



PLOT DATE: 10/20/2022 10:40:02 AM PAGE SETUP: WPA-PDF CSW24 PLOT STYLE: WPA_2006CTB PAPER SIZE: ARCH FULL BLEED D 36"X 48" X 2400 INCHES
 C:\Users\johndoe\OneDrive\Documents\Projects\Inland Bays RWF Phase 2 Expansion\Temp\AcPublish_26336\14256026100-02.dwg



- KEY**
- ① SODIUM HYPOCHLORITE (CONTINUOUS)
 - ② SODIUM HYPOCHLORITE (MAINTENANCE)
 - ③ POLYMER
- LEGEND**
- [Thick Line] (THICK) NEW [Thin Line] (THIN) EXISTING
 - MAIN PROCESS FLOW
 - EXISTING PIPING
 - - - SLUDGE/SIDESTREAM
 - - - EXISTING SLUDGE/SIDESTREAM
 - - - OTHER FLOW (AIR, CHEMICAL)
 - ⊗ ISOLATION VALVE
 - M CONTROL VALVE
 - P PUMP
 - FM FLOW METER
 - ⊕ MECHANICAL AERATOR/ MIXER
 - ◇ SLIDE GATE
 - ⊞ FILTER

1 PROCESS FLOW SCHEMATIC
M00.02 SCALE: NONE

REVISIONS	

CLIENT INFORMATION
 SUSSEX COUNTY, DE
 ENGINEERING
 DEPARTMENT

**INLAND BAYS RWF
 PHASE #2 EXPANSION:
 CONTRACT S19-10**

KEY PLAN

GRAPHIC SCALES

SIGNATURE



PROCESS FLOW SCHEMATIC		
DRAWING NO. M00.02		
SCALE: NONE		
DATE: OCT. 2020	SHEET 99 OF 222	
DES: RHM	DRAWN: LAQ	CHECK: DCC

Permit Application
for the Distribution of Treated Wastewater
for Agricultural Use

Inland Bays Regional
Wastewater Facilities
in
Sussex County, Delaware

October 21, 2022

Prepared for:
Sussex County, Delaware

Prepared by:
Whitman, Requardt & Associates, LLP
Baltimore, Maryland





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Appendix A – *Soils Investigation Report IBRWF Treated Wastewater expansion*, Accent Environmental, LLC, July 2020

Appendix B – Agricultural Spray Agreements

Appendix C – List of Notified Landowners

1 Background

Sussex County currently owns, operates, and maintains the Inland Bays Regional Wastewater Facility (IBRWF) under State Permit No. LTS 5004-90-12. This facility provides treatment of domestic wastewater and uses spray irrigation to dispose of the treated effluent. All of the existing treatment plant property and spray irrigation lands are owned by Sussex County.

Sussex County (County) has submitted a separate request for the IBRWF Phase 2 Expansion project. The permit modification request to DNREC is to increase both the treatment and disposal capacities of the IBRWF. Under that request the County is seeking to increase the treatment capacity from 1.5 MGD to 3.0 MGD on an annual average basis. The County proposed an increase in the spray irrigation disposal capacity of the IBRWF from 2.65 MGD to 6.96 MGD on a maximum month basis. They plan to add approximately 442.9 acres of total acres by developing four effluent disposal spray fields.

The County plans to submit separate permit applications for:

- 1.) Effluent Disposal Expansion Pipeline,
- 2.) Rapid Infiltration Basin Disposal,
- 3.) Constructed Wetlands Disposal.

In addition, the County is submitting this request for the Agricultural Distribution of Treated Wastewater.

2 List of Sites

Sussex County is proposing to distribute treated wastewater to the sites listed in **Table 2.1**.

Table 2.1. Sites				
Owner	Farmer	Site/Irrigated Acres	Tax Map Number	Zoning
Hollyville Farms, LLC	Hollyville Farms, LLC, 17420 Minos Conaway Road, Lewes DE 19958	Whittington Estates 65 Acres	234-21.00-171.00	AR-1-Agricultural / Residential
Sussex County	M&M Farms, LLC, 15046 Gravel Hill Road, Milton, DE 19968	14411 Hollyville Rd 210 Acres	234-16.00-28.00	AR-1-Agricultural / Residential
Sussex County	Double H Farm, LLC, 32740 Webbs Landing Road, Lewes, DE 19958	North Townsend Rd 35.5 Acres	234-16.00-23.00	AR-1-Agricultural / Residential
Double H Farm, LLC	Double H Farm, LLC, 32740 Webbs Landing Road, Lewes, DE 19958	24458 Townsend Rd 62.5 Acres	234-16.00-21.01	AR-1-Agricultural / Residential



3 Agricultural Spray Agreements

See **Appendix B - Agricultural Spray Agreements** for the executed Agricultural Spray and Lease Agreement for lands identified as Tax Map and Parcel Numbers (1) 234-16.00-28.00; (2) 234-16.00-21.01; and (3) 234-21.00-171.00. Spray agreements are still being finalized for the remaining fields and are based on this agreement.

4 Mapping and Hydrologic Unit Code

The hydrologic unit code (HUC), unit name for each of the Agricultural Fields are presented in **Table 4.1**. The Field Numbers refer to those in **Figure 4.1**. The Soils Investigation Report in **Appendix A** refers to the same field numbers, but it is noted that the Map Numbers in the Soils Report are somewhat different and are included in **Table 4.1** for reference.

Table 4.1. Maps and HUC					
Owner	Site/Irrigated Acres	Hydrologic Unit Code	Hydrologic Unit Name	Field Number(s)	Map Number(s) in Appendix A
Hollyville Farms, LLC	Whittington Estates 65 Acres	020403030203	Swan Creek-Indian River	3	4
Sussex County	14411 Hollyville Rd 210 Acres	020403030203 020403030102	Swan Creek-Indian River Love Creek – Rehoboth Bay	4,5	5,6
Sussex County	North Townsend Rd 35.5 Acres	020403030102	Love Creek – Rehoboth Bay	6	7
Double H Farm, LLC	24458 Townsend Rd 62.5 Acres	020403030102	Love Creek – Rehoboth Bay	7,8,9	8,9

Figure 4.1 is a large-scale map indicating the location of all of the proposed fields for agricultural distribution. Smaller scale maps indicating the extent of spray irrigation on each field along with the field’s acreage, soil types, perennial and intermittent water courses, and wetlands are included in **Appendix A - Soils Investigation Report**. None of the agricultural fields includes any drainage structures. Note that the Soils Investigation Report includes Field Nos. 1 and 2 owned by R Lawson Enterprises LP on Tax Map 234-27.00-32.00. Those fields are no longer being considered for treated wastewater distribution.

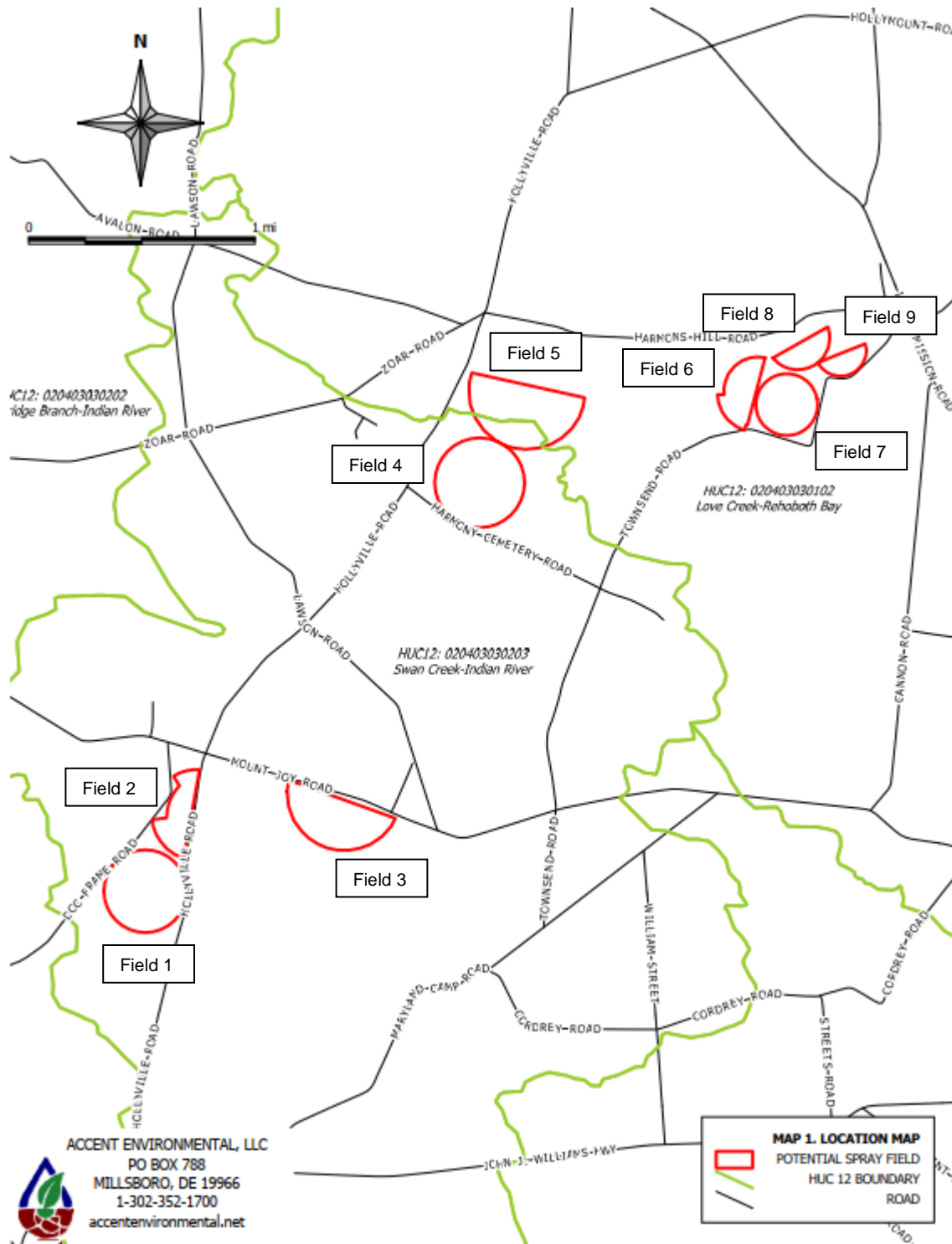


Figure 4.1 – Location Map of Proposed Fields

5 Wells Within 1,000 Feet of the Disposal Areas

Figure 5.1 is a map indicating the permitted and proposed treated wastewater disposal areas for the Inland Bays Regional Wastewater Facility. The area shaded blue is within 1,000 feet of a permitted or proposed disposal area including the agricultural fields discussed in this permit application, which are labeled in the figure.

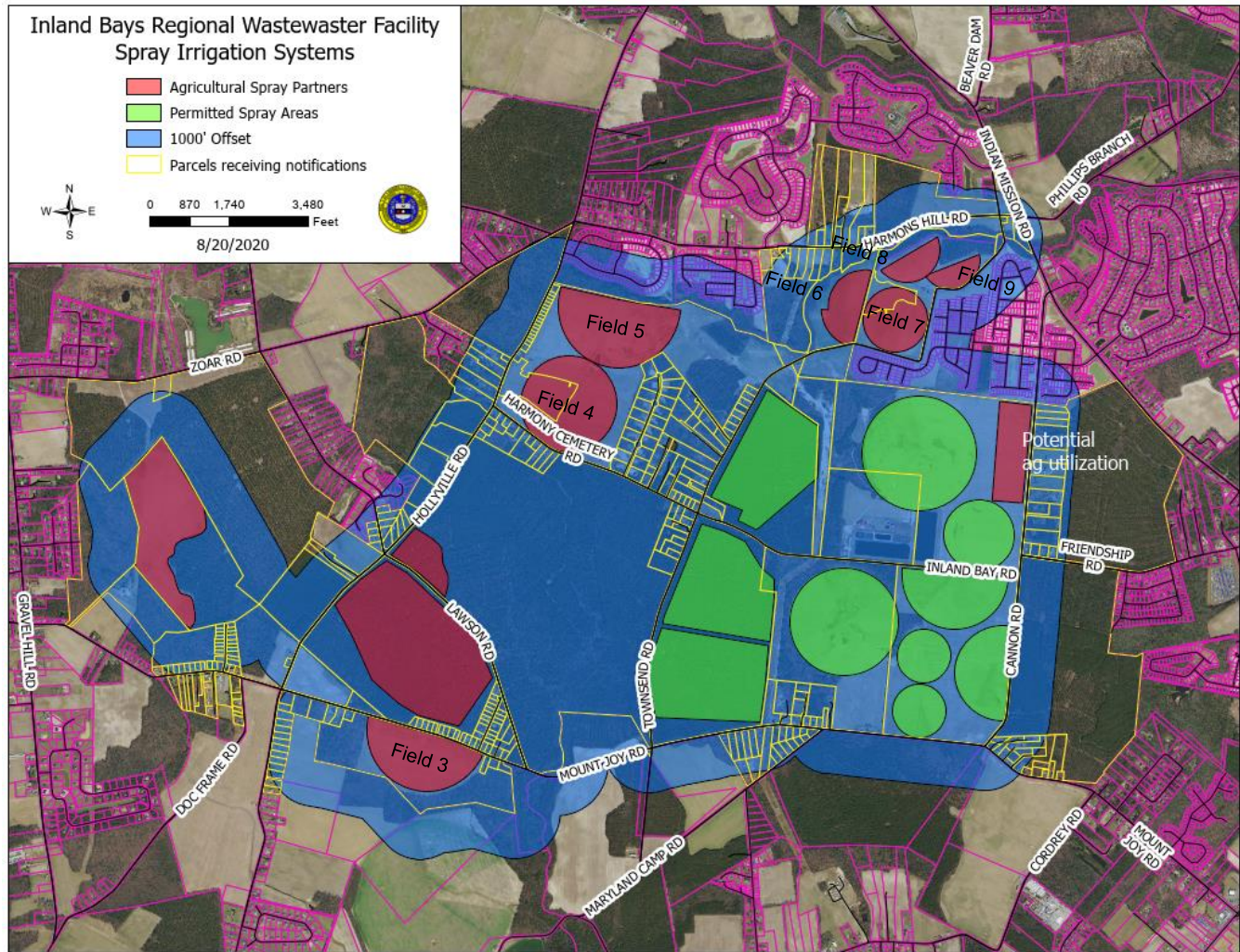


Figure 5.1 – Identification of Lots with Wells within 1,000 Feet of Disposal Areas

Sussex County notified all of the landowners within 1,000 feet of the disposal areas, and some adjacent owners. A list of the lots and owners are included in **Appendix C - List of Notified Landowners**.

6 Level of Treatment and Monitoring Results of Treated Wastewater

The Inland Bays Regional Wastewater Facility (IBRWF) has separately submitted an application to upgrade and expand the treatment capacity from 1.5 MGD to 3.0 MGD on an annual average basis, the Phase 2 IBRWF Upgrade and Expansion Project. The existing and planned treatment facility will be capable of treating to Performance Standard Nitrogen Level 2 (PSN2), and Performance Standard Phosphorus Level 2 (PSP2) utilizing a Biolac® aerated lagoon secondary treatment system with the wave-oxidation modification. The treatment goals for the Phase 2 IBRWF Upgrade and Expansion are summarized in **Table 6.1**. Full details of the planned treatment process can be found in the Phase 2 application submittal.

Table 6.1. Phase 2 Treatment Goals	
Parameter	Effluent Concentration Goal mg/L
Biochemical Oxygen Demand, 5-Day	< 10
Total Suspended Solids	<10
Total Nitrogen	< 10
Total Phosphorus	< 7.85
Fecal Coliforms	≤ 20 cfu / 100mL

Table 6.2 contains a summary of the average effluent wastewater quality for 2017, 2018 and 2019.

Table 6.2. Recent IBRWF Effluent Quality	
Parameter	Concentration mg/L
Biochemical Oxygen Demand, 5-Day	8.1
Total Suspended Solids	11.9
Total Nitrogen	5.6
Total Phosphorus	5.4
Chlorides	160

7 Forcemains to Distribution Points

The Effluent Disposal Expansion Pipeline project has been submitted separately by Sussex County to DNREC for permitting and provides the layout and details of the forcemain to the agricultural distribution points. **Figure 7.1** provides an overview of the forcemains to the distribution points.

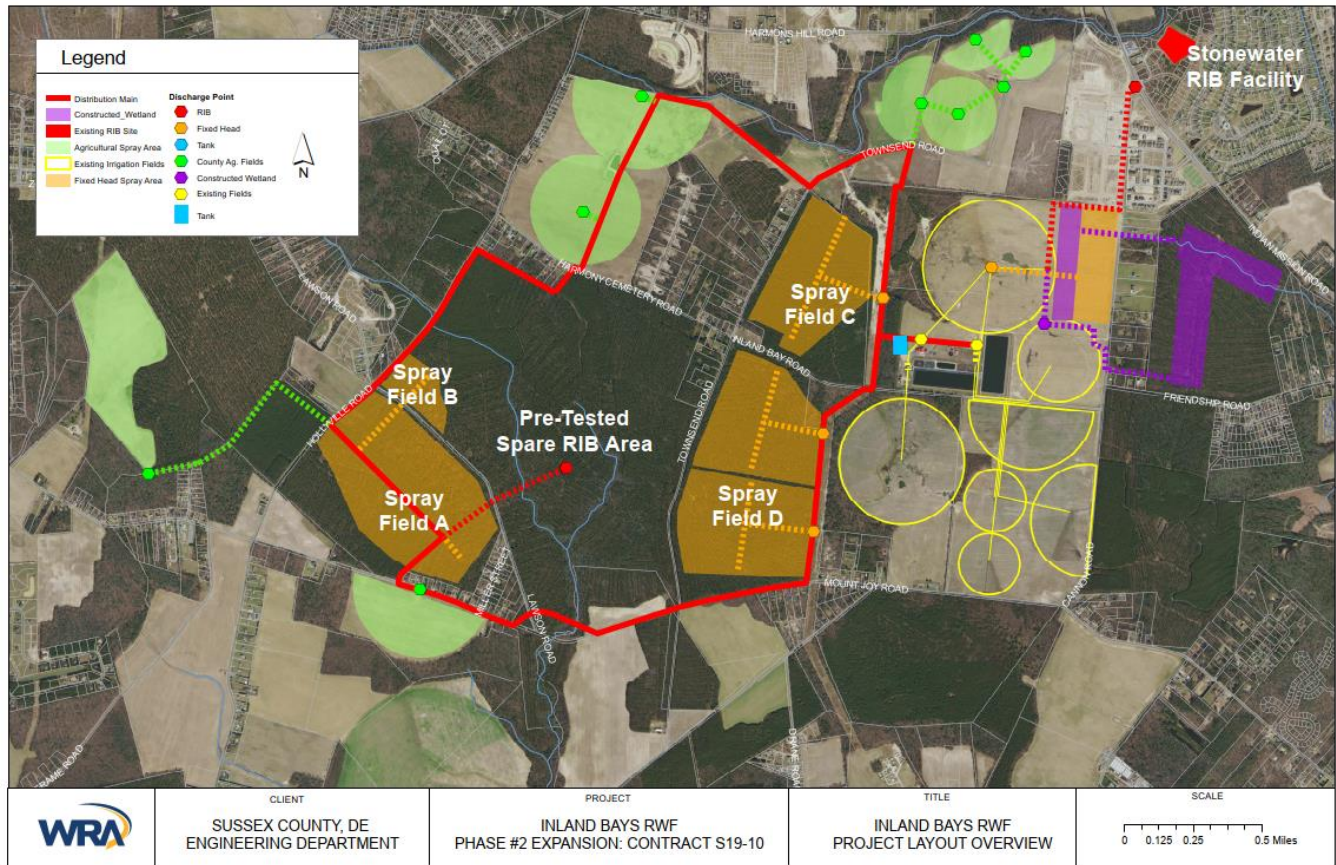


Figure 7.1 – Location Map of Wastewater Distribution Forcemain

8 Process Flow Diagram

A process flow diagram of the treated wastewater distribution system to the agricultural fields and other disposal areas is presented in **Figure 8.1**. The compliance point for the agricultural fields is indicated on **Figure 8.1**. Any off-quality water would be diverted before being pumped into the distribution system.

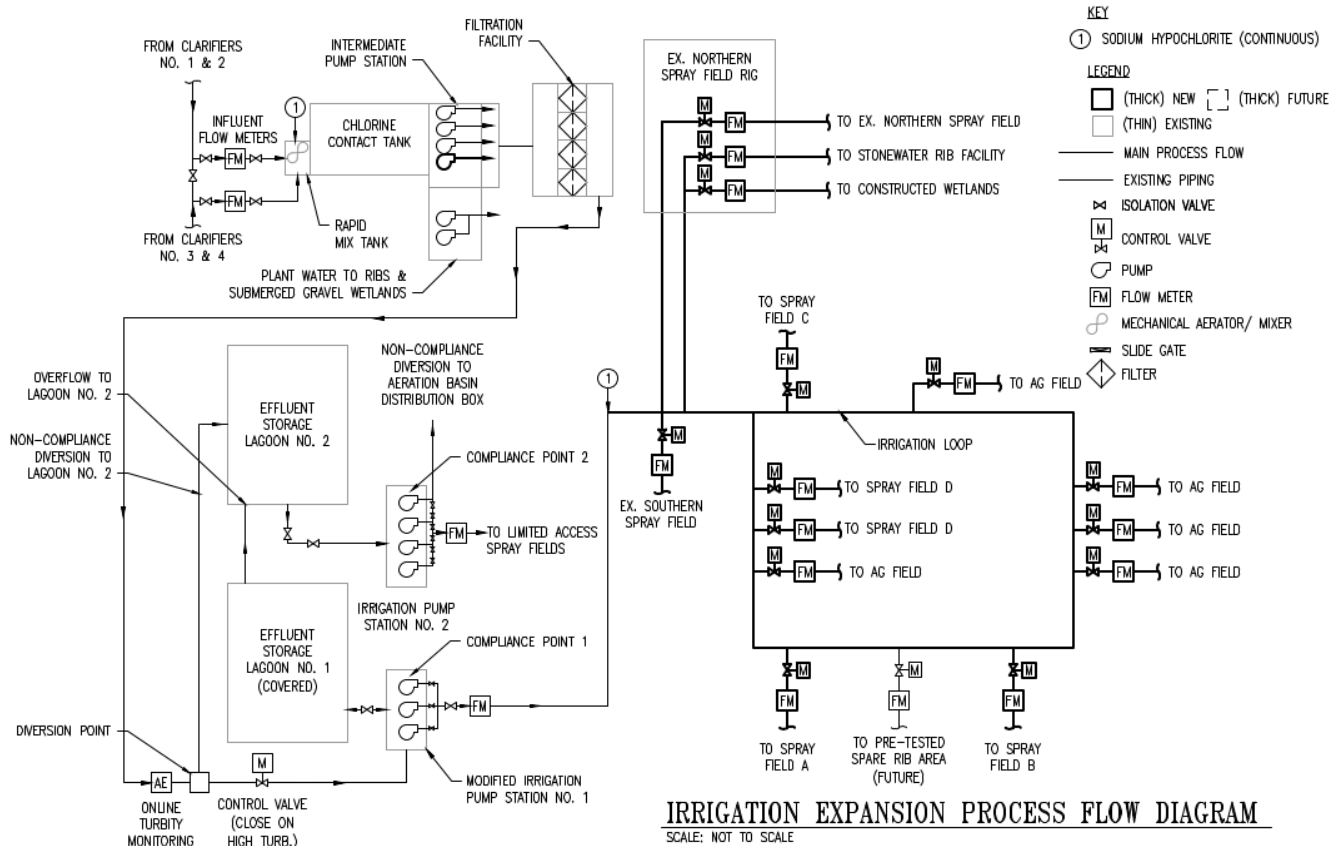


Figure 8.1 – Process Flow Diagram of Wastewater Distribution System

9 Prioritization of Allocation

The IBRWF has existing, and proposed disposal methods and priority of allocation summarized in **Table 9.1**.

Table 9.1. Disposal Method/Areas			
Disposal Method/Area	Status	Use	Priority
Spray Irrigation on Demand	Proposed	Distributed to Agricultural Use	1
Spray Irrigation Permitted Fields	Existing	Meadow	2
Constructed Wetland	Proposed	Non-Point source reduction	3
Artesian Stonewater RIBS	Existing	N/A	4
Spray Irrigation Permitted Forests	Proposed	Pine Plantation	5

10 Wastewater Application Rate

The design treated wastewater application rates for the agricultural fields were determined by using the more conservative soils located within the field, and as deemed reasonable in the Soils Investigation Report included in **Appendix A** based on in-field testing.

The design treated wastewater application rates are included in **Table 10.1** and represent the maximum application rate based on the soils and in field testing and will be adjusted based on the agronomic irrigation rate for the crops to be grown. The Agricultural partners will adjust the rates according to their Nutrient Management Plans.

Table 10.1. Design Treated Wastewater Application Rates		
Field Number(s)	Owner	Application Rate (Inches/Week)
3	Hollyville Farms, LLC,	1.0
4	Sussex County	1.0
5	Sussex County	1.0
6	Sussex County	0.75
7	Double H Farm, LLC	1.0
8	Double H Farm, LLC	1.0
9	Double H Farm, LLC	1.0



11 Soils Report and Remaining Life

See **Appendix A – Soils Investigation Report** for soils background soil sampling and analysis, soils evaluations, and remaining field life for metals application.



Sign Legend

- Unlimited Public Access
- Limited Public Access

**No
Trespassing**

 Treated Waste Water
 Is Being Applied To
 This Site

 AUTHORIZED
 PERSONNEL
 ONLY.

LIMITED PUBLIC ACCESS SIGN DETAIL
NO SCALE

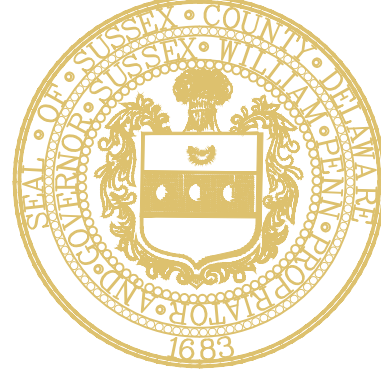
**RECYCLED
WASTE
WATER**

**DO NOT
DRINK.**

UNLIMITED PUBLIC ACCESS SIGN DETAIL
NO SCALE

From Delaware Department of Natural Resources and Environmental Control,
 Division of Water, Groundwater Discharges Section
 7 Del.C. Ch. 60

6.3.2.3.13.2 Signs
 6.3.2.3.13.2.1 Limited Public Access: Signs must be posted on all limited public access spray fields utilized to irrigate treated wastewater to prohibit public contact. The signs must indicate that the water being irrigated is treated wastewater. The signs must be legible. Limited public access sites must have signs posted on the perimeter every 1,000 feet, at a minimum, and at all entry points. Unlimited public access sites must have signs posted at all entry points.
 6.3.2.3.13.2.2 Unlimited Public Access: Unlimited public access sites must have advisory signs posted at all entry points that indicate the site is spray irrigated with treated wastewater. Verbiage should include the following wording: "RECYCLED WASTEWATER – DO NOT DRINK". Alternate verbiage may be used if approved in writing by the Department.



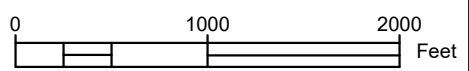
Sussex County
 Engineering Department
 2 The Circle, P.O. Box 589
 Georgetown, DE 19947
 Ph: 302-855-7718
 Fax: 302-855-7799

Signage Location Plan

Rev1
Rev2
Rev3
Rev4

**Cannon Road/Inland Bays Road
 Drainage Improvements**
 Tax Map # 234-22.00-19.00, 234-22.00-10.00,
 234-22.00-13.08, p/o 234-22.00-13.00 &
 Indian River Hundred, Sussex County, DE

Professional Seal



Drawn By: VT	Date: 09/19/2022
Project No: S22-05	Scale: 1" = 1,000'
Sheet:	



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

DIVISION OF FISH & WILDLIFE
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

**DIRECTOR'S
OFFICE**

PHONE
(302) 739-9910

October 17, 2022

Hans Medlarz
Sussex County
2 The Circle
Georgetown, DE 19947

Re: DNREC-GWD 2022 Inland Bays Wastewater Facility

Dear Hans:

On Wednesday, September 14, 2022, Bill McAvoy, staff biologist from the DNREC Division of Fish and Wildlife, surveyed the above referenced property for evidence of state rare plants and natural communities. The property was surveyed on foot and no state rare or federally listed plants or unique plant communities were found. Furthermore, we foresee no negative impacts to the forested areas of concern.

As a result, at present, this project does not lie within a State Natural Heritage Site, nor does it lie within a Delaware National Estuarine Research Reserve which are two criteria used to identify "Designated Critical Resource Waters" in the Army Corps of Engineers (ACOE) Nationwide Permit General Condition No. 22. A copy of this letter shall be included in any permit application or pre-construction notification submitted to the Army Corps of Engineers for activities on this property.

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Please feel free to contact me with any questions or if you require additional information.

Sincerely,

A handwritten signature in cursive script that reads "Daniella Ellis".

Danielle Ellis
Environmental Review Coordinator
Phone: (302) 223-2446
6180 Hay Point Landing Road
Smyrna, DE 19977

FOREST STEWARDSHIP PLAN

Inland Bays Regional Wastewater Facility
Forested Spray Irrigation Tracts

Total +/-1,300 Acres

Tax Parcel Nos.: 234-22.00-8.00 & part of 10.00,
234-21.00-151.00 & 151.03

Rehoboth Bay & Indian River Watersheds

Sussex County Government
Engineering Department

C/o Hans Medlarz, Sussex County Engineer
2 The Circle
Georgetown, DE 19947
(302) 855-7728



October 2022

Reviewed By:

Sam Topper & Kyle Hoyd
Delaware Forest Service
(302) 856-2893

<https://agriculture.delaware.gov/forest-service/>

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FOREST LOCATION:

This forest land is located on both sides of Lawson Road and Townsend Road (CR 303); generally, south of Harbeson, DE. The property is located within the Rehoboth Bay and Indian River Watersheds, in eastern Sussex County, DE. The property is tax parcel I.D. numbers are 234-22.00-8.00 & part of 10.00, 234-21.00-151.00 & 151.03. (See Exhibit A for exact site location).

STEWARDSHIP PURPOSE

By following a Stewardship Plan, Sussex County will be joining with many other landowners across the state in a program that promotes ecologically responsible resource management through the following actions and values:

1. Managing for long-term forest health, productivity, diversity, and quality.
2. Conserving or enhancing water quality, soil productivity, biodiversity, cultural, historical, and aesthetic resources.
3. Following a strategy guided by well-founded silvicultural principles to improve timber quality and quantity.
4. Setting high standards for foresters, loggers, and other operators as practices are implemented; and minimizing negative forest impacts.
5. Learning how natural woodlands benefit and affect surrounding communities.

LANDOWNERS OBJECTIVES:

1. Primary Objectives

- Restore and maintain wetland and stream processes in the Swan Creek headwaters.
- Improve water and soil quality by increasing amount and duration of photosynthesis season through species composition focused on transitioning to more mixed overstory and understory.
- Restore forest type from industrial pine plantation to a natural mixed forest.
- Fulfill obligations outlined in the DNREC Spray Irrigation Operations Permit (No. 359141-05)
- Maintain a natural forest, consisting of mixed, native species and free of invasive species.
- Manage for selective timber harvesting.

2. Secondary Objectives

- Manage deer hunting.
- Maintaining and enhancing wildlife habitat.
- Maintaining community and professional educational and demonstration opportunities.

FOREST STEWARDSHIP CONSIDERATIONS:

1. Aesthetics

Aesthetics is a consideration in that a healthy, diverse forest will be established (or maintained) in this area to keep the property in a natural forested state.

2. Threatened and Endangered Animals & Plants; Cultural Resources

According to existing maps and site information collected by DNREC, Division of Fish & Wildlife in September of 2022, there are no threatened and endangered animals, plants, or cultural resources on the properties. Please see the associated document in Appendix C.

3. Forest Health and Protection

Forest Health and Protection will be accomplished through a cooperative effort of the landowner and the Delaware Forest Service (DFS). The DFS will conduct periodic professional inspections to augment landowner visits.

4. Recreational Opportunities

Recreational opportunities are **not** goals of this plan due to the treated wastewater spray irrigation. Any recreational opportunities will be limited and reserved for the owner's wildlife management program.

5. Soil and Water Quality and Protection

This is a major consideration in this plan and management activities will be recommended and conducted with this goal in mind. Soil and water quality are being maintained by the presence of a healthy, actively growing forest cover on the property. Water quality is enhanced by the natural uptake of water by the trees and subsequent transpiration of this water. The root structure of the trees and associated vegetation will keep the soil in place and prevent erosion. Delaware's best management practices will be followed during any forestry harvesting operations to protect soil and water quality.

6. Riparian and Wetland Areas

The drainage system that flows through the property are the headwaters of the Swan Creek which flows directly into the Indian river. Restoring and maintaining this system is a primary goal of the plan. All activities recommended in the plan serve to achieve the goal of improved water and soil quality.

No forested terrene wetlands are present except on tax parcel 234-21.00-151.03. Best Management Practices and will be sensitive to this area. The owner will maintain the integrity of the soils by keeping the area forested. All silvicultural activities utilizing large equipment, such as timber harvesting, will be done only during dry weather to prevent any water or soil degradation.

7. Timber Value

Producing forest products for eventual sale is one of the goals of this plan. This forest stewardship plan is designed to maintain a natural, native forest while enhancing and maintaining wildlife habitat, and producing timber for selective thinning in an irrigated environment.

8. Wildlife

Providing a variety of wildlife habitat areas, including deer hunting habitat is a goal of this plan and will be accomplished as a secondary benefit of the timber harvesting activities and subsequent reforestation, along with wildlife habitat improvement measures. This area will provide a variety of habitat types during the rotational period of the forest, augmented by the wildlife practices installed by the owner. Very little needs to be done to favor the establishment of wildlife populations, other than promote and provide changes which will affect the plant succession in the area.

FOREST SOILS:

Detailed information regarding forest soils is found in Appendix A.

GENERAL WOODLAND DESCRIPTON:

There is one large stand of conifer type woodland on this property. The stand is a productive site for growing timber. Wildlife usage of the site is moderate, with songbirds observed, along with evidence of deer, and gray squirrel populations.

The stand has a long history of industrial timber management and is currently in a Loblolly pine (*Pinus taeda*) plantation condition. Different areas were harvested and

replanted from 1985 through 1992 and the entire area thinned in 2010/11. The remaining trees are evenly spaced and evenly sized. There is an existing road system through the properties. It is typical of semi-mature pine plantations in Delaware.

1. Stand Analysis

The entire stand, comprised of +/-1,300 acres, is a small sawtimber sized pine plantation. The overstory is well stocked, the thinning in 2011 reset the stocking to desirable levels for maximum growth. The mid-story contains regeneration from the openings created during the thinning. The stand is comprised mostly of Loblolly pine (95% by basal area stocking), followed by Red maple and White oak (1.5% by basal area stocking each). It also contains minor components of other mixed hardwoods such as Southern Red oak, Sweetgum, Sassafras and Holly (2% total). The stand contains roughly 35,000 board feet per acre of sawtimber and 30 tons per acre of pulpwood.

2. Primary Recommended Silvicultural Practices

It is the goal of this plan to transition this forest from an industrial pine plantation to a more natural forest, consisting of a mix of overstory and understory native species. The intent of the plan is to increase soil and water quality of the Delaware bay headwaters by increasing photosynthesis and water uptake by increasing the amount and diversity of overstory and understory vegetation.

The plan will employ multiple strategies to achieve the goal. Flexibility to experiment with different management strategies will be necessary in order to take advantage of variations in current species composition and structure, as well as the availability of materials and contractors. It will take multiple projects over multiple years to convert the entire site to a more natural, mixed state. The optional methods described below are a menu to choose from at various points in the forest development.

The process includes harvesting timber as part of the spray irrigation system installation to create small openings, approximately 3 three acres in size for light penetration, followed by site-preparation (if needed) and regeneration activities (natural, artificial, or both).

The new stands will likely need some protection as they become established. This process will be repeated until all spray sites have been converted. General timeline is 0-2 years for thinning, 2-5 years for regeneration, and 2-8 years for establishment maintenance.

The owner has existing relationships with multiple potential contractors and the Delaware Forest Service (DFS) will assist as needed developing timber sale projects. Initially care must be taken to avoid damaging existing desirable species while in later thinning operations protection of spray irrigation equipment becomes a priority. Harvests should take the shape of a selection harvest in areas with existing desirable

regeneration, and clear-cuts in areas lacking sufficient desirable species.

Site Preparation/Regeneration Options:

- Site preparation is usually conducted as part of the timber harvesting through on-site chipping. It may also be achieved by chemical application or in some instances prescribed fire. Site preparation is not usually needed to replant in forested settings but may be needed in instances of pine plantation reversion.
- Methods of regeneration include the following:
 - In areas with existing desirable species, natural regeneration may be enough. At least two growing seasons should be given before deciding if natural regeneration is adequate.
 - Areas without existing seed source will need to be planted. Planting options include the DFS planting program sourcing 1-2-year-old bare root seedlings from DFS' Maryland State nursery or owner supplied seedlings from any other nursery.
 - Planting larger containerized seedlings or spade-ball saplings are also an option. Planting stock and contractor would have to be sourced.
 - Planting may be done over several years as regeneration and establishment dictate.

Establishment/Maintenance Options:

- Chemical treatments of regenerated stands, limited to ground applications, are sometimes used to control selected competition and/or invasive species.
- Pre-commercial thinning is a practice used often to assist with establishing natural and artificial regeneration where ground crews use brush saws to remove undesirable regeneration that may be crowding desirables.
- Protecting regeneration from deer browse will be implemented with either area fencing or tree tubes. Area fencing being more expensive than tree tubes, but more effective.
- Fire is sometimes used to reduce competition in the young seedling stage, particularly in oak stands. DFS can conduct owner prescribed fire.

Long-Term Maintenance Options:

The long-term goal is to achieve a mixed forest composed of stands of similar forest type but different life stages. This mosaic of age classes allows for diversity of species, diversity of habitat, resiliency, and maintains areas of young vigorous growth and maximum water uptake. To that end, the long-term plan will seek to develop up to 4 stands that differ in age by at least 10 years. That will allow for a continuous,

sustainable harvest and age-class distribution.

3. Secondary Recommended Silvicultural Practices

Establishing and Maintaining Wildlife Habitat:

This forest will continue to provide habitat for a variety of wildlife species. Different wildlife species, such as bobwhite quail, wild turkey, whitetail deer, and dozens of songbirds will utilize the habitat created by the changing vegetation during the life of the forest. As changes in the vegetative cover take place in the form of trees maturing, dying, or through silvicultural practices done on the site, so will the number and variety of wildlife species. Controlling the deer population and resulting browse will be a critical factor in the success of the plan. Hunting is the most effective way to control deer population. Deer hunting, through the County's public hunting program will be implemented to achieve successful hardwood regeneration.

Education and Demonstration:

Active, sustainable forest management benefits all adjoining residents, not only the owner. Showcasing successful, active managers helps spread the word that active management is an achievable and beneficial landowner goal. It is the hope of DFS that showing sites like this may encourage more owners to engage in active forest management on their lands.

IN WITNESS WHEREOF, the parties agree this Forest Stewardship Plan achieves the goals for Sussex County's Inland Bays Regional Wastewater Facility Forested Spray Irrigation Tracts and therefore set their hands and seals on this Plan on the respective date(s) set forth below.

SUSSEX COUNTY

(SEAL)

By: _____

Michael H, Vincent, President
Sussex County Council

Date: _____

Attest: _____

Tracey Torbert, Clerk of the
Sussex County Council

DELAWARE DEPARTMENT OF AGRICULTURE

(SEAL)

By: _____

Sam Topper, Senior Forester

Date: _____

Attest: _____

Print Name and Title

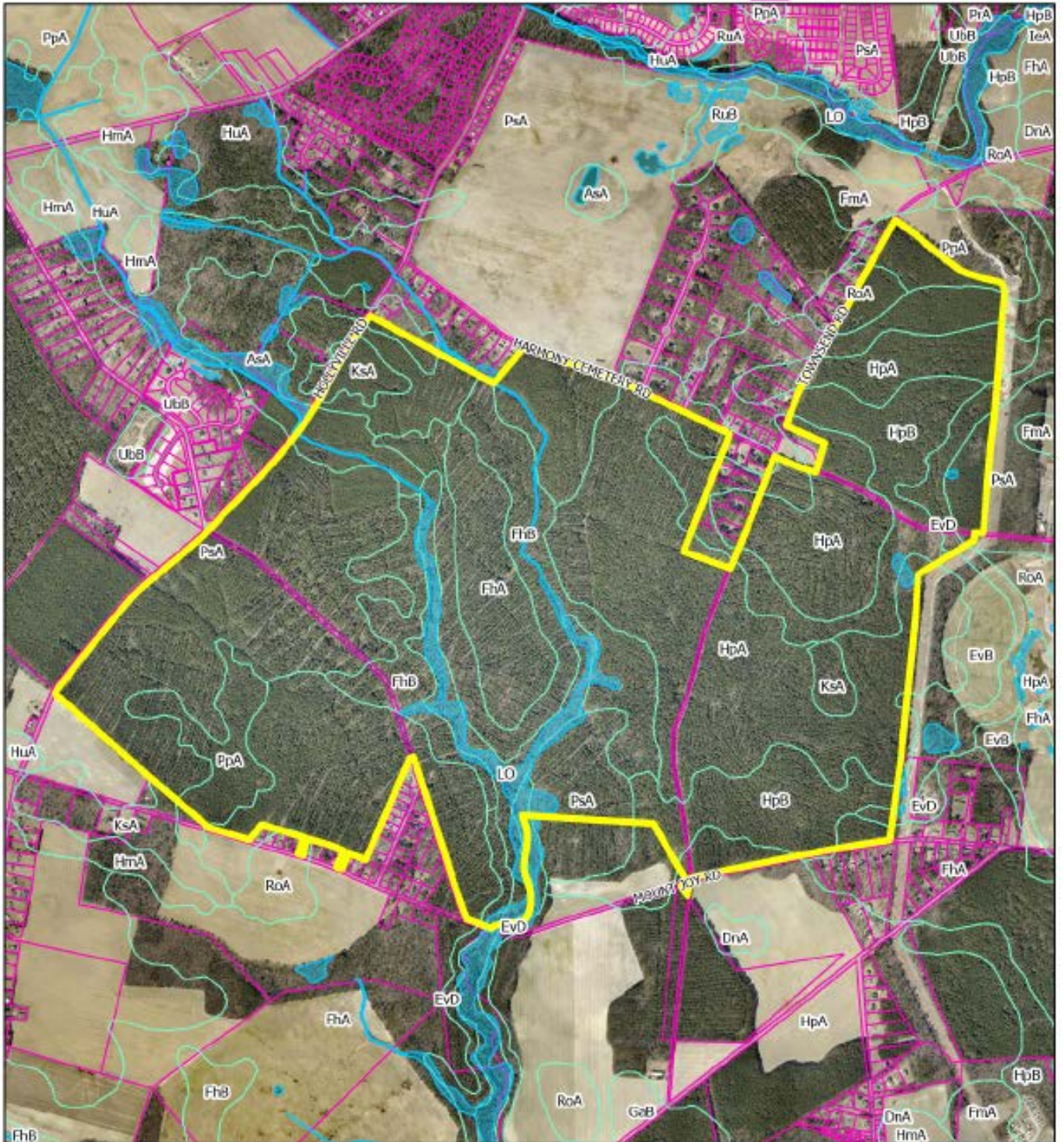
Exhibit A

Inland Bays Regional Wastewater Facility

Forested Spray Irrigation Tracts

Map Key

- █ Forested Spray Irrigation Tracts
- █ Delaware Wetlands 2017
- █ Delaware Soils
- █ Tax Parcels



0 500 1,000 2,000 Feet



Please note that all information on this map is approximate. This map was created on 11/20/2022

APPENDIX A

Soils Information

The following is a list of the soils found on the property. Also included is a USDA forestland productivity report highlighting the tree species best suited for the site.

Soil Symbol	Soil Name	Acres	% of Total
AsA	Askecksy loamy sand, 0 to 2 percent slopes	21.7	1.75%
EvB	Evesboro loamy sand, 0 to 5 percent slopes	0.75	0.06%
EvD	Evesboro loamy sand, 5 to 15 percent slopes	24.2	1.96%
FhA	Fort Mott-Henlopen complex, 0 to 2 percent slopes	166.3	13.43%
FhB	Fort Mott-Henlopen complex, 2 to 5 percent slopes	140.5	11.34%
HpA	Henlopen loamy sand, 0 to 2 percent slopes	314.4	25.38%
HpB	Henlopen loamy sand, 2 to 5 percent slopes	160.5	12.95%
KsA	Klej loamy sand, 0 to 2 percent slopes	19.4	1.56%
LO	Longmarsh and Indiantown soils, frequently flooded	40.5	3.27%
PpA	Pepperbox loamy sand, 0 to 2 percent slopes	46.0	3.71%
PsA	Pepperbox-Rosedale complex, 0 to 2 percent slopes	295.6	23.86%
RoA	Rosedale loamy sand, 0 to 2 percent slopes	9.1	0.73%
		1300.0	100.00%

Forestland Productivity

Sussex County, Delaware

Map symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site index	Volume of wood fiber	
<i>Cu ft/ac</i>				
AsA:				
Askecksy, undrained	Blackgum	75	79	Cherrybark oak, Loblolly pine, Swamp chestnut oak, Water oak, Willow oak
	Loblolly pine	80	110	
	Red maple	65	40	
	Swamp chestnut oak	70	50	
	Sweetgum	75	68	
	Willow oak	70	57	
Askecksy, drained	—	—	—	Cherrybark oak, Loblolly pine, White oak, Willow oak
HmA:				
Hammonton	Loblolly pine	70	101	Loblolly pine, Northern red oak, Southern red oak, White oak, Yellow-poplar
	Northern red oak	70	52	
	Red maple	75	47	
	Southern red oak	75	57	
	Sweetgum	80	79	
	White oak	80	55	
	Yellow-poplar	85	81	
HuA:				
Hurlock, undrained	Blackgum	70	75	Cherrybark oak, Loblolly pine, Swamp chestnut oak, Water oak, Willow oak
	Loblolly pine	85	120	
	Red maple	70	43	
	Southern red oak	70	50	
	Swamp chestnut oak	80	65	
	Sweetgum	70	57	
	White oak	75	47	
	Willow oak	70	57	
Hurlock, drained	—	—	—	Loblolly pine, Northern red oak, Southern red oak, White oak, Yellow-poplar
IeA:				
Ingleside	Loblolly pine	70	101	Eastern white pine, Loblolly pine, Northern red oak, Southern red oak, White oak, Yellow-poplar
	Northern red oak	80	62	
	Red maple	75	47	
	Southern red oak	85	75	
	Sweetgum	80	79	
	White oak	80	55	
	Yellow-poplar	90	90	

Forestland Productivity

Sussex County, Delaware

Map symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site index	Volume of wood fiber	
<i>Cu ft/ac</i>				
KsA: Klej	Loblolly pine	80	110	Cherrybark oak, Loblolly pine, White oak, Willow oak
	Red maple	65	40	
	Southern red oak	70	50	
	Swamp chestnut oak	65	45	
	Sweetgum	75	68	
	White oak	70	40	
	Willow oak	70	57	
	Yellow-poplar	75	68	
PsA: Pepperbox	Loblolly pine	80	110	Loblolly pine, Northern red oak, Southern red oak, White oak, Yellow-poplar
	Northern red oak	75	57	
	Red maple	65	40	
	Southern red oak	80	65	
	Sweetgum	80	79	
	White oak	75	47	
	Yellow-poplar	80	74	
	Rosedale	Loblolly pine	75	
Northern red oak		70	52	
Red maple		65	40	
Southern red oak		80	65	
Virginia pine		70	109	
White oak		70	40	
Yellow-poplar		75	68	
RoA: Rosedale		Loblolly pine	75	105
	Northern red oak	70	52	
	Red maple	65	40	
	Southern red oak	80	65	
	Virginia pine	70	109	
	White oak	70	40	
	Yellow-poplar	75	68	
	RuA: Runcint	Loblolly pine	70	101
Northern red oak		70	52	
Red maple		65	40	
Southern red oak		70	50	
Virginia pine		70	109	
White oak		70	40	
Yellow-poplar		70	64	

APPENDIX B

GENERAL PINE MANAGEMENT INFORMATION

Survival of the trees in this year is more important than much growth. Since the Inland Bays Regional Wastewater Facility Forested Spray Irrigation Tracts are irrigated inadequate rainfall during the first years will not be an issue and only competition from other growth will be a source of forest development failure. Weed control chemicals such as Arsenal, Oust, or Roundup can be used on or around the trees themselves as practical or economically feasible.

Plantation inspections every other month for the first two years is highly desirable. The landowner or agent can do these inspections. Special attention should be given to the following:

1. The condition of the trees
 - a. Color
 - b. Vigor
 - c. Presence of new growth
2. Suspicion of, or the presence of harmful insects
 - a. Chewed needles
 - b. Discolored or dead growing tips
 - c. Web material on the trees
 - d. The presence of frass (a sawdust-like material)
 - e. The insects themselves
3. Appearance of disease
 - a. Discoloration of needles
 - b. Fungus growth on stems or branches
 - c. Wilting of growing tips
 - d. General lack of vigor
4. Competition of surrounding vegetation

If any of these conditions are seen, owner is to contact a professional forester for evaluation and treatment.

After the first three years of growth, inspections need not be as often, but there really is no substitute for regular visits to the plantation. Periodic inspection of the stand keeps the landowner informed about the condition of his woodlot. This is helpful in correcting small problems before they become more pronounced. At three years of age, the stand should be checked for competition from invasive brush that may have invaded the site.

At five-year intervals, a professional forester should check the stand for growth. An initial pulpwood thinning is possible at age fifteen if the trees have made enough growth. Professional forestry advice should determine the extent and amount of the thinning.

A professional forester should also make additional 5-year inspections after the initial thinning. Professional reevaluating for additional thinning should be done after another 15-year period of

growth. If the trees have grown enough, this thinning will produce small sawlogs and piling, with some pulpwood. The remaining stand is then grown to maturity, which should be in an additional fifteen to twenty years. The mature diverse forest will only be thinned to maintain continued access to the spray irrigation system.

Throughout the growth period of the stand, be careful to maintain well-marked boundaries, and to exercise access control and prevention of wildfires. Maintaining well-marked property lines allows the owner reasonable assurance that adjacent property owners will not inadvertently trespass. Property boundaries can serve a dual purpose by also acting as firebreaks to control wildfires.

DRAFT

GENERAL HARDWOOD MANAGEMENT INFORMATION

Crop Tree Selection

Diversify crop tree selection by species to provide more stable mast crops and to reduce the likelihood of suffering total crop failure because of a destructive agent such as gypsy moth.

1. White oak is often one of the most valuable oak species, but it is also one of the slowest growing. It is very susceptible to epicormic branching and, in many areas has been quite vulnerable to mortality after gypsy moth defoliation. White oak is a desirable species for selection as a wildlife crop tree because its acorns are preferred by many wildlife species.
2. Northern red oak is one of the most valuable oak timber crop trees and is fast growing. It is very desirable as a mast producer for wildlife because of its relatively abundant production.
3. Black and scarlet oak are more likely to develop cavities than white oak or hickory. However, cavities in longer-lived species (like white oak and hickory) provide available shelter for wildlife for a longer period.

Regardless of the species, favor crop trees with vigorous crowns in the dominant and co-dominant positions. Favor trees showing bark characteristics that indicate rapid growth and straight grain. Avoid trees with epicormic branches.

1. Many oak trees originate from seedling sprouts or stump sprouts. Stump sprouts can produce good quality timber if the stem originates from a low stump. Companion sprouts with a U-shaped connection may be cut at different times, but V-shaped sprout connections should usually be treated as a unit (cut both or neither). The rigidity with which this guideline should be applied varies by species and length of cutting cycle to be used in the stand.
2. Where the species composition is less than 50 percent oak, the stand's susceptibility to defoliation by gypsy moth is reduced. Generally, oaks with vigorous crowns are more likely to survive defoliation. Oaks on mesic sites (soil conditions that are medium, regarding moisture – not wet or dry) have a greater vulnerability to mortality if defoliated.

Natural Regeneration

1. Oak natural regeneration is relatively easy to establish on areas that have an adequate seed source available and a red oak site index less than 70. Better sites are more challenging to regenerate because of competition from other species. Well-developed, advanced regeneration is a key to successful establishment of oak stands. Most oak natural regeneration is established when there is a bumper crop of acorns that provides enough food for insects and wildlife with some left over to germinate.

2. Management activities that establish regeneration and encourage its development can be started at any time especially 20 to 30 years prior to final harvest.
3. Maintaining a closed overstory canopy while applying herbicide to midstory and understory competitors is often necessary to provide a microclimate suitable for regeneration establishment and development. When seedlings are 3-4 feet tall, provide additional moisture, light, nutrients, and growing space by opening the main crown canopy with a partial cut.
4. Evaluate the adequacy of the established oak regeneration.

Artificial Regeneration

1. Oak seedlings may be planted in old fields and forested sites; however, they usually require post-planting release from competing vegetation for at least 3 years. Tree shelters can be used to provide protection from animal damage and to accelerate early seedling shoot development.
2. Direct seeding of oaks using viable acorns is another regeneration alternative. Use of tree shelters can greatly reduce the number of acorns needed to obtain an oak component in a new stand.

The first five years of growth of a new forest area probably to most critical years in its life. During the first growing season after establishment, the seedlings are under tremendous stress from competition for water, light and nutrients. Survival of the trees in this year is more important than growth rate. Inadequate rainfall during the first year is extremely stressful on young seedlings. If competition from other vegetative growth is also present, then failure of the stand is very possible. Rainfall is not controllable, but we can control competition from grasses, brush and other trees to some extent, whether through chemicals or mechanical means if practical or economically feasible.

APPENDIX C



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL
DIVISION OF FISH & WILDLIFE
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

DIRECTOR'S
OFFICE

PHONE
(302) 739-9910

October 17, 2022

Hans Medlarz
Sussex County
2 The Circle
Georgetown, DE 19947

Re: DNREC-GWD 2022 Inland Bays Wastewater Facility

Dear Hans:

On Wednesday, September 14, 2022, Bill McAvoy, staff biologist from the DNREC Division of Fish and Wildlife, surveyed the above referenced property for evidence of state rare plants and natural communities. The property was surveyed on foot and no state rare or federally listed plants or unique plant communities were found. Furthermore, we foresee no negative impacts to the forested areas of concern.

As a result, at present, this project does not lie within a State Natural Heritage Site, nor does it lie within a Delaware National Estuarine Research Reserve which are two criteria used to identify "Designated Critical Resource Waters" in the Army Corps of Engineers (ACOE) Nationwide Permit General Condition No. 22. A copy of this letter shall be included in any permit application or pre-construction notification submitted to the Army Corps of Engineers for activities on this property.

We are continually updating our records on Delaware's rare, threatened and endangered species, unique natural communities and other significant natural resources. If the start of the project is delayed more than a year past the date of this letter, please contact us again for the latest information.

Please feel free to contact me with any questions or if you require additional information.

Sincerely,

A handwritten signature in cursive script that reads "Daniell Ellis".

AGRICULTURAL SPRAY AND LEASE AGREEMENT

THIS AGRICULTURAL SPRAY AND LEASE AGREEMENT ("Agreement") is made and entered into this 21st day of August, 2019, by and between Sussex County, a political subdivision of the State of Delaware, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 (the "COUNTY"), and M & M FARMS, LLC, a Delaware limited liability company, with an address of 15046 Gravel Hill Road, P.O. Box 250, Milton, DE 19968 (the "TENANT").

WHEREAS, the COUNTY is constructing an effluent water loop system at its Inland Bays Regional Wastewater Facility ("the Facility") that will carry highly treated wastewater effluent to certain properties surrounding the Facility; and

WHEREAS, the effluent water loop system will provide treated wastewater to the Leased Land on-demand for crop application via center-pivot irrigation rigs; and

WHEREAS, the COUNTY owns the three (3) parcels of land referenced herein located near the Facility which will be connected to the effluent water loop system and which the COUNTY desires to lease to the TENANT for agricultural use subject to TENANT'S acceptance and exclusive use of the COUNTY'S treated wastewater effluent and the other terms and conditions stated in this Agreement; and

WHEREAS, the parties desire to enter into this Agreement as to their mutual obligations to each other.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and the terms, conditions, representations, warranties and covenants herein contained, the parties, intending to be legally bound, hereby covenant and agree as follows:

1. RECITALS.

The Recitals above are incorporated herein by reference and made a part of this Agreement.

2. COUNTY AND FACILITY.

The COUNTY is both the owner of the Leased Land, hereinafter defined in paragraph 2, and the operator of the Facility referenced herein. All references herein to "COUNTY" shall include its roles as the property owner/ Landlord and the operator of the Facility, as the case may be. As required by Section 6.11.8.2.2.2 of the Delaware Department of Natural Resources and Environmental Control Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems (the "DNREC Regulations"), the COUNTY shall execute this Agreement in its capacity as property owner/Landlord and as the operator of the Facility.

3. LEASED LAND:

The COUNTY leases and rents to the TENANT and the TENANT leases and rents from the COUNTY, all that certain cleared agricultural land portion of the 250 Tillable Acres +/- situated in Indian River Hundred, Sussex County, Delaware, and being further identified as Tax Map and Parcel Number 234-16.00-28.00, as outlined on the maps collectively attached hereto as Exhibit A which is incorporated herein by reference ("Leased Land"). As required by the DNREC Regulations, the Deed from MMW Investments, LLC to the COUNTY verifying ownership of the Leased Land, and the Leased Land's zoning verification are attached hereto as Exhibits B and C, respectively, and are incorporated herein by reference.

4. TERM OF AGREEMENT.

The initial term of this Agreement shall commence on the date of execution and shall terminate on December 31, 2024. This Agreement shall automatically renew on the same terms and conditions contained herein for additional one-year terms unless either party provides the other party with written notice of its intent not to renew on or before August 31, 2024, or August 31st of any given year thereafter, if applicable, in accordance with this Agreement and 25 Del. C. § 6703.

5. RENTAL FEE.

The TENANT shall pay the COUNTY a total annual rental fee of \$23,750.00. The annual rental fee is based on a \$95.00 per acre charge for approximately 250 tillable acres. The COUNTY does not guarantee the exact total acreage of Leased Land. Each year's annual rental fee shall be paid to the COUNTY on or before January 31st for that year.

6. USE OF LEASED LAND.

The COUNTY owns and operates the Inland Bays Regional Wastewater Facility that produces treated wastewater for agricultural uses (alternatively referred to herein as "effluent", "treated wastewater" or "reclaimed water"). The TENANT, herewith, agrees to accept all such effluent as deemed necessary by the TENANT for agricultural purposes and the and the TENANT shall use the COUNTY'S effluent exclusively for all agricultural irrigation needs unless TENANT'S farm special management practices require well water or if the COUNTY'S effluent is not available. As a condition of this Agreement, the TENANT reserves the unilateral right to direct the location of the discharge upon any or all portions of the Leased Land as deemed, in the opinion of the TENANT, best servicing the interest of the TENANT'S farming operations.

The COUNTY shall be responsible for the design and installation of the effluent water loop system, including the automated connection to the TENANT'S existing irrigation systems. TENANT shall grant access to its existing irrigation system to the COUNTY for the purposes of connecting the effluent water loop system. COUNTY shall make every

effort to schedule and coordinate the installation of the effluent water loop system so as not to affect the TENANT's farming operation.

The COUNTY reserves the right to spread aerobically digested Class A bio-solids, which is a non-hazardous decomposable waste, over the Leased Land as a soil amendment for the duration of the Agreement at a rate not to exceed 1-dryton per acre providing an approximate nutrient content of 84 lbs N; 22 lbs P & 4 lbs K acre. Actual nutrient content to be confirmed by County at time of application.

The Leased Land may be used for producing agricultural commodities. The TENANT shall not plant any crops intended for direct human consumption. The TENANT agrees to follow good farm management practices and to farm the land in a good and husband-like manner to avoid degradation of the environment and further agrees to the following:

- a) The TENANT shall use and occupy the presently arable and tillable acres for farming and agricultural purposes only.
- b) A winter cover crop must be planted and established on the Leased Land by the TENANT. Unmanaged, volunteer vegetation is not an acceptable spray field cover.
- c) The TENANT shall plant all irrigated fields on an annual basis. An annual crop rotation of agricultural commodities is mandatory for the spring/summer growing season.
- d) The TENANT shall be responsible for the Nutrient Management Plan for the Leased Land, as required by the State of Delaware's 1999 Nutrient Management Act and the DNREC Regulations. The TENANT shall provide the COUNTY with a copy of the Nutrient Management Plan for the Leased Land. The COUNTY shall supply to the TENANT, for incorporation into said plan, flow and nutrient information of treated effluent as well as tonnage and nutrient information for the Class A biosolids as required by DNREC Regulations.
- e) The TENANT shall take all reasonable precautions to avoid the establishment of any noxious weeds, including Johnson grass, Canada thistle, bur cucumber, giant ragweed, and any additional noxious weeds as specified under Delaware State Law. If the TENANT fails to control said vegetation within fifteen (15) days of its receipt of written notice from the COUNTY, the COUNTY may, at its option, (1) contract with an independent vendor to apply appropriate control measures to eradicate said noxious weeds, the cost of which shall be the sole responsibility of the TENANT and shall be deemed additional rent; and (2) terminate this Agreement.
- f) All agricultural pesticides, herbicides and other chemical sprays used on the Leased Land shall meet Federal and State standards and, if required, be applied by certified applicators in the appropriate manner and rate as per label instructions. Violation of Federal, State or County pesticide, herbicide

or other chemical spray laws, ordinances, rules and regulations shall be a considered a material breach of the terms of this Agreement which may result in termination of the Agreement.

- g) The TENANT shall be permitted to participate in Farm Service Agency programs.
- h) Excavation, digging, removing, or selling of loam, peat, gravel, soil, rock, sand, or any similar material by the TENANT is prohibited.
- i) The TENANT shall maintain all boundary lines, ditches, ditch banks, hedgerows and the like of the presently arable and tillable farmland.
- j) The COUNTY plans to establish an un-farmed pathway to allow the installation and sampling of monitor wells.
- k) Hunting is prohibited on any COUNTY-owned Leased Lands subject to this Agreement, and all COUNTY-owned lands adjacent to the Leased Land.
- l) The TENANT shall not construct or install any permanent structures on the Leased Land. An additional or modified Irrigation system may be installed with the prior approval of the COUNTY.
- m) The COUNTY is not responsible for wildlife damages to agricultural commodities on the Leased Land.
- n) PURSUANT TO 3 DEL. C. § 2301, THE TENANT ACKNOWLEDGES THAT THE COUNTY HAS INFORMED TENANT OF THE POTENTIAL LIMITATION, RISK AND LOSS REGARDING THE USE OF EFFLUENT OR RECLAIMED WATER ON CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION. THE TENANT FURTHER ACKNOWLEDGES THAT THE EFFLUENT OR RECLAIMED WATER MAY ONLY BE APPLIED TO GROWING VEGETATION AND SHALL NOT BE APPLIED TO CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION.
- o) The TENANT shall pay for all existing on-site electric utilities necessary for the agricultural operations on the Leased Land.

7. RESERVED RIGHTS.

The COUNTY reserves the following rights related to the Leased Land:

- a) to construct improvements, grant easements and rights-of-way across or upon the Leased Land. The annual rental fee shall be reduced to reflect any Leased Land acreage taken out of production by such actions, including any

Leased Land acreage to which reasonable access for agricultural use, specifically including irrigation, is denied by such actions.

- b) to create pathways, buffer strips, and monitor wells. The annual rental fee shall be reduced to reflect any Leased Land acreage taken out of production, including any Leased Land acreage to which reasonable access for agricultural use, specifically including irrigation, is denied by such actions.
- c) of ingress and egress onto and over the Leased Land at reasonable times for inspection purposes, and for the enforcement of all State and County laws, ordinances, rules, and regulations, and for any other lawful purpose. The TENANT shall not be entitled to abatement of the rent by reason thereof.

8. COORDINATION OF COUNTY USE.

The COUNTY shall coordinate with the TENANT as to any of the COUNTY'S use of the Leased Land in order to limit impact to normal farming operations.

9. HOLD HARMLESS.

To the fullest extent permitted by law, the TENANT shall indemnify, hold harmless and defend the COUNTY, its elected and appointed officials, officers, employees, servants, representatives, agents, guests, and invitees from and against any and all claims, damages, injuries and expenses (including related attorney's fees and other defense costs) arising out of or resulting from the TENANT's actions or inactions which are in any way related to its role hereunder and its duties with respect hereto, whether occurring in Sussex County, DE or elsewhere, including, but not limited to, claims, damages, losses, injuries or expenses attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible and intangible property, whether said property is real or personal, including the loss of use resulting therefrom, asserted by any person, persons or artificial entity, including, but not limited to the TENANT's employees, servants, representatives, guests, invitees, subcontractors, licensees, visitors, etc. regardless of whether or not such claims, damages, injuries and expenses are caused in part by a party indemnified hereunder. For purposes of this provision, "TENANT" shall include the TENANT's employees, servants, representatives, agents, guests, invitees, subcontractors, licensees, and the like. This provision shall survive the expiration or earlier termination of this Agreement.

10. MAINTENANCE OF EXISTING IRRIGATION SYSTEM & COUNTY PURCHASE.

The parties acknowledge that TENANT owns an existing irrigation system with two (2) center-pivot irrigation rigs located on the Leased Land (the "Irrigation System"). During the term of this Agreement, and any renewals thereof, TENANT shall maintain the Irrigation System in its existing condition, normal wear and tear excepted. TENANT shall be responsible for all maintenance and repair of the Irrigation System.

Upon expiration of the term of this Agreement, or any renewal thereof, or earlier termination hereunder, if the TENANT properly maintains and repairs the Irrigation System as required herein, and it is in good working order to the COUNTY's satisfaction, the COUNTY shall purchase the Irrigation System from the TENANT. The parties agree that, as of the date of this Agreement, the value of the existing Irrigation System is \$200,000 with a 15-year remaining life. The COUNTY shall pay a purchase price calculated with an associated straight-line depreciation. For example, if this Agreement is not renewed after December 31st, 2024, the COUNTY will pay a purchase price of \$133,333.00.

11. DAMAGE TO PROPERTY.

a) The TENANT agrees to be solely responsible for any and all injury, loss or damage to the TENANT'S person, crops, equipment, and property or to the person, equipment and property of others, which may be placed on the Leased Land, and the TENANT waives and releases any and all claims or rights against the COUNTY with respect thereto.

b) Dumping, depositing, abandoning, discharging, releasing, or storing of any gaseous, liquid or solid hazardous wastes, substances, materials, or debris or whatever nature on, in, over, or under the ground or into surface or ground water is prohibited, except as expressly permitted by law. The TENANT shall be solely responsible for all damages resulting therefrom.

c) The TENANT's liability under this provision shall be subject to paragraph 9 hereof and shall survive expiration or earlier termination of this Agreement.

12. INSURANCE.

The TENANT shall carry insurance with limits as required by the COUNTY evidencing the insurance specified below:

(a) Workers' compensation insurance with statutory benefits as required by Delaware or Federal law, including standard "other states" coverage insurance and employer's' liability insurance with minimum limits of \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease; and \$500,000 policy limit for bodily injury by disease; and

(b) Commercial general liability insurance that insures against bodily injury, property damage, personal and advertising injury claims arising out of or in connection with any operations or activities under the Agreement, whether such operations are by TENANT, its employees or subcontractors or their employees. The minimum limits of liability for this insurance are \$1,000,000 combined single limit - each occurrence and \$2,000,000 combined single limit - general aggregate.

The County, its elected and appointed officials, officers, employees, servants, representatives, agents, guests, and invitees shall be additional insureds on commercial general liability, on a primary and non-contributory basis, with respect to liability arising out of or in connection with any operations or activities under this Agreement with the COUNTY.

If any liability insurance purchased by the TENANT is issued on a "claims made" basis, the TENANT must either:

(a) Agree to provide certificates of insurance to the COUNTY evidencing the above coverages for a period of two years after termination of services. The certificates shall evidence a retroactive date no later than the date services commence; or

(b) Purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force when services are terminated and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. The certificate or copy of the endorsement shall evidence a retroactive date no later than the date services commence.

All required insurance coverage must be underwritten by insurers allowed to do business in the State of Delaware and acceptable to the COUNTY. The insurers must have a Best's Financial Strength Rating of "A -" or better, and a financial size category of "Class VII" or higher, unless the COUNTY grants specific written approval for an exception.

Prior to taking possession of the Leased Land, the TENANT shall provide to the COUNTY a certificate of insurance satisfactory to the COUNTY. TENANT's failure to provide the certificate or certificates shall constitute an act of default under this Agreement.

13. ASSIGNMENT.

The TENANT shall not assign, sublet, mortgage or pledge this Agreement, nor permit the whole or any part of the Leased Land to be occupied by others without the prior written consent of the COUNTY. The COUNTY'S consent to one or more assignments or subletting shall not operate as a waiver of the COUNTY'S rights pertaining to future assignments or sublettings.

14. DEFAULT.

The following events shall be deemed to be a default by the TENANT: 1) failure to pay any installment of rent, and such failure shall continue for five (5) days; 2) failure to comply with any provision of this Agreement, other than the payment of rent, and such failure to comply has not been cured within fifteen (15) days after written notice is sent to the TENANT; or 3) the TENANT becomes insolvent; makes a transfer in fraud to creditors; makes an assignment for the benefit of creditors; files a petition under any section of the Federal Bankruptcy Act; is adjudged bankrupt; has a receiver appointed,

all of which shall result in the immediate termination of this Agreement; 4) the TENANT deserts, abandons or vacates any substantial portion of the Leased Land; or 5) TENANT does or permits any act which creates a lien on the Leased Land.

Upon the occurrence of any of the above, the COUNTY may without demand or notice, enter and take possession of the Leased Land, expel or remove all occupants and property found thereon without being liable for damages; may elect to terminate this Agreement or relet the Leased Land on such terms as the COUNTY deems advisable and receive the rent therefor, and the TENANT agrees to pay the COUNTY on demand any deficiency and costs incurred. Upon TENANT'S default and without prior notice to TENANT, the COUNTY shall be entitled to pursue any and all remedies available to it as more fully set forth in paragraphs 21 and 24 hereof.

15. TERMINATION OF AGREEMENT.

The TENANT agrees that, if it fails to observe or perform any of the terms, conditions or covenants herein, or if TENANT knowingly permits any unlawful acts to be carried out upon the Leased Land, then the COUNTY shall have the right to terminate the Agreement and to re-enter and repossess the Leased Land in the manner provided for by the laws of the State of Delaware. If the COUNTY terminates this Agreement while the TENANT has crops growing in the fields, then the COUNTY agrees not to take possession of the Leased Land until after the TENANT has harvested the crop during the normal harvest period or, at the COUNTY'S option, the COUNTY will reimburse the TENANT at the fair market value for crops destroyed. The TENANT shall yield peaceable possession of the Leased Land at the termination of the Agreement.

16. SIGNS.

The TENANT shall not place any signs, fences or objects on the Leased Land without the COUNTY'S prior written approval. All approved signs must be removed by the TENANT at the TENANT'S expense at the expiration or earlier termination of this Agreement. The COUNTY shall be permitted to place any signs required by DNREC on the Leased Land without TENANT'S prior approval. All fences TENANT places on the Leased Land shall be maintained by TENANT at TENANT'S expense and shall be deemed fixtures which shall remain on the Leased Land at the expiration or earlier termination of this Agreement.

17. NOTICES. Any notice under this Agreement shall be in writing and shall be deemed to have been given when (i) delivered in person, (ii) sent by facsimile to the fax number listed below (if any) (provided that such notice is also sent the same day by U.S. first class mail, postage prepaid, addressed to the parties as set forth below), (iii) delivered by Federal Express or other reputable overnight courier service, or (iv) Three (3) days after same is deposited in the United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

To the COUNTY:

Hans Medlarz, County Engineer
Sussex County Administration Building
2 The Circle
P.O. Box 589
Georgetown, DE 19947
Fax (302) 855-7799

with a copy to:

J. Everett Moore, Jr., Esquire
Moore & Rutt, P.A.
122 West Market Street
P.O. Box 554
Georgetown, DE 19947
Fax (302) 855-9803

To the TENANT:

Mr. Matthew Baker
M & M Farms, LLC
15046 Gravel Hill Road
P.O. Box 250
Milton, DE 19968

With a copy to:

Robert G. Gibbs, Esquire
Morris James LLP
107 W. Market Street
Georgetown, DE 19947
18. WAIVER OF BREACH.

The COUNTY's waiver or acceptance of the breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any continuing or subsequent breach of the same or any other term, covenant or condition herein contained. All waivers or acceptances must be in writing. The subsequent acceptance of rent hereunder by the COUNTY shall not be deemed to be a waiver or acceptance of any preceding breach by the TENANT of any term, covenant or condition of this Agreement, other than the failure of the TENANT to pay the particular rental fee so accepted, regardless of the COUNTY'S knowledge of such preceding breach at the time of acceptance of such rental fee.

19. LEGAL COSTS AND EXPENSES.

The TENANT shall pay and discharge all costs, attorneys' fees and expenses incurred by the COUNTY arising from a Tenant default hereunder.

20. RULES AND REGULATIONS.

The rules and regulations contained in this Agreement, as well as such reasonable rules and regulations as may be hereafter adopted by the COUNTY for the safety, care and protection of its Leased Lands and the preservation of good order thereon, are hereby expressly made a part hereof, and the TENANT agrees to adhere to all such rules and regulations, after notice of same.

21. REMEDIES.

In the event of TENANT's default or other dispute between the parties, the parties shall be entitled to all remedies available, in law or in equity, including, but not limited to, those set forth in Title 25, Chapter 67 of the Delaware Code, and the COUNTY's right to seek injunctive relief and a writ of possession. It is understood and agreed that the remedies herein given to the COUNTY shall be cumulative, and the exercise of any one remedy by the COUNTY shall not be to the exclusion of any other remedy. All past due rental fees shall bear interest at the highest rate permitted by Delaware law.

22. BINDING AGREEMENT.

The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, and assigns of all of the Parties hereto; and all of the Parties hereto shall be jointly and severally liable hereunder. Nothing contained in this Agreement shall be interpreted as a waiver of the sovereign immunity of COUNTY.

23. TIME.

Time is of the essence of this Agreement.

24. LAW.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Delaware, and any action brought to enforce any right or obligation under this Agreement may only be brought in the courts of the State of Delaware with venue lying in Sussex County, Delaware.

25. ENTIRE CONTRACT.

This instrument contains the entire agreement of the parties and supersedes, cancels, and revokes any and all other agreements between the parties relating to the subject matter of this Agreement. There are no representations or warranties, either oral or written, except those contained in this Agreement.

26. AMENDMENT.

This Agreement may not otherwise be amended, modified, rescinded or supplemented orally, and no amendment, modification, waiver, recession or supplementation shall be valid unless in writing and signed by all of the parties hereto.

27. SEVERABILITY.

If any portion of this Agreement shall be held invalid or unenforceable, the validity of the remaining portion shall be unaffected, and this Agreement shall remain in full force and effect as if it has been executed with the invalid portion omitted.

28. NO CONCLUSION AS TO DRAFTER.

This Agreement is the product of the parties hereto and no conclusion shall be drawn as to its drafter in the event of any dispute.

29. HEADINGS.

The headings of the paragraphs are for convenience only and are not part of this Agreement.

30. WAIVER OF JURY TRIAL.

The parties to this Agreement agree to waive their rights to demand a jury trial in any action which may be brought to enforce any portion of this Agreement.

31. COUNTERPARTS; ELECTRONIC SIGNATURES.

This Agreement may be executed in two counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

32. AGRICULTURAL LEASE.

The parties acknowledge that this is an agricultural lease defined under and governed by 25 Del. C. §6701 et. seq., and that the Residential Landlord-Tenant Code, 25 Del. C. §5101, et. seq. does not apply to this Agreement.

33. NO PARTNERSHIP.

The relationship created by this Agreement is that of landlord and tenant, and nothing herein contained shall be construed as creating a partnership between the parties, or any other relationship.

IN WITNESS WHEREOF, the parties hereto have hereunto executed or caused this Agreement to be executed by their duly authorized officials, in duplicate each of which shall be deemed an original on the date first above written.

COUNTY AS PROPERTY OWNER &
LANDLORD:

SUSSEX COUNTY, a political subdivision of the
State of Delaware

By: Michael H. Vincent
Michael H. Vincent, President of the
Sussex County Council

Attest: [Signature]
Robin Griffith, Clerk of the
Sussex County Council

Date 8/21/19

COUNTY AS OPERATOR OF INLAND BAYS
REGIONAL WASTEWATER FACILITY:

SUSSEX COUNTY, a political subdivision of the
State of Delaware

By: Michael H. Vincent
Michael H. Vincent, President of the
Sussex County Council

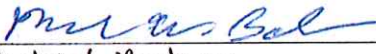
Attest: [Signature]
Robin Griffith, Clerk of the
Sussex County Council

Date 8/21/19

IN WITNESS WHEREOF, the parties hereto have hereunto executed or caused this Agreement to be executed by their duly authorized officials, in duplicate each of which shall be deemed an original on the date first above written.

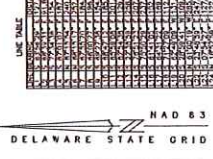
TENANT:

M & M FARMS, LLC, a Delaware
limited liability company

By:  (SEAL)
Mark W. Baker
Print Name of Authorized Member


Witness

5/26/19
Date



LINE TABLE

LINE NO.	LINE TYPE	LINE LENGTH	LINE BEARING	LINE POINT
1

DUMP TABLE

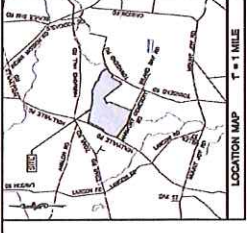
DUMP NO.	DUMP TYPE	DUMP LENGTH	DUMP BEARING	DUMP POINT
1

ADVANCED PROPERTY DATA

PARCEL ID	TAX MAP	GRID REFERENCE	ZONE
1
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LOT CONSOLIDATION PLAN
of the Lands of
SUSSEX COUNTY
INGHAM RIVER HUNDREDSUSSEX COUNTY, DELAWARE

DAVIS BOWEN & FRIEDEL, INC.
ARCHITECTS ENGINEERS SURVEYORS
SUSSEX COUNTY, DELAWARE (538-8881)
MIDDLE BRIDGE (202) 341-1441



COMPILED COPY
ON 10/10/2022 AT 11:04:54 AM
BY: [Name]
SUSSEX COUNTY
COMMISSIONER OF LANDS

SITE DATA
COUNTY: SUSSEX COUNTY
TOWNSHIP: INGHAM RIVER HUNDRED
SECTION: 18
RANGE: 34
MERIDIAN: N
DATE: MARCH 14, 2015

- LEGEND:**
- CONCRETE W/OUT FOUND
 - R/W BOUND FOUND
 - R/W BOUND
 - R/W ASLE FOUND
 - R/W ASLE
 - R/W BOUND WITH CAP SET
 - UNMARKED POINT
 - PROPERTY LINE
 - ADJACENT PROPERTY LINE
 - PROPERTY LINE TO BE DEDICATED
 - WOODS LINE
 - FORMALLY REGULATED WETLANDS (PER FEDERAL REGULATIONS 40 CFR 229)
 - STATE REGULATED WETLANDS (PER DELAWARE MAP 2012)

SURVEYOR CERTIFICATION

I, the undersigned, being a duly licensed and qualified Surveyor of the State of Delaware, do hereby certify that the foregoing is a true and correct representation of the facts as shown by the survey, and that the same has been prepared in accordance with the laws and regulations of the State of Delaware. My commission expires on [DATE].

DAVID BOWEN & FRIEDEL, INC.
SUSSEX COUNTY COMMISSIONER, PRESIDENT

OWNERS STATEMENT

We, the undersigned, being the owners of the property described herein, do hereby state that we are not aware of any other claims, liens, or interests in the property, and that we are not aware of any other persons claiming an interest in the property. We warrant that the property is being conveyed to the recipient in accordance with the laws and regulations of the State of Delaware.

[Signature]
DATE: [DATE]

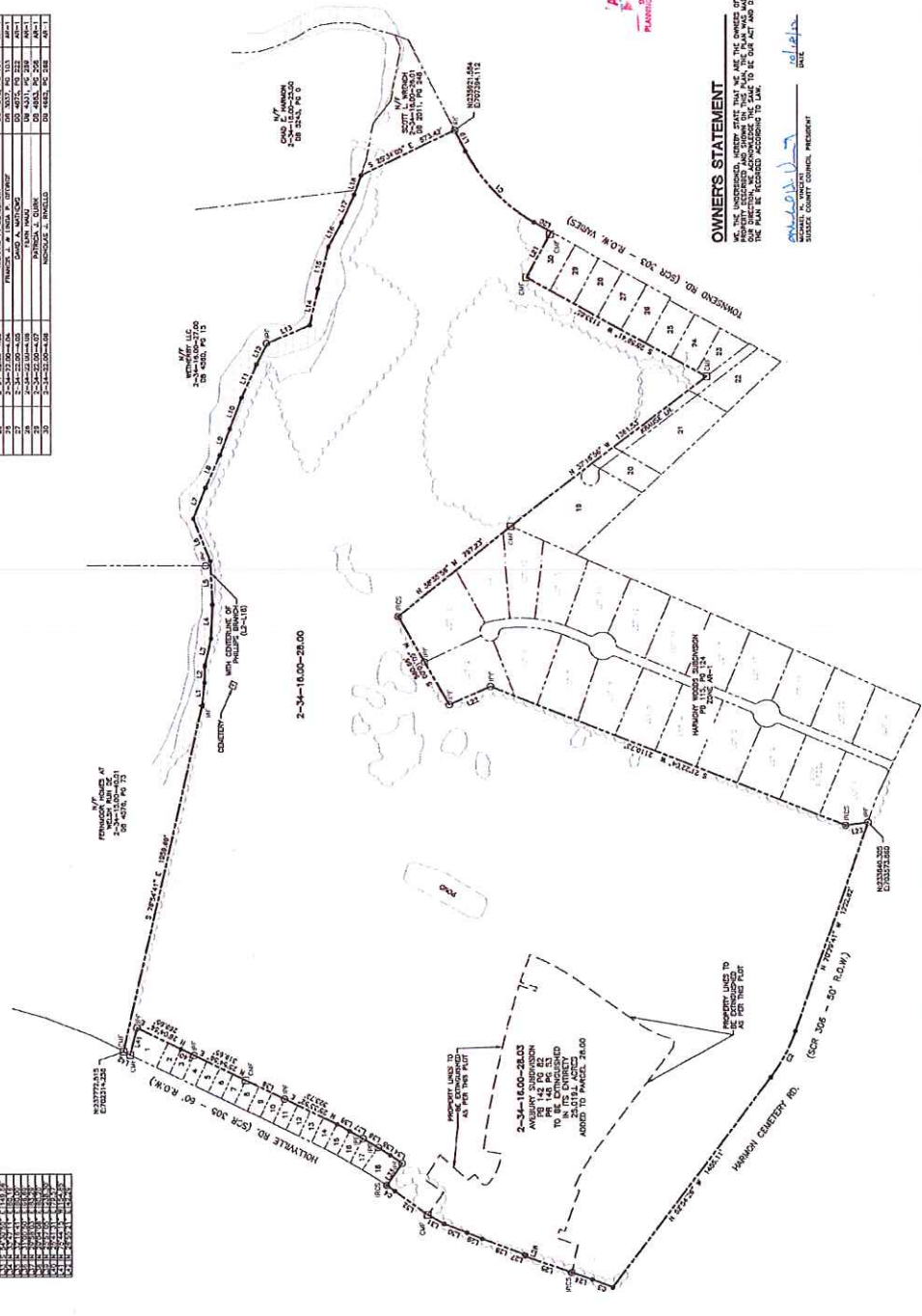


EXHIBIT B

Deeds for Sussex County Tax Parcel Nos.

234-16.00-28.00; -- Deed Book 5111, Page 18

234-16.00-28.03; -- Deed Book 5786, Page 238

PLANNING & ZONING

JANELLE M. CORNWELL, AICP
DIRECTOR

(302) 855-7878 T
(302) 854-5079 F



Sussex County

DELAWARE
sussexcountyde.gov

September 6, 2019

Hans Medlarz -County Engineer
Sussex County
2 The Circle
Georgetown, DE, 19947

RE: Zoning Verification Letter for lands of MMW Investments LLC – Harmony Cemetery Rd
Tax Parcels: 234-16.00-28.00

Dear Mr. Medlarz,

The above property fronts onto Harmony Cemetery Rd with secondary access onto Hollyville Rd. There are no known dwellings or improvements on the parcel.

This parcel has split zoning. The westernmost edge is within the GR – General Residential Zoning District. The remainder of the parcel that is not zoned GR is within the AR-1 - Agricultural Residential Zoning District.

There are no current variances or known violations on the parcel. For any building code violations please contact Building Code at 302-855-7860.

Please feel free to contact me with any further question at 302-855-7878 during normal business hours Monday – Friday 8:30am-4:30pm.

Sincerely,

Mr. Jamie Whitehouse, AICP
Planning & Zoning Manager, Sussex County Planning and Zoning



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

AGRICULTURAL SPRAY AGREEMENT

THIS AGRICULTURAL SPRAY AGREEMENT ("Agreement") is made and entered into this 2nd day of April, 2020, by and between Sussex County, a political subdivision of the State of Delaware, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 (the "COUNTY"), and M&M Farms, LLC, a Delaware limited liability company ("M&M") of 15046 Gravel Hill Road, Milton, DE 19968, and agricultural tenant in possession of certain lands of Hollyville Farms, LLC, a Delaware limited liability company ("Hollyville Farms"), with an address of 17420 Minos Conaway Road, Lewes DE 19958

WHEREAS, the COUNTY is constructing an effluent water loop system at its Inland Bays Regional Wastewater Facility ("the Facility") that will carry highly treated wastewater effluent to certain properties surrounding the Facility; and

WHEREAS, Hollyville Farms owns the parcel of land to which this Agreement pertains (Sussex County Tax Parcel No. 234-21.00-171.00), located near the Facility on Mount Joy Road, which will be connected to the effluent water loop system and to which the COUNTY desires to provide treated wastewater effluent for agricultural use. M&M Farms is a related entity to Hollyville Farms, and the agricultural tenant under a long-term agricultural lease with Hollyville Farms ("Agricultural Lease"). Hollyville Farms desires to confirm M&M's authority under the Agricultural Lease, to accept and exclusively use the County's treated wastewater effluent upon the terms and conditions stated in this Agreement, and desires that for all purposes, M&M be considered the property owner hereunder ("PROPERTY OWNER").

WHEREAS, the COUNTY and the PROPERTY OWNER ("Parties") desire that the COUNTY'S effluent water loop system provide treated wastewater to the PROPERTY OWNER'S Land on-demand for crop application via center-pivot irrigation rigs; and

WHEREAS, the Parties desire to enter into this Agreement as to their mutual obligations to each other.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and the terms, conditions, representations, warranties and covenants herein contained, the parties, intending to be legally bound, hereby covenant and agree as follows:

1. RECITALS. The Recitals above are incorporated herein by reference and made a part of this Agreement.

2. COUNTY AND FACILITY. The COUNTY is the operator of the Facility referenced herein. As required by Section 6.11.8.2.2.2 of the Delaware Department of Natural Resources and Environmental Control Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems (the "DNREC Regulations"), the COUNTY shall execute this Agreement in its capacity as the operator of the Facility.

3. LAND. Hollyville Farms owns all that certain cleared agricultural land, being 73 Tillable Acres +/- with 65 Acres under spray +/- situated in Indian River Hundred, Sussex County, Delaware, and being further identified as Tax Map and Parcel Number 234-21.00-171.00, as outlined on the maps attached hereto as Exhibit A which is incorporated herein by reference ("Land"). As required by the DNREC Regulations, the Deed to Hollyville Farms verifying ownership of the Land, and the Land's zoning verification are attached hereto as Exhibits B and C, respectively, and are incorporated herein by reference. As stated above, M&M Farms is the agricultural tenant under the Agricultural Lease with Hollyville Farms, with authority to enter into this Agreement under the Agricultural Lease, and for all purposes herein, is the Property Owner hereunder.

4. TERM OF AGREEMENT. The initial term for the COUNTY'S provision of treated wastewater to the PROPERTY OWNER under this Agreement shall be for a five (5) year term commencing on January 1, 2021 and terminating on December 31, 2025. This Agreement shall automatically renew on the same terms and conditions contained herein for additional one-year terms unless either party provides the other party with written notice of its intent not to renew at least One Hundred Twenty (120) days prior to the end of the applicable term.

5. FEES.

- a). Agricultural Availability Fee. The COUNTY shall pay the PROPERTY OWNER a total annual availability fee of \$650.00 to allow the COUNTY to spray the treated wastewater or effluent on the PROPERTY OWNER'S Land ("Availability Fee"). The annual Fee is based on a \$10.00 per acre charge for 65 tillable acres under spray. The COUNTY'S obligation to pay the PROPERTY OWNER the Availability Fee referenced herein is expressly contingent upon PROPERTY OWNER farming the Land. The pro-rated Availability Fee for 2020 shall be due and payable upon the Parties' execution of this Agreement. Each year's annual Fee shall be paid to the PROPERTY OWNER by the COUNTY on or before January 1st for that year.
- b). Usage Fee. The COUNTY shall pay PROPERTY OWNER compensation for its actual metered usage of treated wastewater sprayed on PROPERTY OWNER'S Land ("Usage Fee"). The Usage Fee will be calculated at \$0.50 per 1,000 gallons of sprayed treated wastewater. The COUNTY'S obligation to pay the PROPERTY OWNER the Usage Fee referenced herein is expressly contingent upon PROPERTY OWNER farming the Land. The Usage Fee shall be paid to the PROPERTY OWNER by the COUNTY on a monthly basis no later than the 15th day of each month.
- c) Fees Contingent Upon Crops Being Harvested. PROPERTY OWNER acknowledges that the fees being paid by the COUNTY are contingent upon the PROPERTY OWNER harvesting the crops from the Land. If PROPERTY OWNER fails or refuses to harvest its crops as required herein, PROPERTY OWNER shall be required to repay all Availability Fees and Usage Fees it received from the COUNTY under this Agreement. This provision shall survive expiration or earlier termination of this Agreement.

6. USE OF LAND. The COUNTY owns and operates the Inland Bays Regional Wastewater Facility that produces treated wastewater for agricultural uses (alternatively referred to herein as "effluent", "treated wastewater" or "reclaimed water"). The PROPERTY OWNER, herewith agrees to accept all such effluent as deemed necessary by the PROPERTY OWNER for agricultural purposes and the PROPERTY OWNER shall use the COUNTY'S effluent exclusively for all agricultural irrigation needs as long as the COUNTY's treated wastewater is available. As a condition of this Agreement, the PROPERTY OWNER reserves the unilateral right to direct the location of the discharge upon any or all portions of the Land as deemed, in the opinion of the PROPERTY OWNER, best servicing the interest of the PROPERTY OWNER'S farming operations.

The COUNTY shall be responsible for the design and installation of the effluent water loop system, including the automated connection to the PROPERTY OWNER'S existing irrigation systems. The COUNTY will design and install the effluent water loop system which shall be completed between the Effective Date of this Agreement and the 2021 growing season. Notwithstanding the foregoing, the parties acknowledge that the COUNTY'S provision of treated wastewater to the Property shall be subject to DNREC's issuance of the final permit, the receipt of which is required prior to the provision thereof and which the COUNTY shall diligently pursue. PROPERTY OWNER shall grant access to its existing irrigation system to the COUNTY for the purposes of connecting the effluent water loop system. COUNTY shall make every effort to schedule and coordinate the installation of the effluent water loop system so as not to affect the PROPERTY OWNER'S farming operation.

The Land may be used for producing agricultural commodities. The PROPERTY OWNER shall not plant any crops intended for direct human consumption. The PROPERTY OWNER agrees to follow good farm management practices and to farm the land in a good and husband-like manner to avoid degradation of the environment and further agrees to the following:

- a) The PROPERTY OWNER shall till all irrigated fields on an annual basis. An annual crop harvest of agricultural commodities is mandatory for the spring/summer growing season.
- b) The PROPERTY OWNER shall be responsible for the Nutrient Management Plan for the Land, as required by the State of Delaware's 1999 Nutrient Management Act and the DNREC Regulations. The PROPERTY OWNER shall provide the COUNTY with a copy of the Nutrient Management Plan for the Land. The COUNTY shall supply to the PROPERTY OWNER, for incorporation into said plan, flow and nutrient information of treated effluent as required by DNREC Regulations.
- c) To ensure that the COUNTY'S effluent water loop system is compatible and can be properly connected, the PROPERTY OWNER shall notify the COUNTY if it installs an additional or modified irrigation system.

- d) The COUNTY is not responsible for wildlife damages to agricultural commodities on the Land.
- e) PURSUANT TO 3 DEL. C. § 2301, THE PROPERTY OWNER ACKNOWLEDGES THAT THE COUNTY HAS INFORMED PROPERTY OWNER OF THE POTENTIAL LIMITATION, RISK AND LOSS REGARDING THE USE OF EFFLUENT OR RECLAIMED WATER ON CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION. THE PROPERTY OWNER FURTHER ACKNOWLEDGES THAT THE EFFLUENT OR RECLAIMED WATER MAY ONLY BE APPLIED TO GROWING VEGETATION AND SHALL NOT BE APPLIED TO CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION.
- f) The PROPERTY OWNER shall pay for all utilities necessary for its operations on the Land.

7. HOLD HARMLESS.

- a) BY PROPERTY OWNER. To the fullest extent permitted by law, the PROPERTY OWNER shall indemnify, hold harmless and defend the COUNTY, its elected and appointed officials, officers, employees, servants, representatives, agents, guests, and invitees from and against any and all claims, damages, injuries and expenses (including related attorney's fees and other defense costs) arising out of or resulting from the PROPERTY OWNER's uses of and operations upon the Land, including all aspects of farming operations thereon, and expressly including its application of the COUNTY'S treated wastewater in any manner inconsistent with the terms of this Agreement, including, but not limited to, claims, damages, losses, injuries or expenses attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible and intangible property, whether said property is real or personal, including the loss of use resulting therefrom, asserted by any person, persons or artificial entity, including, but not limited to the PROPERTY OWNER's members, officers, directors, employees, servants, representatives, guests, invitees, subcontractors, licensees, visitors, etc.
- b) BY COUNTY. To the fullest extent permitted by law, the COUNTY shall indemnify, hold harmless and defend the PROPERTY OWNER, its members, officers, directors, employees, servants, representatives, agents, guests, and invitees from and against any and all claims, damages, injuries and expenses (including related attorney's fees and other defense costs) arising out of, or resulting from claims attributable to, the quality of the treated wastewater provided by the COUNTY, whether or not the COUNTY has complied with DNREC's Permit LTS 5004-90-12; including, but not limited to, claims, damages, losses, injuries or expenses attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible and intangible property, whether said property is real or personal, including the loss of use resulting therefrom, asserted by any person, persons or artificial entity. By way of clarification, notwithstanding PROPERTY OWNER'S application of COUNTY-supplied treated wastewater to the

Land, the COUNTY maintains full responsibility for, and liability for claims attributable to the quality of the treated wastewater supplied by it to PROPERTY OWNER under the terms of this Agreement.

8. MAINTENANCE AND/OR REPLACEMENT OF EXISTING IRRIGATION SYSTEM. The parties acknowledge that PROPERTY OWNER owns an existing irrigation system with one (1) center-pivot irrigation rigs located on the Land (the "Irrigation System"). During the term of this Agreement, and any renewals thereof, PROPERTY OWNER shall maintain the Irrigation System in its existing condition, normal wear and tear excepted. PROPERTY OWNER shall be responsible for all maintenance and repair of the Irrigation System. In the event the PROPERTY OWNER'S irrigation system fails completely and cannot be repaired as contemplated herein, PROPERTY OWNER shall provide the COUNTY with written notice thereof and shall promptly replace the irrigation system in order to accept the COUNTY'S treated wastewater. Replacement shall take place in a timely manner from the date PROPERTY OWNER determines that replacement will be necessary, and which shall not extend beyond or exceed the current availability year.

9. CONDITIONS OF SERVICE

- a) The COUNTY agrees to be solely responsible for the connection to the PROPERTY OWNER'S irrigation system including valving, metering and automatic control tie-ins as well as the removal of the improvements in case of an agreement termination. The County agrees to provide 70 psi at the connection point to the effluent water loop.
- b) The COUNTY operates under DNREC Permit LTS 5004-90-12 ("DNREC Permit"), incorporated by reference herein. Throughout the term of this Agreement, the COUNTY shall meet all terms and conditions of the DNREC Permit. The COUNTY shall provide the PROPERTY OWNER a copy of the DNREC Permit, and shall promptly notify and provide PROPERTY OWNER copies of any changes to the terms and conditions of, or substitutions or replacements thereof.
- c) The COUNTY will provide all test results required by the permit to the PROPERTY OWNER at the same time as they are submitted to the State.

10. INSURANCE. During the term of this Agreement and any renewals hereof, the PROPERTY OWNER shall, at its sole cost and expense, maintain commercial general liability insurance, and other insurance coverage, in such coverage amounts as is standard for the agricultural activities being performed on the Land. Prior to the effective date of this Agreement, the PROPERTY OWNER shall provide to the COUNTY a certificate or certificates of insurance evidencing all insurance coverage in a form that is satisfactory to the COUNTY. PROPERTY OWNER'S failure to provide the certificate or certificates shall constitute an act of default under this Agreement.

11. ASSIGNMENT. The PROPERTY OWNER shall not assign this Agreement, nor lease the Land or otherwise permit the whole or any part of the Land to be occupied by others

without the prior written consent of the COUNTY which consent shall not be unreasonably withheld. The COUNTY'S consent to one or more assignments or leases shall not operate as a waiver of the COUNTY'S rights pertaining to future assignments or leases.

12. COUNTY'S DEFAULT. The following events shall be deemed to be a default by the COUNTY: 1) failure to pay any fee installment and such failure shall continue for fifteen (15) days after the PROPERTY OWNER sends written notice to the COUNTY; 2) failure to comply with any provision of this Agreement, other than the failure to pay any Fee installment, and such failure to comply has not been cured within fifteen (15) days after the PROPERTY OWNER sends written notice to the COUNTY; or 3) the COUNTY: (a) becomes insolvent; (b) makes a transfer in fraud to creditors; (c) makes an assignment for the benefit of creditors; (d) files a petition under any section of the Federal Bankruptcy Act; (e) is adjudged bankrupt; or (f) has a receiver appointed, all of which shall result in the immediate termination of this Agreement.

Upon the occurrence of any of the above, upon providing written notice to the COUNTY, the PROPERTY OWNER may elect to terminate this Agreement. If this Agreement is terminated, PROPERTY OWNER shall thereafter be solely responsible for the provision of irrigation water to the Land. Upon the COUNTY's default, the PROPERTY OWNER shall be entitled to pursue any and all remedies available to it as more fully set forth in paragraph 17 hereof.

13. PROPERTY OWNER'S DEFAULT. The following events shall be deemed to be a default by the PROPERTY OWNER: 1) failure to comply with any provision of this Agreement, and such failure to comply has not been cured within fifteen (15) days after the COUNTY sends written notice to the PROPERTY OWNER; 2) the PROPERTY OWNER: (a) becomes insolvent; (b) makes a transfer in fraud to creditors; (c) makes an assignment for the benefit of creditors; (d) files a petition under any section of the Federal Bankruptcy Act; (e) is adjudged bankrupt; or (f) has a receiver appointed, all of which shall result in the immediate termination of this Agreement; or 3) the PROPERTY OWNER deserts, abandons or vacates any substantial portion of the Land.

Upon the occurrence of any of the above, upon providing written notice to the PROPERTY OWNER, the COUNTY may elect to terminate this Agreement. If this Agreement is so terminated, PROPERTY OWNER shall thereafter be solely responsible for the provision of irrigation water to the Land. Upon PROPERTY OWNER'S default, the COUNTY shall be entitled to pursue any and all remedies available to it as more fully set forth in paragraph 17 hereof.

14. NOTICES. Any notice under this Agreement shall be in writing and shall be deemed to have been given when (i) delivered in person, (ii) sent by facsimile to the fax number listed below (if any) (provided that such notice is also sent the same day by U.S. first class mail, postage prepaid, addressed to the parties as set forth below), (iii) delivered by Federal Express or other reputable overnight courier service, or (iv) Three (3) days after same is deposited in the United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

To the COUNTY:

Hans Medlarz, County Engineer
Sussex County Administration Building
2 The Circle
P.O. Box 589
Georgetown, DE 19947
Fax: (302) 855-7799

with a copy to:

J. Everett Moore, Jr., Esquire
Moore & Ruff, P.A.
122 West Market Street
P.O. Box 554
Georgetown, DE 19947
Fax (302) 855-9803

To the PROPERTY OWNER:

M&M Farms, LLC
15046 Gravel Hill Road
Milton, DE 19968

Attn: Wayne Baker Fax: _____

with a copy to:

Robert G. Gibbs, Esquire
Morris James, LLP
107 W. Market Street
Georgetown, DE 19947
Fax: (302) 856-7217

15. WAIVER OF BREACH. Either party's waiver of any right or remedy available to it in the event of any default or breach of any term, covenant or condition of this Agreement shall not constitute a waiver of any succeeding default or breach of the same or other terms and conditions of this Agreement. Either party's waiver or acceptance of the breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any continuing or subsequent breach of the same or any other term, covenant or condition herein contained. All waivers or acceptances must be in writing.

16. **ATTORNEYS' FEES AND EXPENSES.** If either party institutes litigation against the other relating to this Agreement or any default hereunder, each party shall be responsible for their respective expenses of prosecuting or defending such action, including without limitation, attorneys' fees, expenses, and court costs. The obligations under this section shall survive the expiration or earlier termination of this Agreement.

17. **REMEDIES.** In the event of a default or dispute between the parties, each party shall be entitled to all remedies available, in law or in equity, including the right to seek injunctive relief, if applicable. The remedies herein contained shall be cumulative, and the exercise of any one remedy by a party shall not be to the exclusion of any other remedy.

18. **BINDING AGREEMENT.** The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, and assigns of all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder. Nothing contained in this Agreement shall be interpreted as a waiver of the sovereign immunity of COUNTY.

19. **TIME.** Time is of the essence of this Agreement.

20. **LAW.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Delaware, and any action brought to enforce any right or obligation under this Agreement may only be brought in the courts of the State of Delaware with venue lying in Sussex County, Delaware.

21. **ENTIRE CONTRACT.** This instrument contains the entire agreement of the parties and supersedes, cancels, and revokes any and all other agreements between the parties relating to the subject matter of this Agreement. There are no representations or warranties, either oral or written, except those contained in this Agreement.

22. **AMENDMENT.** This Agreement may not otherwise be amended, modified, rescinded or supplemented orally, and no amendment, modification, waiver, recession or supplementation shall be valid unless in writing and signed by all of the parties hereto.

23. **SEVERABILITY.** If any portion of this Agreement shall be held invalid or unenforceable, the validity of the remaining portion shall be unaffected, and this Agreement shall remain in full force and effect as if it has been executed with the invalid portion omitted.

24. **NO CONCLUSION AS TO DRAFTER.** This Agreement is the product of the parties hereto and no conclusion shall be drawn as to its drafter in the event of any dispute.

25. **HEADINGS.** The headings of the paragraphs are for convenience only and are not part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto executed or caused this Agreement to be executed by their duly authorized officials, in duplicate each of which shall be deemed an original on the date first above written.

COUNTY AS OPERATOR OF INLAND BAYS
REGIONAL WASTEWATER FACILITY:

SUSSEX COUNTY, a political subdivision of the
State of Delaware

By: 
Michael H. Vincent, President of the
Sussex County Council

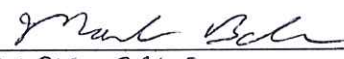
Attest: 
Robin Griffith, Clerk of the
Sussex County Council

4/2/20
Date

PROPERTY OWNER:

M&M Farms, LLC
a Delaware Limited Liability Company


Witness

By:  (SEAL)
MARK BAKER
Print Name of Authorized Member

04/02/2020
Date

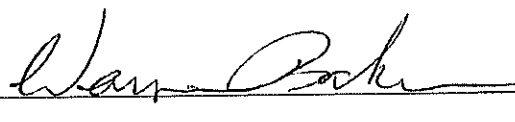
Acknowledgment of Hollyville Farms, LLC

Hollyville Farms, LLC, owner of the parcel of land to which this Agreement pertains (Sussex County Tax Parcel No. 234-21.00-171.00), hereby confirms M&M Farms, LLC's standing, as long-term agricultural tenant of the property under the Agricultural Lease, with authority enter into this Agreement, and for all purposes under the Agreement, to be considered the property owner.

Hollyville Farms, LLC
a Delaware Limited Liability Company



Witness

By:  (SEAL)

Print Name of Authorized Member

04/02/2020

Date

EXHIBIT A

Sussex County Tax Map of
Parcel No. 234-21.00-171.00

SLTM 234-21.00-171.00

Ⓢ

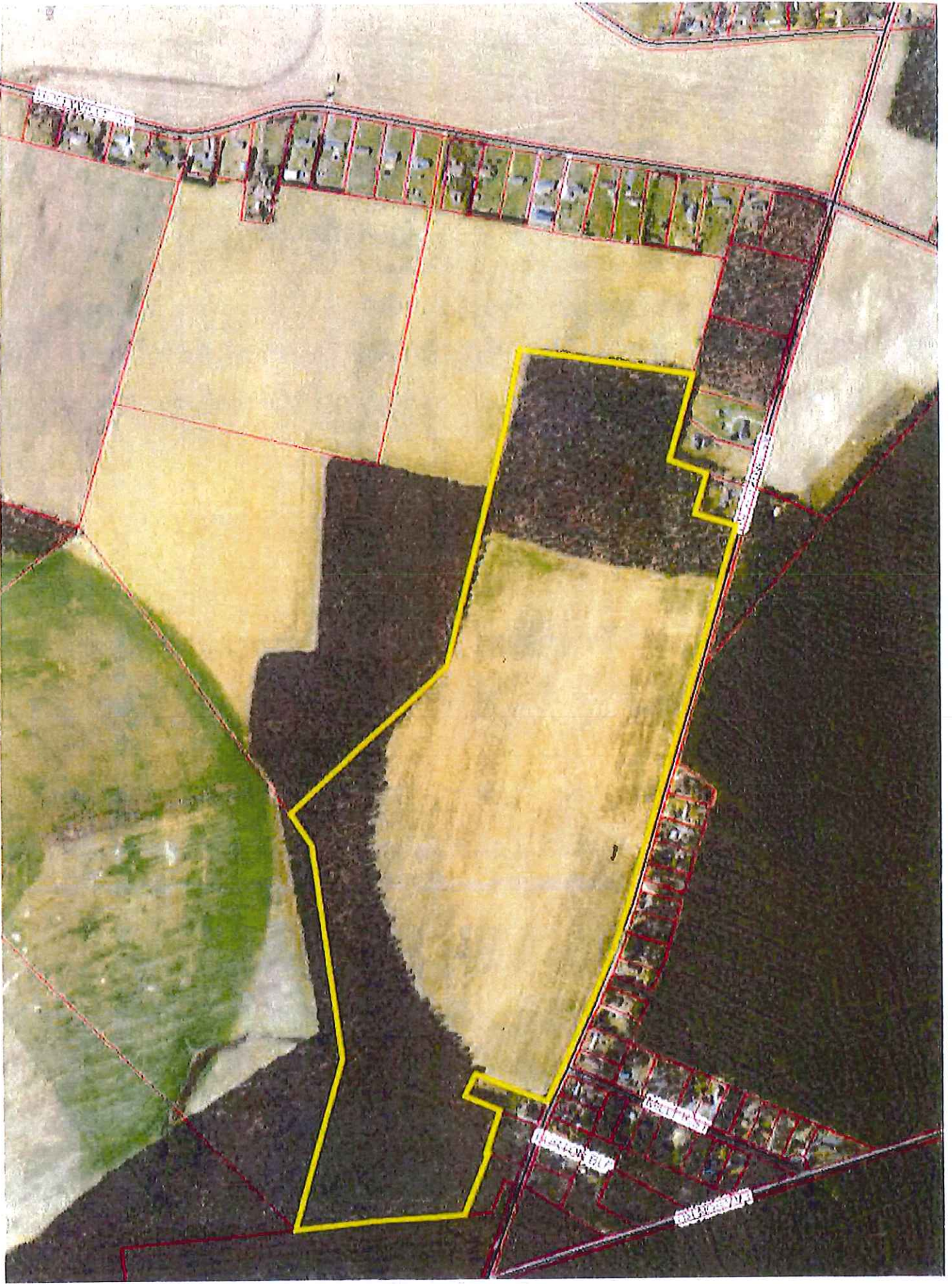


EXHIBIT B

Deed for Sussex County Tax Parcel No.
234-21.00-171.00

33840

BK# 4043 PG# 8

Sussex County Tax Map: 2-34 21.00, Parcels:
171.00 (Open Spaces and Stormwater Management);
215.00 (Streets);
216.00 through 393.00, inclusive.

PREPARED BY AND RETURN TO:
Robert G. Gibbs, Esq.
Wilson, Halbrook & Bayard, P.A.
P.O. Box 690, Georgetown, DE 19947

THIS DEED, is made this 18th day of September, A.D., 2012,

BETWEEN,

CNB, a Maryland Bank Corporation, party of the first part, of Kent County, Delaware,
Grantor ("Grantor"),

AND

Hollyville Farms, LLC, a Delaware Limited Liability Company, party of the second part, of
Sussex County, Delaware, Grantee ("Grantee"), 17420 Minos Conway Road, Lewes, DE 19768

WITNESSETH:

Grantor, for and in consideration of the sum of One Dollar (\$1.00), and other valuable and
lawful considerations, currently lawful money of the United States of America, the receipt whereof is
hereby acknowledged, hereby grants and conveys unto the Grantee, its heirs, successors and assigns
forever, in fee simple the following described lands, situate, lying and being in Sussex County, State
of Delaware;

ALL OF: The Open Spaces and Stormwater Management areas, as depicted and described
upon a plot prepared by Vista Design, Inc. (Larry L. Mann, P.L.S.) entitled "Whittington Estates-
Record Plat", recorded November 30, 2009, in the Office of the Recorder of Deeds, in and for
Sussex County, Delaware, in Plot Book 139, Page 72 & c. (hereafter, the "Subdivision Plat"),
consisting of +/- 55.18 acres, being further identified as Sussex County Tax Map Parcel 2-34 21.00
171.00;

KS

BK: 4043 PG: 9

ALL OF: The Streets in Whittington Estates, as depicted and described on the aforesaid Subdivision Plat, consisting of +/- 17.93 acres, being further identified as Sussex County Tax Map Parcel Map Parcel 2-34 21.00 215.00;

ALL OF THE FOLLOWING LOTS IN WHITTINGTON ESTATES: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177 and 178, as depicted and described on the aforesaid Subdivision Plat, identified by the Sussex County Tax Map Parcel Numbers, shown above.

BEING the same lands and premises heretofore conveyed unto this Grantor by Deed in Lieu of Foreclosure from P&H Harmon Properties, LLC, a Delaware limited liability company, dated April 20, 2012, and now of record in the Office of the Recorder of Deeds, aforesaid, in Deed Book 3992, Page 286, &c., the above properties collectively previously described in total as follows:

COMMENCING at an iron pipe found on the southerly right of way for Road 297, being 40 feet wide and approximately 1,480 feet easterly from its intersection with Road 305, said iron pipe being a corner for lands N/F of Sharon M. Elzey and a corner for lands N/F of Preston T. Hopkins, et al; thence South 73 degrees 45 minutes 08 seconds East, by and with the southerly right of way for Road 297 and lands N/F of Preston T. Hopkins, et al., a distance of 210.00 feet to an iron pipe found at the point of beginning; thence (1) South 73 degrees 47 minutes 17 seconds East, by and with the southerly right of way for Road 297, a distance of 1,984.73 feet to a point for corner; thence (2) along a curve to the right, having a radius of 2,980.00 feet, a central angle of 07 degrees 38 minutes 52 seconds, an arc length 397.77 feet, and a chord which bears South 69 degrees 57 minutes 51 seconds East a distance of 397.48 feet to a point for corner; thence (3) South 66 degrees 08 minutes 24 seconds East, by and with the southerly right of way for Road 297, a distance of 665.20 feet to a point for corner; thence (4) along a curve to the left, having a radius of 4,720.00 feet, a central angle of 00 degrees 18 minutes 39 seconds, an arc length of 25.61 feet, and a chord which bears South 66 degrees 17 minutes 44 seconds East a distance of 25.61 feet to an iron rod and cap set; thence (5) South 23 degrees 43 minutes 13 seconds West, by and with lands N/F of James F. Finney, Sr., et al., a distance of 415.00 feet to an iron rod and cap set; thence (6) South 67 degrees 05 minutes 18 seconds East, by and with lands N/F of James F. Finney, Sr., et al., a distance of 105.00 feet to an

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iron rod and cap set; thence (7) North 23 degrees 43 minutes 13 seconds East, by and with lands N/F of James F. Finney, Sr., et al., a distance of 205.00 feet to an iron rod and cap set; thence (8) South 68 degrees 59 minutes 47 seconds East, by and with other lands N/F of James F. Finney, Sr., et al., a distance of 210.00 feet to an iron rod and cap set; thence (9) North 23 degrees 43 minutes 13 seconds East, by and with other lands of N/F of James F. Finney, Sr., et al., a distance of 15.00 feet to an iron rod and cap set; thence (10) South 67 degrees 11 minutes 13 seconds East by and with lands N/F of Charles N. Johnson, et ux., a distance of 334.00 feet to an iron rod and cap set; thence (11) South 04 degrees 17 minutes 47 seconds East, by and with lands N/F of Glatfelter Pulp Wood Company, a distance of 943.78 feet to an iron rod and cap set; thence (12) North 73 degrees 08 minutes 45 seconds West, by and with lands N/F of Mountaire Farms of Delaware, Inc., a distance of 907.09 feet to an iron rod and cap to be set; thence (13) South 83 degrees 06 minutes 15 seconds West, by and with lands N/F of Mountaire Farms of Delaware, Inc., a distance of 1,237.50 feet to an iron pipe found; thence (14) North 45 degrees 36 minutes 14 seconds West, by and with other lands N/F of Mountaire Farms of Delaware, Inc., a distance of 1,067.55 feet to an iron rod and cap set; thence (15) North 73 degrees 21 minutes 14 seconds West, by and with other lands N.F of Mountaire Farms of Delaware, Inc., a distance of 1,581.86 feet to an iron rod and cap to be set; thence (16) North 08 degrees 33 minutes 02 seconds East, by and with other lands N/F of Mountaire Farms of Delaware, Inc., a distance of 812.00 feet to a concrete monument found; thence (17) South 73 degrees 47 minutes 08 seconds East, by and with lands N/F of Sylvester Rickards, et ux. and lands N/F of Sharon M. Elzey, a distance of 415.00 feet to an iron pipe found; thence (18) North 20 degrees 57 minutes 52 seconds East, by and with other lands N/F of Sharon M. Elzey, a distance of 210.00 feet to an iron pipe found; thence (19) South 73 degrees 45 minutes 09 seconds East, by and with lands N/F of Preston T. Hopkins, et al., a distance of 210.00 feet to an iron pipe found; thence (20) North 20 degrees 57 minutes 52 seconds East, by and with lands N/F of Preston T. Hopkins, et al., a distance of 210.00 feet to the Point of Beginning, said parcel contains 125.91 acres of land as shown on a Boundary Survey by Cornerstone Surveying, Inc., dated April 10, 2003.

SUBJECT to any and all restrictions, reservations, conditions, easements and agreements of record in the Office of the Recorder of Deeds in and for Sussex County, Delaware.

BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE(S) FOLLOW.

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IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal, the day and year first above-written.

WITNESS:

GRANTOR:
CNB, A Maryland Bank Corporation

Donna J. [Signature]

By: [Signature] (SEAL)

STATE OF : Delaware
: SS:
COUNTY OF : Kent

BE IT REMEMBERED, That on this 18 day of September, A.D., 2012, personally appeared before me, the Subscriber, a Notary Public for the State and County aforesaid, Charlie Ruch, Senior Vice-President of CNB, a Maryland Bank Corporation, party to the foregoing Indenture, known to me personally to be such, and acknowledged said Indenture to be his/her/their act and deed.

GIVEN under my hand and seal of office, the day and year aforesaid.

[Signature]
Notary Public

JOHN W. AUGUSTUS III
Notary Public - State of Delaware
My Comm. Expires May 20, 2014

RECEIVED

SEP 20 2012

ASSESSMENT DIVISION
OF SUSSEX COUNTY

Consideration: 625,000.00

County	9,375.00
State	9,375.00
Town	Total 18,750.00
Received:	Margaret P Sep 20, 2012

Recorder of Deeds
Scott Dailey
Sep 20, 2012 03:49P
Sussex County
Doc. Surcharge Paid

EXHIBIT C
Zoning Verification for Land

PARID 234-21-00-171 00
 HOLLYVILLE FARMS LLC

ROLL: RP

Property Information

Property Location:

Unit:
 City:
 State:
 Zip:

Class: EXM-Exempl
 Use Code (LUC): MX-MISCELLANEOUS
 Town: 00-None
 Tax District: 234 - INDIAN RIVER
 School District: 1 - INDIAN RIVER
 Council District: 5-Rioley
 Fire District: 03-Millsboro
 Deded Acres: 55 1000
 Frontage: 0
 Depth: .000
 Ir Lot:
 Zoning 1: AR-1-AGRICULTURAL/RESIDENTIAL
 Zoning 2:
 Plot Book Page: 139 72/PB

100% Land Value: \$3,500
 100% Improvement Value: \$9,100
 100% Total Value: \$12,600

Legal

Legal Description: WHITTINGTON ESTATES
 OPEN SPACES SWM

Owners

Owner	Co-owner	Address	City	State	Zip
HOLLYVILLE FARMS LLC		17420 MINOS CONAWAY RD	LEWES	DE	10058

Sales

Sale Date	Book/Page	Sale Price	Stamp Value	Parcel's Sold	Grantee/Buyer
09/20/2012	4043/8	\$825,000.00	\$9,375.00	177	

Owner History

Tax Year:	Owner:	Co-owner	Address:	City:	State:	Zip:	Deed Book/Page:
2010	HOLLYVILLE FARMS LLC		17420 MINOS CONAWAY RD	LEWES	DE	10058	4043/8
2018	HOLLYVILLE FARMS LLC		17420 MINOS CONAWAY RD	LEWES	DE	10058	4043/8
2017	HOLLYVILLE FARMS LLC		17420 MINOS CONAWAY RD	LEWES	DE	10058	4043/8
2013	HOLLYVILLE FARMS LLC		17420 MINOS CONAWAY RD	LEWES	DE	10058	4043/8
2013	CNB		120 W MAIN ST	FELTON	DE	10943	3992/288
2011	P H HARMON PROPERTIES LLC		1130 ROUTE 03 # MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2010	P H HARMON PROPERTIES LLC		1130 ROUTE 03 # MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2010	P H HARMON PROPERTIES LLC		1130 ROUTE 03 # MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2010	P H HARMON PROPERTIES LLC		1130 ROUTE 03 # MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2004	P H HARMON PROPERTIES LLC		1130 RT 03 CAPE MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2003	P H HARMON PROPERTIES LLC		1130 RT 03 CAPE MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2003	P H HARMON PROPERTIES LLC		1130 RT 03 CAPE MAY CH	CAPE MAY COURT	NJ	0210	2842/167
2003	THOMAS BRENDA L TYRON A HARMON		C/O FAYE G BLANKS 1130 RT 03 CAPE MAY CH	CAPE MAY COURT	NJ	0210	1625/36
2003	THOMAS BRENDA L TYRON A HARMON		C/O FAYE G BLANKS 1130 RT 03 CAPE MAY CH	CAPE MAY COURT	NJ	0210	0/0
1900	THOMASTYRON A HARMON					0	1625/36
1800	HARMON CURTIS ALSTON					0	664/307
1900	HARMON CURTIS ALSTON HELEN J					0	664/307
1900	BARRY N HARMON FAYE G					0	1625/36

AGRICULTURAL SPRAY AGREEMENT

THIS AGRICULTURAL SPRAY AGREEMENT ("Agreement") is made and entered into this 23rd day of June, 2020, by and between Sussex County, a political subdivision of the State of Delaware, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 (the "COUNTY"), and Double H Farm, LLC, a Delaware limited liability company, with an address of 32740 Webbs Landing Road, Lewes, DE 19958.

WHEREAS, the COUNTY is constructing an effluent water loop system at its Inland Bays Regional Wastewater Facility ("the Facility") that will carry highly treated wastewater effluent to certain properties surrounding the Facility; and

WHEREAS, PROPERTY OWNER owns the parcel of land to which this Agreement pertains (Sussex County Tax Parcel No. 234-16.00-21.01), located near the Facility on Townsend Road, which will be connected to the effluent water loop system and to which the COUNTY desires to provide treated wastewater effluent for agricultural use.

WHEREAS, the COUNTY and the PROPERTY OWNER ("Parties") desire that the COUNTY'S effluent water loop system provide treated wastewater to the PROPERTY OWNER'S Land on-demand for crop application via center-pivot irrigation rigs; and

WHEREAS, the Parties desire to enter into this Agreement as to their mutual obligations to each other.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and the terms, conditions, representations, warranties and covenants herein contained, the parties, intending to be legally bound, hereby covenant and agree as follows:

1. RECITALS. The Recitals above are incorporated herein by reference and made a part of this Agreement.

2. COUNTY AND FACILITY. The COUNTY is the operator of the Facility referenced herein. As required by Section 6.11.8.2.2.2 of the Delaware Department of Natural Resources and Environmental Control Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems (the "DNREC Regulations"), the COUNTY shall execute this Agreement in its capacity as the operator of the Facility.

3. LAND. Double H Farm, LLC owns all that certain cleared agricultural land, being 89.7 Tillable Acres +/- with 62.5 Acres under spray +/- situated in Indian River Hundred, Sussex County, Delaware, and being further identified as Tax Map and Parcel Number 234-16.00-21.01, as outlined on the maps attached hereto as Exhibit A which is incorporated herein by reference ("Land"). As required by the DNREC Regulations, the Deed to Double H Farm, LLC verifying ownership of the Land, and the Land's zoning

verification are attached hereto as Exhibits B and C, respectively, and are incorporated herein by reference.

4. **TERM OF AGREEMENT.** The initial term of this Agreement shall be for a ten (10) year term commencing on the date of execution and terminating on _____, 2030. This Agreement shall automatically renew on the same terms and conditions contained herein for an additional ten (10) year term unless either party provides the other party with written notice of its intent not to renew at least One Hundred Twenty (120) days prior to the end of the applicable term.

5. **FEEES.**

- a). **Agricultural Availability Fee.** The COUNTY shall pay the PROPERTY OWNER a total annual availability fee of \$897.00 to allow the COUNTY to spray the treated wastewater or effluent on the PROPERTY OWNER'S Land ("Availability Fee"). The annual Fee is based on a \$10.00 per acre charge for 89.7 tillable acres under spray. The COUNTY'S obligation to pay the PROPERTY OWNER the Availability Fee referenced herein is expressly contingent upon PROPERTY OWNER farming the Land. The pro-rated Availability Fee for the first year shall be due and payable upon the Parties' execution of this Agreement. Each year's annual Fee shall be paid to the PROPERTY OWNER by the COUNTY on or before January 1st for that year.
- b). **Usage Fee.** The COUNTY shall pay PROPERTY OWNER compensation for its actual metered usage of treated wastewater sprayed on PROPERTY OWNER'S Land ("Usage Fee"). The Usage Fee will be calculated at \$0.50 per 1,000 gallons of sprayed treated wastewater. The COUNTY'S obligation to pay the PROPERTY OWNER the Usage Fee referenced herein is expressly contingent upon PROPERTY OWNER farming the Land. The Usage Fee shall be paid to the PROPERTY OWNER by the COUNTY on a monthly basis no later than the 15th day of each month.
- c) **Fees Contingent Upon Crops Being Harvested.** PROPERTY OWNER acknowledges that the fees being paid by the COUNTY are contingent upon the PROPERTY OWNER harvesting the crops from the Land. If PROPERTY OWNER fails or refuses to harvest its crops as required herein, PROPERTY OWNER shall be required to repay all Availability Fees and Usage Fees it received from the COUNTY under this Agreement. This provision shall survive expiration or earlier termination of this Agreement.

6. **USE OF LAND.** The COUNTY owns and operates the Inland Bays Regional Wastewater Facility that produces treated wastewater for agricultural uses (alternatively referred to herein as "effluent", "treated wastewater" or "reclaimed water"). The PROPERTY OWNER, herewith agrees to accept all such effluent as deemed necessary by the PROPERTY OWNER for agricultural purposes and the PROPERTY OWNER shall

use the COUNTY'S effluent exclusively for all agricultural irrigation needs as long as the COUNTY's treated wastewater is available. As a condition of this Agreement, the PROPERTY OWNER reserves the unilateral right to direct the location of the discharge upon any or all portions of the Land as deemed, in the opinion of the PROPERTY OWNER, best servicing the interest of the PROPERTY OWNER'S farming operations.

The COUNTY shall be responsible for the design and installation of the effluent water loop system, including the automated connection to the PROPERTY OWNER'S existing irrigation systems. PROPERTY OWNER shall grant access to its existing irrigation system to the COUNTY for the purposes of connecting the effluent water loop system. COUNTY shall make every effort to schedule and coordinate the installation of the effluent water loop system so as not to affect the PROPERTY OWNER'S farming operation.

The Land may be used for producing agricultural commodities. The PROPERTY OWNER shall not plant any crops intended for direct human consumption. The PROPERTY OWNER agrees to follow good farm management practices and to farm the land in a good and husband-like manner to avoid degradation of the environment and further agrees to the following:

- a) The PROPERTY OWNER shall till all irrigated fields on an annual basis. An annual crop harvest of agricultural commodities is mandatory for the spring/summer growing season.
- b) The PROPERTY OWNER shall be responsible for the Nutrient Management Plan for the Land, as required by the State of Delaware's 1999 Nutrient Management Act and the DNREC Regulations. The PROPERTY OWNER shall provide the COUNTY with a copy of the Nutrient Management Plan for the Land. The COUNTY shall supply to the PROPERTY OWNER, for incorporation into said plan, flow and nutrient information of treated effluent as required by DNREC Regulations.
- c) To ensure that the COUNTY'S effluent water loop system is compatible and can be properly connected, the PROPERTY OWNER shall notify the COUNTY if it installs an additional or modified irrigation system.
- d) The COUNTY is not responsible for wildlife damages to agricultural commodities on the Land.
- e) PURSUANT TO 3 DEL. C. § 2301, THE PROPERTY OWNER ACKNOWLEDGES THAT THE COUNTY HAS INFORMED PROPERTY OWNER OF THE POTENTIAL LIMITATON, RISK AND LOSS REGARDING THE USE OF EFFLUENT OR RECLAIMED WATER ON CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION. THE PROPERTY OWNER FURTHER ACKNOWLEDGES THAT THE EFFLUENT OR RECLAIMED WATER MAY ONLY BE APPLIED TO GROWING VEGETATION AND SHALL NOT BE APPLIED TO CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION.

- f) The PROPERTY OWNER shall pay for all utilities necessary for its operations on the Land.

7. HOLD HARMLESS.

- a) BY PROPERTY OWNER. To the fullest extent permitted by law, the PROPERTY OWNER shall indemnify, hold harmless and defend the COUNTY, its elected and appointed officials, officers, employees, servants, representatives, agents, guests, and invitees from and against any and all claims, damages, injuries and expenses (including related attorney's fees and other defense costs) arising out of or resulting from the PROPERTY OWNER's uses of and operations upon the Land, including all aspects of farming operations thereon, and expressly including its application of the COUNTY'S treated wastewater in any manner inconsistent with the terms of this Agreement, including, but not limited to, claims, damages, losses, injuries or expenses attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible and intangible property, whether said property is real or personal, including the loss of use resulting therefrom, asserted by any person, persons or artificial entity, including, but not limited to the PROPERTY OWNER's members, officers, directors, employees, servants, representatives, guests, invitees, subcontractors, licensees, visitors, etc.
- b) BY COUNTY. To the fullest extent permitted by law, the COUNTY shall indemnify, hold harmless and defend the PROPERTY OWNER, its members, officers, directors, employees, servants, representatives, agents, guests, and invitees from and against any and all claims, damages, injuries and expenses (including related attorney's fees and other defense costs) arising out of, or resulting from claims attributable to, the quality of the treated wastewater provided by the COUNTY, whether or not the COUNTY has complied with DNREC's Permit LTS 5004-90-12; including, but not limited to, claims, damages, losses, injuries or expenses attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible and intangible property, whether said property is real or personal, including the loss of use resulting therefrom, asserted by any person, persons or artificial entity. By way of clarification, notwithstanding PROPERTY OWNER'S application of COUNTY-supplied treated wastewater to the Land, the COUNTY maintains full responsibility for, and liability for claims attributable to the quality of the treated wastewater supplied by it to PROPERTY OWNER under the terms of this Agreement.

8. MAINTENANCE AND/OR REPLACEMENT OF EXISTING IRRIGATION SYSTEM. The parties acknowledge that PROPERTY OWNER owns an existing irrigation system with three (3) center-pivot irrigation rigs located on the Land (the "Irrigation System"). During the term of this Agreement, and any renewals thereof, PROPERTY OWNER shall maintain the Irrigation System in its existing condition, normal wear and tear excepted. PROPERTY OWNER shall be responsible for all maintenance and repair of the Irrigation System. In the event the PROPERTY OWNER'S irrigation system fails

completely and cannot be repaired as contemplated herein, PROPERTY OWNER shall provide the COUNTY with written notice thereof and shall promptly replace the irrigation system in order to accept the COUNTY'S treated wastewater. Replacement shall take place in a timely manner from the date PROPERTY OWNER determines that replacement will be necessary, and which shall not extend beyond or exceed the current availability year.

9. CONDITIONS OF SERVICE

- a) The COUNTY agrees to be solely responsible for the connection to the PROPERTY OWNER'S irrigation system including valving, metering and automatic control tie-ins as well as the removal of the improvements in case of an agreement termination. The County agrees to provide 70 psi at the connection point to the effluent water loop.
- b) The COUNTY operates under DNREC Permit LTS 5004-90-12 ("DNREC Permit"), incorporated by reference herein. Throughout the term of this Agreement, the COUNTY shall meet all terms and conditions of the DNREC Permit. The COUNTY shall provide the PROPERTY OWNER a copy of the DNREC Permit and shall promptly notify and provide PROPERTY OWNER copies of any changes to the terms and conditions of, or substitutions or replacements thereof.
- c) The COUNTY will provide all test results required by the permit to the PROPERTY OWNER at the same time as they are submitted to the State.

10. INSURANCE. During the term of this Agreement and any renewals hereof, the PROPERTY OWNER shall, at its sole cost and expense, maintain commercial general liability insurance, and other insurance coverage, in such coverage amounts as is standard for the agricultural activities being performed on the Land. Prior to the effective date of this Agreement, the PROPERTY OWNER shall provide to the COUNTY a certificate or certificates of insurance evidencing all insurance coverage in a form that is satisfactory to the COUNTY. PROPERTY OWNER'S failure to provide the certificate or certificates shall constitute an act of default under this Agreement.

11. ASSIGNMENT. The PROPERTY OWNER shall not assign this Agreement, nor lease the Land or otherwise permit the whole or any part of the Land to be occupied by others without the prior written consent of the COUNTY which consent shall not be unreasonably withheld. The COUNTY'S consent to one or more assignments or leases shall not operate as a waiver of the COUNTY'S rights pertaining to future assignments or leases.

12. COUNTY'S DEFAULT. The following events shall be deemed to be a default by the COUNTY: 1) failure to pay any fee installment and such failure shall continue for fifteen (15) days after the PROPERTY OWNER sends written notice to the COUNTY; 2) failure to comply with any provision of this Agreement, other than the failure to pay any Fee installment, and such failure to comply has not been cured within fifteen (15) days

after the PROPERTY OWNER sends written notice to the COUNTY; or 3) the COUNTY: (a) becomes insolvent; (b) makes a transfer in fraud to creditors; (c) makes an assignment for the benefit of creditors; (d) files a petition under any section of the Federal Bankruptcy Act; (e) is adjudged bankrupt; or (f) has a receiver appointed, all of which shall result in the immediate termination of this Agreement.

Upon the occurrence of any of the above, upon providing written notice to the COUNTY, the PROPERTY OWNER may elect to terminate this Agreement. If this Agreement is terminated, PROPERTY OWNER shall thereafter be solely responsible for the provision of irrigation water to the Land. Upon the COUNTY's default, the PROPERTY OWNER shall be entitled to pursue any and all remedies available to it as more fully set forth in paragraph 17 hereof.

13. PROPERTY OWNER'S DEFAULT. The following events shall be deemed to be a default by the PROPERTY OWNER: 1) failure to comply with any provision of this Agreement, and such failure to comply has not been cured within fifteen (15) days after the COUNTY sends written notice to the PROPERTY OWNER; 2) the PROPERTY OWNER: (a) becomes insolvent; (b) makes a transfer in fraud to creditors; (c) makes an assignment for the benefit of creditors; (d) files a petition under any section of the Federal Bankruptcy Act; (e) is adjudged bankrupt; or (f) has a receiver appointed, all of which shall result in the immediate termination of this Agreement; or 3) the PROPERTY OWNER deserts, abandons or vacates any substantial portion of the Land.

Upon the occurrence of any of the above, upon providing written notice to the PROPERTY OWNER, the COUNTY may elect to terminate this Agreement. If this Agreement is so terminated, PROPERTY OWNER shall thereafter be solely responsible for the provision of irrigation water to the Land. Upon PROPERTY OWNER'S default, the COUNTY shall be entitled to pursue any and all remedies available to it as more fully set forth in paragraph 17 hereof.

14. NOTICES. Any notice under this Agreement shall be in writing and shall be deemed to have been given when (i) delivered in person, (ii) sent by facsimile to the fax number listed below (if any) (provided that such notice is also sent the same day by U.S. first class mail, postage prepaid, addressed to the parties as set forth below), (iii) delivered by Federal Express or other reputable overnight courier service, or (iv) Three (3) days after same is deposited in the United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

To the COUNTY:

Hans Medlarz, County Engineer
Sussex County Administration Building
2 The Circle
P.O. Box 589

Georgetown, DE 19947
Fax: (302) 855-7799

with a copy to:

J. Everett Moore, Jr., Esquire
Moore & Rutt, P.A.
122 West Market Street
P.O. Box 554
Georgetown, DE 19947
Fax (302) 855-9803

To the PROPERTY OWNER:

Double H Farm, LLC
32740 Webbs Landing Road
Lewes, DE 19958
Attn: R. Roland Hill & Jerad A. Hill
E-mail: jeradhill@hotmail.com

15. **WAIVER OF BREACH.** Either party's waiver of any right or remedy available to it in the event of any default or breach of any term, covenant or condition of this Agreement shall not constitute a waiver of any succeeding default or breach of the same or other terms and conditions of this Agreement. Either party's waiver or acceptance of the breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any continuing or subsequent breach of the same or any other term, covenant or condition herein contained. All waivers or acceptances must be in writing.

16. **ATTORNEYS' FEES AND EXPENSES.** If either party institutes litigation against the other relating to this Agreement or any default hereunder, each party shall be responsible for their respective expenses of prosecuting or defending such action, including without limitation, attorneys' fees, expenses, and court costs. The obligations under this section shall survive the expiration or earlier termination of this Agreement.

17. **REMEDIES.** In the event of a default or dispute between the parties, each party shall be entitled to all remedies available, in law or in equity, including the right to seek injunctive relief, if applicable. The remedies herein contained shall be cumulative, and the exercise of any one remedy by a party shall not be to the exclusion of any other remedy.

18. **BINDING AGREEMENT.** The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, and assigns of all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder. Nothing contained in this Agreement shall be interpreted as a waiver of the sovereign immunity of COUNTY.

19. TIME. Time is of the essence of this Agreement.

20. LAW. This Agreement shall be construed and interpreted in accordance with the laws of the State of Delaware, and any action brought to enforce any right or obligation under this Agreement may only be brought in the courts of the State of Delaware with venue lying in Sussex County, Delaware.

21. ENTIRE CONTRACT. This instrument contains the entire agreement of the parties and supersedes, cancels, and revokes any and all other agreements between the parties relating to the subject matter of this Agreement. There are no representations or warranties, either oral or written, except those contained in this Agreement.

22. AMENDMENT. This Agreement may not otherwise be amended, modified, rescinded or supplemented orally, and no amendment, modification, waiver, recession or supplementation shall be valid unless in writing and signed by all of the parties hereto.

23. SEVERABILITY. If any portion of this Agreement shall be held invalid or unenforceable, the validity of the remaining portion shall be unaffected, and this Agreement shall remain in full force and effect as if it has been executed with the invalid portion omitted.

24. NO CONCLUSION AS TO DRAFTER. This Agreement is the product of the parties hereto and no conclusion shall be drawn as to its drafter in the event of any dispute.

25. HEADINGS. The headings of the paragraphs are for convenience only and are not part of this Agreement.

26. WAIVER OF JURY TRIAL. The parties to this Agreement agree to waive their rights to demand a jury trial in any action which may be brought to enforce any portion of this Agreement.

27. COUNTERPARTS; ELECTRONIC SIGNATURES. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

28. NO PARTNERSHIP OR AUTHORITY TO BIND. Nothing herein contained shall be construed as creating a partnership, or any other relationship, between the parties other than as specifically outlined in this Agreement. Neither party shall have any authority to enter into any contract or agreement for, on behalf of or in the name of the other party, or to legally bind the other party to any commitment or obligation.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY.
SIGNATURE PAGE TO FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have hereunto executed or caused this Agreement to be executed by their duly authorized officials, in duplicate each of which shall be deemed an original on the date first above written.

COUNTY AS OPERATOR OF INLAND BAYS
REGIONAL WASTEWATER FACILITY:

SUSSEX COUNTY, a political subdivision of the
State of Delaware

By: Michael H. Vincent (SEAL)
Michael H. Vincent, President of the
Sussex County Council

Attest: [Signature]
Robin Griffith, Clerk of the Sussex
County Council

6/23/20
Date

PROPERTY OWNER:

DOUBLE H FARM, LLC
a Delaware Limited Liability Company

Samuel D. Hill
Witness

By: R. Roland Hill III (SEAL)
R. Roland Hill, III

Samuel D. Hill
Witness

By: Jerad A. Hill (SEAL)
Jerad A. Hill

6/19/2020
Date

EXHIBIT B

**Deed for Sussex County Tax Parcel No.
234-16.00-21.01**

Deed Book 4032, Page 17

JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

June 17, 2020

Hans Medlarz -County Engineer
Sussex County
2 The Circle
Georgetown, DE, 19947

RE: Zoning Verification Letter for lands of Double H Farm LLC – Stevenson Road.
Tax Parcel: 234-16.00-21.01

Dear Mr. Medlarz,

The above property fronts onto Townsend Rd, and it is 98.383 acres +/- in area. There are no known dwellings or improvements on the parcel.

The entire parcel is within the AR-1 - Agricultural Residential Zoning District.

There are no current variances or known violations on the parcel. For any building code violations please contact Building Code at 302-855-7860.

Please feel free to contact me with any further question at 302-855-7878 during normal business hours Monday – Friday 8:30am-4:30pm.

Sincerely,

Chase Phillips
Planner I, Sussex County Planning and Zoning



AGRICULTURAL SPRAY AND LEASE AGREEMENT

THIS AGRICULTURAL SPRAY AND LEASE AGREEMENT ("Agreement") is made and entered into this 23rd day of June, 2020, by and between Sussex County, a political subdivision of the State of Delaware, with an address of 2 The Circle, P.O. Box 589, Georgetown, DE 19947 (the "COUNTY"), and DOUBLE H FARM, LLC, a Delaware limited liability company, with an address of 32740 Webbs Landing Road, Lewes, DE 19958 (the "TENANT").

WHEREAS, the COUNTY is constructing an effluent water loop system at its Inland Bays Regional Wastewater Facility ("the Facility") that will carry highly treated wastewater effluent to certain properties surrounding the Facility; and

WHEREAS, the effluent water loop system will provide treated wastewater to the Leased Land on-demand for crop application via center-pivot irrigation rigs; and

WHEREAS, the COUNTY owns one (1) parcel of land referenced herein located near the Facility which will be connected to the effluent water loop system and which the COUNTY desires to lease to the TENANT for agricultural use subject to TENANT'S acceptance and exclusive use of the COUNTY'S treated wastewater effluent and the other terms and conditions stated in this Agreement; and

WHEREAS, the parties desire to enter into this Agreement as to their mutual obligations to each other.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and the terms, conditions, representations, warranties and covenants herein contained, the parties, intending to be legally bound, hereby covenant and agree as follows:

1. RECITALS.

The Recitals above are incorporated herein by reference and made a part of this Agreement.

2. COUNTY AND FACILITY.

The COUNTY is both the owner of the Leased Land, hereinafter defined in paragraph 2, and the operator of the Facility referenced herein. All references herein to "COUNTY" shall include its roles as the property owner/ Landlord and the operator of the Facility, as the case may be. As required by Section 6.11.8.2.2.2 of the Delaware Department of Natural Resources and Environmental Control Regulations Governing the Design, Installation and Operation of On-Site Wastewater Treatment and Disposal Systems (the "DNREC Regulations"), the COUNTY shall execute this Agreement in its capacity as property owner/Landlord and as the operator of the Facility.

3. LEASED LAND.

The COUNTY leases and rents to the TENANT and the TENANT leases and rents from the COUNTY, all that certain cleared agricultural land portion of the 38.7 Tillable Acres +/- situated in Indian River Hundred, Sussex County, Delaware, and being further identified as Sussex County Tax Parcel Number 234-16.00-23.00, as shown on Exhibit A which is attached hereto and is incorporated herein by reference ("Leased Land"). As required by the DNREC Regulations, the Deeds from New Double Eagle, LLC and HM Connections, LLC to the COUNTY verifying ownership of the Leased Land are collectively attached hereto as Exhibit B and are incorporated herein by reference. The Leased Land's zoning verifications are attached hereto as Exhibit C and is also incorporated herein by reference.

4. TERM OF AGREEMENT.

The initial term of this Agreement shall commence on the date of execution and shall terminate on December 31, 2030 This Agreement shall automatically renew on the same terms and conditions contained herein for additional ten-year terms unless either party provides the other party with written notice of its intent not to renew on or before August 31, 2030, or August 31st of the final year in any given renewal term thereafter, if applicable, in accordance with this Agreement and 25 Del. C. § 6703.

5. RENTAL FEE.

The TENANT shall pay the COUNTY a total annual rental fee of \$3,676.50. The annual rental fee is based on a \$95.00 per acre charge for approximately 38.7 tillable acres. The COUNTY does not guarantee the exact total acreage of Leased Land. Each year's annual rental fee shall be paid to the COUNTY on or before January 31st for that year with the initial payment being due on or before January 31, 2021.

6. USE OF LEASED LAND.

The COUNTY owns and operates the Inland Bays Regional Wastewater Facility that produces treated wastewater for agricultural uses (alternatively referred to herein as "effluent", "treated wastewater" or "reclaimed water"). The TENANT, herewith, agrees to accept all such effluent as deemed necessary by the TENANT for agricultural purposes and the TENANT shall use the COUNTY'S effluent exclusively for all agricultural irrigation needs unless TENANT'S farm special management practices require well water or if the COUNTY'S effluent is not available. As a condition of this Agreement, the TENANT reserves the unilateral right to direct the location of the discharge upon any or all portions of the Leased Land as deemed, in the opinion of the TENANT, best servicing the interest of the TENANT'S farming operations.

The COUNTY shall be responsible for the design and installation of the effluent water loop system, including the automated connection to the existing irrigation systems and a new center pivot system for irrigation of approximately 39 acres. The COUNTY's design

and installation of the portion of the effluent water loop system on the leased land shall be completed between the Effective Date of this Agreement and the commencement of the 2021 growing season. As set forth in paragraph 5, TENANT shall not be liable for any rental fees until January 31, 2021. As consideration for the delay in the commencement of rental fees, TENANT expressly waives any and all liability and holds the COUNTY harmless for any damages TENANT may sustain to its crops growing on the Property as a result of the COUNTY's construction activities including the automated connection to the existing irrigation systems and and the installation of a new center pivot system on the Property for irrigation thereon. TENANT acknowledges that the installation process may result in crop damage on the Property and TENANT assumes any and all risk and liability whatsoever arising therefrom.

Notwithstanding the foregoing, the parties acknowledge that the COUNTY's provision of treated wastewater to the Property shall be subject to DNREC's issuance of a final permit, the receipt of which is required prior to the provision thereof and which the COUNTY shall diligently pursue. The COUNTY reserves the right to spread aerobically digested Class A bio-solids, which is a non-hazardous decomposable waste, over the Leased Land as a soil amendment for the duration of the Agreement at a rate not to exceed 1-dryton per acre providing an approximate nutrient content of 84 lbs N; 22 lbs P & 4 lbs K acre. Actual nutrient content to be confirmed by County at time of application.

The Leased Land may be used for producing agricultural commodities. The TENANT shall not plant any crops intended for direct human consumption. The TENANT agrees to follow good farm management practices and to farm the land in a good and husband-like manner to avoid degradation of the environment and further agrees to the following:

- a) The TENANT shall use and occupy the presently arable and tillable acres for farming and agricultural purposes only.
- b) A winter cover crop must be planted and established on the Leased Land by the TENANT. Unmanaged, volunteer vegetation is not an acceptable spray field cover.
- c) The TENANT shall plant all irrigated fields on an annual basis. An annual crop rotation of agricultural commodities is mandatory for the spring/summer growing season.
- d) The TENANT shall be responsible for the Nutrient Management Plan for the Leased Land, as required by the State of Delaware's 1999 Nutrient Management Act and the DNREC Regulations. The TENANT shall provide the COUNTY with a copy of the Nutrient Management Plan for the Leased Land. The COUNTY shall supply to the TENANT, for incorporation into said plan, flow and nutrient information of treated effluent as well as tonnage and nutrient information for the Class A biosolids as required by DNREC Regulations.
- e) The TENANT shall take all reasonable precautions to avoid the establishment of any noxious weeds, including Johnson grass, Canada thistle, bur cucumber, giant ragweed, and any additional noxious weeds as specified under Delaware

State Law. If the TENANT fails to control said vegetation within fifteen (15) days of its receipt of written notice from the COUNTY, the COUNTY may, at its option, (1) contract with an independent vendor to apply appropriate control measures to eradicate said noxious weeds, the cost of which shall be the sole responsibility of the TENANT and shall be deemed additional rent; and (2) terminate this Agreement.

- f) All agricultural pesticides, herbicides and other chemical sprays used on the Leased Land shall meet Federal and State standards and, if required, be applied by certified applicators in the appropriate manner and rate as per label instructions. Violation of Federal, State or County pesticide, herbicide or other chemical spray laws, ordinances, rules and regulations shall be a considered a material breach of the terms of this Agreement which may result in termination of the Agreement.
- g) The TENANT shall be permitted to participate in Farm Service Agency programs.
- h) Excavation, digging, removing, or selling of loam, peat, gravel, soil, rock, sand, or any similar material by the TENANT is prohibited.
- i) The TENANT shall maintain all boundary lines, ditches, ditch banks, hedgerows and the like of the presently arable and tillable farmland.
- j) The COUNTY plans to establish an un-farmed pathway to allow the installation and sampling of monitor wells.
- k) Hunting is prohibited on any COUNTY-owned Leased Lands subject to this Agreement, and all COUNTY-owned lands adjacent to the Leased Land.
- l) The TENANT shall not construct or install any permanent structures on the Leased Land. An additional or modified irrigation system may be installed with the prior approval of the COUNTY.
- m) The COUNTY is not responsible for wildlife damages to agricultural commodities on the Leased Land.
- n) PURSUANT TO 3 DEL. C. § 2301, THE TENANT ACKNOWLEDGES THAT THE COUNTY HAS INFORMED TENANT OF THE POTENTIAL LIMITATON, RISK AND LOSS REGARDING THE USE OF EFFLUENT OR RECLAIMED WATER ON CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION. THE TENANT FURTHER ACKNOWLEDGES THAT THE EFFLUENT OR RECLAIMED WATER MAY ONLY BE APPLIED TO GROWING VEGETATION AND SHALL NOT BE APPLIED TO CONVENTIONAL CROPS INTENDED FOR DIRECT HUMAN CONSUMPTION.
- o) The TENANT shall pay for all existing on-site electric utilities necessary for the agricultural operations on the Leased Land.

7. RESERVED RIGHTS.

The COUNTY reserves the following rights related to the Leased Land:

- a) to construct improvements, grant easements and rights-of-way across or upon the Leased Land. The annual rental fee shall be reduced to reflect any Leased Land acreage taken out of production by such actions, including any Leased Land acreage to which reasonable access for agricultural use, specifically including irrigation, is denied by such actions.
- b) to create pathways, buffer strips, and monitor wells. The annual rental fee shall be reduced to reflect any Leased Land acreage taken out of production, including any Leased Land acreage to which reasonable access for agricultural use, specifically including irrigation, is denied by such actions.
- c) of ingress and egress onto and over the Leased Land at reasonable times for inspection purposes, and for the enforcement of all State and County laws, ordinances, rules, and regulations, and for any other lawful purpose. The TENANT shall not be entitled to abatement of the rent by reason thereof.

8. COORDINATION OF COUNTY USE.

The COUNTY shall coordinate with the TENANT as to any of the COUNTY'S use of the Leased Land in order to limit impact to normal farming operations.

9. HOLD HARMLESS.

To the fullest extent permitted by law, the TENANT shall indemnify, hold harmless and defend the COUNTY, its elected and appointed officials, officers, employees, servants, representatives, agents, guests, and invitees from and against any and all claims, damages, injuries and expenses (including related attorney's fees and other defense costs) arising out of or resulting from the TENANT's actions or inactions which are in any way related to its role hereunder and its duties with respect hereto, whether occurring in Sussex County, DE or elsewhere, including, but not limited to, claims, damages, losses, injuries or expenses attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible and intangible property, whether said property is real or personal, including the loss of use resulting therefrom, asserted by any person, persons or artificial entity, including, but not limited to the TENANT's employees, servants, representatives, guests, invitees, subcontractors, licensees, visitors, etc. regardless of whether or not such claims, damages, injuries and expenses are caused in part by a party indemnified hereunder. For purposes of this provision, "TENANT" shall include the TENANT's employees, servants, representatives, agents, guests, invitees, subcontractors, licensees, and the like. This provision shall survive the expiration or earlier termination of this Agreement.

10. MAINTENANCE OF EXISTING IRRIGATION SYSTEM & COUNTY PURCHASE.

The parties acknowledge that the Leased Land will include a County-owned irrigation system with one (1) center-pivot swing arm type irrigation rig to be erected thereon (the "Irrigation System") in 2020 for use in the 2021 growing season. During the term of this Agreement, and any renewals thereof, TENANT shall maintain the Irrigation System in its existing condition, normal wear and tear excepted. TENANT shall be responsible for all maintenance and repair of the Irrigation System.

11. DAMAGE TO PROPERTY.

a) The TENANT agrees to be solely responsible for any and all injury, loss or damage to the TENANT'S person, crops, equipment, and property or to the person, equipment and property of others, which may be placed on the Leased Land, and the TENANT waives and releases any and all claims or rights against the COUNTY with respect thereto.

b) Dumping, depositing, abandoning, discharging, releasing, or storing of any gaseous, liquid or solid hazardous wastes, substances, materials, or debris or whatever nature on, in, over, or under the ground or into surface or ground water is prohibited, except as expressly permitted by law. The TENANT shall be solely responsible for all damages resulting therefrom.

c) The TENANT's liability under this provision shall be subject to paragraph 9 hereof and shall survive expiration or earlier termination of this Agreement.

12. INSURANCE.

The TENANT shall carry insurance with limits as required by the COUNTY evidencing the insurance specified below:

- a) Workers' compensation insurance with statutory benefits as required by Delaware or Federal law, including standard "other states" coverage insurance and employer's' liability insurance with minimum limits of \$500,000 each accident for bodily injury by accident, \$500,000 each employee for bodily injury by disease; and \$500,000 policy limit for bodily injury by disease; and
- b) Commercial general liability insurance that insures against bodily injury, property damage, personal and advertising injury claims arising out of or in connection with any operations or activities under the Agreement, whether such operations are by TENANT, its employees or subcontractors or their employees. The minimum limits of liability for this insurance are \$1,000,000 combined single limit - each occurrence and \$2,000,000 combined single limit - general aggregate.

The County, its elected and appointed officials, officers, employees, servants, representatives, agents, guests, and invitees shall be additional insureds on commercial general liability, on a primary and non-contributory basis, with respect to liability arising out of or in connection with any operations or activities under this Agreement with the COUNTY.

If any liability insurance purchased by the TENANT is issued on a "claims made" basis, the TENANT must either:

- a) Agree to provide certificates of insurance to the COUNTY evidencing the above coverages for a period of two years after termination of services. The certificates shall evidence a retroactive date no later than the date services commence; or
- b) Purchase an extended (minimum two years) reporting period endorsement for each such "claims made" policy in force when services are terminated and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself. The certificate or copy of the endorsement shall evidence a retroactive date no later than the date services commence.

All required insurance coverage must be underwritten by insurers allowed to do business in the State of Delaware and acceptable to the COUNTY. The insurers must have a Best's Financial Strength Rating of "A -" or better, and a financial size category of "Class VII" or higher, unless the COUNTY grants specific written approval for an exception.

Prior to taking possession of the Leased Land, the TENANT shall provide to the COUNTY a certificate of insurance satisfactory to the COUNTY. TENANT's failure to provide the certificate or certificates shall constitute an act of default under this Agreement.

13. ASSIGNMENT.

The TENANT shall not assign, sublet, mortgage or pledge this Agreement, nor permit the whole or any part of the Leased Land to be occupied by others without the prior written consent of the COUNTY. The COUNTY'S consent to one or more assignments or subletting shall not operate as a waiver of the COUNTY'S rights pertaining to future assignments or sublettings.

14. DEFAULT.

The following events shall be deemed to be a default by the TENANT: 1) failure to pay any installment of rent, and such failure shall continue for five (5) days; 2) failure to comply with any provision of this Agreement, other than the payment of rent, and such failure to comply has not been cured within fifteen (15) days after written notice is sent to the TENANT; or 3) the TENANT becomes insolvent; makes a transfer in fraud to creditors; makes an assignment for the benefit of creditors; files a petition under any section of the Federal Bankruptcy Act; is adjudged bankrupt; has a receiver appointed, all of which shall result in the immediate termination of this Agreement; 4) the TENANT deserts, abandons or vacates any substantial portion of the Leased Land; or 5) TENANT does or permits any act which creates a lien on the Leased Land.

Upon the occurrence of any of the above, the COUNTY may without demand or notice, enter and take possession of the Leased Land, expel or remove all occupants and property found thereon without being liable for damages; may elect to terminate this Agreement or relet the Leased Land on such terms as the COUNTY deems advisable and receive the rent therefor, and the TENANT agrees to pay the COUNTY on demand any deficiency and costs incurred. Upon TENANT'S default and without prior notice to TENANT, the COUNTY shall be entitled to pursue any and all remedies available to it as more fully set forth in paragraphs 21 and 24 hereof.

15. TERMINATION OF AGREEMENT.

The TENANT agrees that, if it fails to observe or perform any of the terms, conditions or covenants herein, or if TENANT knowingly permits any unlawful acts to be carried out upon the Leased Land, then the COUNTY shall have the right to terminate the Agreement and to re-enter and repossess the Leased Land in the manner provided for by the laws of the State of Delaware. If the COUNTY terminates this Agreement while the TENANT has crops growing in the fields, then the COUNTY agrees not to take possession of the Leased Land until after the TENANT has harvested the crop during the normal harvest period or, at the COUNTY'S option, the COUNTY will reimburse the TENANT at the fair market value for crops destroyed. The TENANT shall yield peaceable possession of the Leased Land at the termination of the Agreement.

16. SIGNS.

The TENANT shall not place any signs, fences or objects on the Leased Land without the COUNTY'S prior written approval. All approved signs must be removed by the TENANT at the TENANT's expense at the expiration or earlier termination of this Agreement. The COUNTY shall be permitted to place any signs required by DNREC on the Leased Land without TENANT's prior approval. All fences TENANT places on the Leased Land shall be maintained by TENANT at TENANT's expense and shall be deemed fixtures which shall remain on the Leased Land at the expiration or earlier termination of this Agreement.

17. NOTICES. Any notice under this Agreement shall be in writing and shall be deemed to have been given when (i) delivered in person, (ii) sent by facsimile to the fax number listed below (if any) (provided that such notice is also sent the same day by U.S. first class mail, postage prepaid, addressed to the parties as set forth below), (iii) delivered by Federal Express or other reputable overnight courier service, or (iv) Three (3) days after same is deposited in the United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties as follows: To the COUNTY:

Hans Medlarz, County Engineer
Sussex County Administration Building
2 The Circle
P.O. Box 589
Georgetown, DE 19947
Fax (302) 855-7799

with a copy to:

J. Everett Moore, Jr., Esquire
Moore & Rutt, P.A.
122 West Market Street
P.O. Box 554
Georgetown, DE 19947
Fax (302) 855-9803

To the TENANT:

Double H Farm, LLC
32740 Webbs Landing Road
Lewes, DE 19958
Attn: R. Roland Hill & Jerad A. Hill

With an e-copy to:
E-mail: jeradhill@hotmail.com

18. WAIVER OF BREACH.

The COUNTY's waiver or acceptance of the breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any continuing or subsequent breach of the same or any other term, covenant or condition herein contained. All waivers or acceptances must be in writing. The subsequent acceptance of rent hereunder by the COUNTY shall not be deemed to be a waiver or acceptance of any preceding breach by the TENANT of any term, covenant or condition of this Agreement, other than the failure of the TENANT to pay the particular rental fee so accepted, regardless of the COUNTY'S knowledge of such preceding breach at the time of acceptance of such rental fee.

19. LEGAL COSTS AND EXPENSES.

The TENANT shall pay and discharge all costs, attorneys' fees and expenses incurred by the COUNTY arising from a Tenant default hereunder.

20. RULES AND REGULATIONS.

The rules and regulations contained in this Agreement, as well as such reasonable rules and regulations as may be hereafter adopted by the COUNTY for the safety, care and protection of its Leased Lands and the preservation of good order thereon, are hereby expressly made a part hereof, and the TENANT agrees to adhere to all such rules and regulations, after notice of same.

21. REMEDIES.

In the event of TENANT's default or other dispute between the parties, the parties shall be entitled to all remedies available, in law or in equity, including, but not limited to, those set forth in Title 25, Chapter 67 of the Delaware Code, and the

COUNTY's right to seek injunctive relief and a writ of possession. It is understood and agreed that the remedies herein given to the COUNTY shall be cumulative, and the exercise of any one remedy by the COUNTY shall not be to the exclusion of any other remedy. All past due rental fees shall bear interest at the highest rate permitted by Delaware law.

22. BINDING AGREEMENT.

The covenants and conditions herein contained shall apply to and bind the heirs, executors, administrators, successors, and assigns of all the Parties hereto; and all the Parties hereto shall be jointly and severally liable hereunder. Nothing contained in this Agreement shall be interpreted as a waiver of the sovereign immunity of COUNTY.

23. TIME.

Time is of the essence of this Agreement.

24. LAW.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Delaware, and any action brought to enforce any right or obligation under this Agreement may only be brought in the courts of the State of Delaware with venue lying in Sussex County, Delaware.

25. ENTIRE CONTRACT.

This instrument contains the entire agreement of the parties and supersedes, cancels, and revokes any and all other agreements between the parties relating to the subject matter of this Agreement. There are no representations or warranties, either oral or written, except those contained in this Agreement.

26. AMENDMENT.

This Agreement may not otherwise be amended, modified, rescinded or supplemented orally, and no amendment, modification, waiver, recession or supplementation shall be valid unless in writing and signed by all the parties hereto.

27. SEVERABILITY.

If any portion of this Agreement shall be held invalid or unenforceable, the validity of the remaining portion shall be unaffected, and this Agreement shall remain in full force and effect as if it has been executed with the invalid portion omitted.

28. NO CONCLUSION AS TO DRAFTER.

This Agreement is the product of the parties hereto and no conclusion shall be drawn as to its drafter in the event of any dispute.

29. HEADINGS.

The headings of the paragraphs are for convenience only and are not part of this Agreement.

30. WAIVER OF JURY TRIAL.

The parties to this Agreement agree to waive their rights to demand a jury trial in any action which may be brought to enforce any portion of this Agreement.

31. COUNTERPARTS; ELECTRONIC SIGNATURES.

This Agreement may be executed in two counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures and photocopies or facsimile copies of signatures shall be deemed to have the same force and effect as originals.

32. AGRICULTURAL LEASE.

The parties acknowledge that this is an agricultural lease defined under and governed by 25 Del. C. §6701 et. seq., and that the Residential Landlord-Tenant Code, 25 Del. C. §5101, et. seq. does not apply to this Agreement.

33. NO PARTNERSHIP.

The relationship created by this Agreement is that of landlord and tenant, and nothing herein contained shall be construed as creating a partnership between the parties, or any other relationship.

34. EFFECTIVE DATE.

The effective date ("Effective Date") of this Agreement shall be the last date that this Agreement was executed by the parties hereto.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY.
SIGNATURE PAGES TO FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have hereunto executed or caused this Agreement to be executed by their duly authorized officials, in duplicate each of which shall be deemed an original on the date first above written.

COUNTY AS PROPERTY OWNER &
LANDLORD:

SUSSEX COUNTY, a political subdivision of the
State of Delaware

By: Michael H. Vincent (SEAL)
Michael H. Vincent, President of the
Sussex County Council

Attest: [Signature]
Robin Griffith, Clerk of the
Sussex County Council

6/23/20
Date

COUNTY AS OPERATOR OF INLAND BAYS
REGIONAL WASTEWATER FACILITY:

SUSSEX COUNTY, a political subdivision of the
State of Delaware

By: Michael H. Vincent (SEAL)
Michael H. Vincent, President of the
Sussex County Council

Attest: [Signature]
Robin Griffith, Clerk of the
Sussex County Council

6/23/20
Date

TENANT:

DOUBLE H FARM, LLC, a Delaware
limited liability company

Jawad D. Hill
Witness

By: R. Roland Hill, III (SEAL)
R. Roland Hill, III

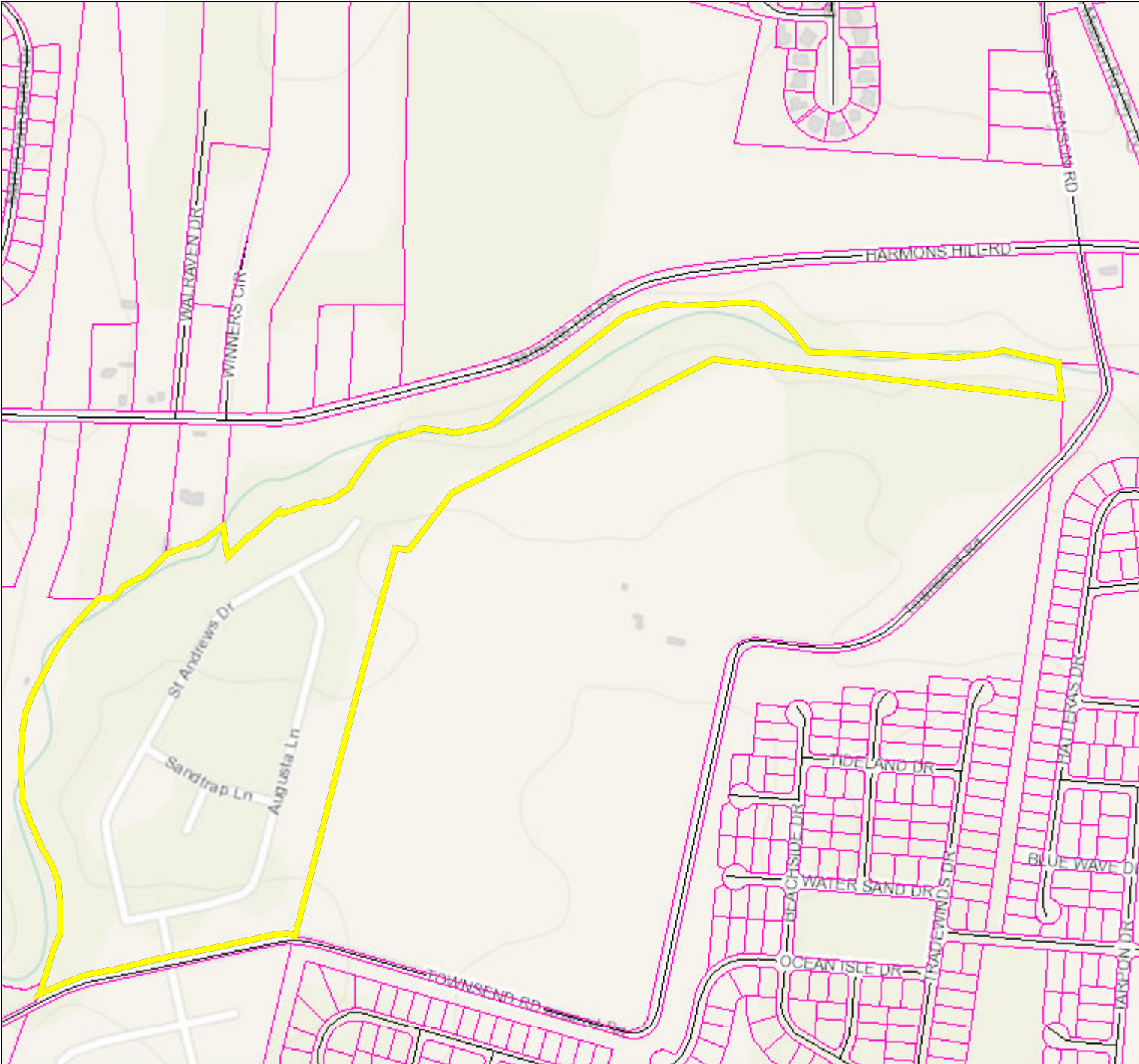
Jawad D. Hill
Witness

By: Jefad A. Hill (SEAL)
Jefad A. Hill

6/19/2020
Date



Sussex County



PIN:	234-16.00-23.00
Owner Name	SUSSEX COUNTY
Book	5040
Mailing Address	PO BOX 589
City	GEORGETOWN
State	DE
Description	N / TOWNSEND RD
Description 2	NE / HARMONY CEMETERY P
Description 3	PARCEL A
Land Code	

polygonLayer

Override 1

polygonLayer

Override 1

- Tax Parcels
- Streets
- County Boundaries

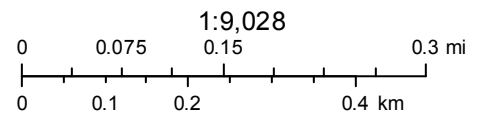


EXHIBIT B

**Deed Book 5040, Page 304 (234-16.00-23.00) and
Deed Book 5218, Page5 (234-16.00-906.00)
(now combined under 234-16.00-23.00)**

JAMIE WHITEHOUSE, AICP, MRTPI
DIRECTOR OF PLANNING & ZONING
(302) 855-7878 T
(302) 854-5079 F
jamie.whitehouse@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.gov

June 17, 2020

Hans Medlarz -County Engineer
Sussex County
2 The Circle
Georgetown, DE, 19947

RE: Zoning Verification Letter for lands of Sussex County – Townsend Road.
Tax Parcel: 234-16.00-23.00

Dear Mr. Medlarz,

The above property fronts onto Townsend Road, and it is 50.0 acres +/- in area. There are no known dwellings or improvements on the parcel.

The entire parcel is within the AR-1 - Agricultural Residential Zoning District.

There are no current variances or known violations on the parcel. For any building code violations please contact Building Code at 302-855-7860.

Please feel free to contact me with any further question at 302-855-7878 during normal business hours Monday – Friday 8:30am-4:30pm.

Sincerely,

Chase Phillips
Planner I, Sussex County Planning and Zoning

