



December 31, 2020

Ms. Laurie DiGeso
Milford Borough Secretary
Submitted via Email: secretary@milfordpa.org

Re: Act 537 Sewage Facilities Plan for Eastern Pike County Pennsylvania (Nov 30, 2020 Draft) – Delaware Riverkeeper Network Concerns, Comments and Questions

To whom it may concern:

On behalf of the Delaware Riverkeeper Network (DRN) and our 23,000 members and volunteers, we are writing with comments regarding the Draft Act 537 Sewage Facilities Plan for Eastern Pike County Pennsylvania written by Herbert, Rowland & Grubic, Inc. (HRG), November 2020. DRN appreciates the opportunity to comment and review the draft plan. DRN was able to review the Executive summary, Chapter 3, Chapter 5, Chapter 7 and Chapter 8 as well as some of the mapping. We note our review was cursory due to time constraints and a short review opportunity – it appears the draft was created and accessible to the public on Nov 30, 2020. DRN could not find a draft of the plan on the borough's website that would be impacted by this plan despite it being a topic on the Milford Borough agenda in earlier months and clearly being in the works for several years. At the request of members, DRN attended a June 28, 2020 Zoom Milford borough meeting during COVID pandemic measures - where this plan was discussed but at no time was a full presentation provided nor documents of the plan posted on the various township websites to DRN's knowledge. There was a subsequent meeting with a Westfalls Sewer operator and a brief Q&A but none of these instances were adequate public comment.

Delaware Riverkeeper Network would urge that additional time be provided for the community to adequately review the document and appendices to better provide detailed review and comments of the Act 537 draft plan - especially in light of the long term impacts and land use changes that this sewage plan could ultimately mean for a beautiful section of the Upper and Middle Delaware River region that is also part of Delaware River Basin Commissions (DRBC) Outstanding Resource Waters. Act 537 originated in 1967 and many of the plan areas have not been updated for over 30 years. Its important that the push by large developers to build out and sprawl out from the borough is not the impetus of pushing this phase of the plan through during a pandemic and during the holiday season when many residents and the community are struggling to make ends meet, stay healthy, and deal with home schooling children or caring for loved ones who are sick during this unprecedented time. DRN has been observing this type of

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expedited review process for various developer schemes that do not serve the conservation community or the long term sustainability of those communities the last several months when the public has to meet by Zoom (if they can or even have that privilege of being able to connect with Wifi). Though there will be other review points by the Planning Commission and the PA DEP, it is critical that borough does not give away their power now or rush approval of the plan in February 2020 (during a pandemic) and instead ensure adequate and thorough public comment is included and continued. We understand Milford Township's extensive 12/2020 comments on this Act 537 plan also stated the same sentiment: " *Given the current state of affairs regarding the pandemic of Covid 19 whereby citizens are highly encouraged to remain at home, we feel it fair, and necessary to maintain our democratic way of life to hold off any public comment period until such time as public gatherings are reinstated.*" DRN encourages all of the affected municipalities including the Borough allows more time and longer timeframes for commenting and incorporating the public.

In the meantime, below some points, concerns and questions that DRN would like to share and have addressed.

DRN believes that borough officials and local elected officials have an obligation and duty under Article 1 Section 27 of the PA Constitution to ensure that the people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and esthetic values of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people. A sewer expansion such as this that will have real consequences for decades into the future and help shape how the Upper and Middle Delaware Region should not be rushed or done for the benefit of just a few. Township officials can do its residents a great service by scrutinizing the draft plan's conclusions thoroughly and demanding much more analysis be completed.

History and Background – What's the Rush Now During a Pandemic?

Comment: A thorough timeline of this entire process with also the information pertaining to the DRBC dockets for Westfall WWTP would assist in residents understanding the full scope of this process and full impact.

DRN would recommend these points are laid out in a timeline in the plan for full public disclosure and review since the inception of the West falls plant at a minimum. Some points appear to be outlined in Chapter 3 but not all. With Westfalls Township sewer decisions it would also benefit the other areas to understand and see how Westfalls has fared the last 20 years since their sewage treatment plant was built.

A proposed ordinance was noticed by Westfall Township on December 3, 2018 to authorize an intergovernmental agreement with Milford Township, Milford Borough and the Municipal Authority of the Township of Westfall for the evaluation and extension of the sewer service to parts of Milford Township and Milford Borough. According to the 2018 Westfall notice, "*the wastewater treatment plant currently has excess capacity that can treat additional sewage collected by the extension but the Authority needs to determine the flows that would be generated as a result of the extension as well as the estimated cost for constructing the extension along the corridor to the northerly border of Milford Borough and possibly, an extension of the wastewater treatment plant to serve additional sewage flows. The extension to be permitted by the Pennsylvania Department of Environmental Protection and the participating municipalities will need to amend their respective 537 Plans by adopting a Westfall/Milford Regional 537*

Plan, which will address the project within all three (3) Municipalities. The Authority is willing to explore the extension provided the extension does not unduly burden the taxpayers of the Township and provided the Westfall Wastewater Treatment Plant will still have sufficient capacity to serve additional properties within the Township. A billing determination will be made whereby each entity would be responsible for billing and service within their jurisdiction. The cost of doing a feasibility study, as well as Regional 537 Plan needs to be funded by grants or the parties have to find an alternative for allocating such costs among them or with the help of other contributors.”ⁱ

Per an HRG Press release and article published in the Pocono Record (Oct 8, 2019) – Since Act 537’s inception in 1967, townships and municipalities have enacted their own plans, as well as revised and updated them over the years. When it comes to Pike County, three of the aforementioned municipalities have not updated their Act 537 plans in about 30 years. Westfall Twp.’s plan is the newest of the four, having last been updated on April 27, 2006. <https://www.poconorecord.com/news/20191008/pike-townships-set-for-act-537-sewage-system-inspections>. **DRN Comment:** What spurred Westfalls Township to update their plan in 2006?

West Fall Township Wastewater Treatment Plant

DRN Comment: It is not clear from the plan the various iterations and additions to the Westfall treatment facility in full, which is the endpoint for the additional piping. It would be helpful to outline the DRBC and DEP processes in greater detail with the history in the plan – again to provide context and the larger framework. DRN quickly researched some of the record for DRBC dockets but this was not an exhaustive search (below two dockets summarized).

Feb 17, 2012 DRBC Docket - The existing West Fall Township WWTP will continue to discharge to the Delaware River in Water Quality Zone 1C at River Mile 252.5 in Westfall Township, Pike County, Pennsylvania. The existing WWTP is located in the Middle Delaware Special Protection Waters (SPW) Area, which has been classified as Significant Resource Waters (SRW).

<https://www.state.nj.us/drbc/library/documents/dockets/D-2002-023CP-4.pdf>

Its design capacity is 0.374 mgd and proposed upgrades submitted to DRBC (Docket No. D-2002-023-CP-4, Feb 17, 2012)

Dec 17, 2018 DRBC Docket – Pike County Environmental Enterprises LLC Wastewater Treatment Plant Upgrade, Westfall Township – (NPDES Permit No. PA0062324 which was issued by PADEP on May 2, 2012) – Location: The docket holder’s WWTP is located at Delaware Drive in Westfall Township, Pike County, Pennsylvania. The WWTP will continue to discharge treated effluent to Water Quality Zone 1B of the Delaware River at River Mile 256.5 in the Middle Delaware Special Protection Waters (SPW), which is classified as Significant Resources Waters (SRW). D-1989-082-4 consisting of monthly average and daily maximum TDS effluent concentration limits of 2,000 mg/l and 2,250 mg/l, respectively. The WWTP outfall is located in the Delaware River Watershed as follows: OUTFALL NO.LATITUDE (N)LONGITUDE (W)00141° 23’ 28”74° 42’ 57”3. Area Served. The docket holder’s WWTP will continue to accept hauled-in residential septage and municipal WWTP solids from locations mostly throughout Pike County, Pennsylvania, nearby Sullivan County, New York, and Sussex County, New Jersey. Out-of-basin wastewater may continue to be accepted and treated at the WWTP provided the volume of accepted out-of-basin wastewater is less than 0.050mgd. The existing treatment plant was originally designed to treat a flow up to 0.10 mgd; however, the WWTP was never issued a Water Quality Management (Part II) permit from PADEP for construction of a 0.10 mgd facility, and therefore the WWTP is only rated for 0.049 mgd. In addition, certain WWTP

components (the existing primary clarifier, aerated lagoon and UV disinfection) are no longer fully operational. The facility utilizes chlorine disinfection in-place of the currently non-functioning UV system. The proposed modifications are intended to return the existing non-functional 0.049 mgd WWTP components back to the design capability of the original treatment system by converting the existing offline lagoon into a Biolac® aerated lagoon system with a Wave-Ox™ BNR treatment system and appurtenant improvements. After the proposed upgrade goes into operation, and pending a demonstration of treatment performance by the WWTP, the docket holder requests approval to expand the WWTP capacity from 0.049 mgd to 0.10 mgd. Approval of the expansion is conditional upon the WWTP effluent meeting BDT effluent limits and the docket holder obtaining PADEP Part II permit approval of the expansion.

DRN Comment: What is the purpose of Westfalls importing waste from various communities? How will that affect this new proposal of additional waste from the neighboring proposed service areas? The plant has already needed repairs and has expanded in discharge limits – why add to the discharge if other more cost effective measures that ensure watershed protection are in place? The stated purpose of this Act 537 Plan is to address the wastewater disposal needs of Matamoras Borough, Milford Borough, and portions of Westfall Township and Milford Township. The planning area for this Act 537 Plan is Milford and Matamoras Boroughs in their entirety, and portions of Milford and Westfall Township all of which border the Upper Delaware River (Outstanding Resource Waters) and reside within high quality or exceptional value water tributary streams that feed the main stem Delaware River.

Chapter 3. D. Permit Violations - EPA's ECHO website was searched to determine any permit violations incurred by the Authority. No violations were found. According to the U.S.E.P.A.'s Enforcement and Compliance History Online (ECHO) program, no violations have been reported for the past 5 years.

DRN Comment: The plant has been operation for more than 5 years, DRBC docket info above suggests various non-compliance and need for improvements. A more thorough review of the Westfall's plant and routine maintenance for the life of the plant should be included in the document.

Chapter 3.3.1 Residential Complaints and Requests for Service – it is noted in this section “several residents indicated that surrounding properties had problems associated with their OLDS including green lush grass, odors, ponding water/sewage, sluggish drains and system overflow. Businesses in the four municipalities have expressed a need for central sewage in commercial zoning areas...Matamoras had 36 permits for repairs...Westfalls had 7 repair permits, milford borough had 14 repair permits and Milford Township had 20 repair permits issued.

DRN Comment: If repairs are being conducted as it would appear from the plan, why invest in an expansion that will exacerbate sprawl and change the character of the region? This section appears to put business interests over residential owners who are also open to making needed repairs especially if an ordinance is put in place for better maintenance. Why not use PennVest funds or other funds to ensure more innovative non central improvements are used to assist landowners with their septic systems? Table 3-3 is confusing with the percentages and description or there appears to be a typo and perhaps narrative should state Table 3-4. Please clarify.

3.3.4 The Summary of Tier 2 states that Tier 2 survey indicated a 5.7% confirmed malfunction rate based on field observations. It goes on to state that On lot Sewage Management Program for each municipality would help fix and maintain the systems. DRN agrees with implementation of OLDS for better on site septic maintenance over running an expensive piping system to Westfalls that discharges into the

Delaware River Special Protection Waters while also cutting across likely multiple sensitive and specially designated streams to build the ROW.

Soil Maps included in the draft Indicate good options for continued On-lot systems and good soil drainage

From the maps of the project area (at end of letter for reference) it appears there are non-centralized options for on lot septic systems to continue soundly and without harming water quality. From the docket above by DRBC, it also appears that there is already some trucking of waste perhaps from larger commercial facilities in the project area. By implementing an OLDS ordinance for regular pumping of septic systems by residents or business (which is mentioned in the plan), isn't that far more cost effective and less structural and harmful than to expand a sprawling piping system to Westfalls? Who benefits from the piping system? That should be spelled out in the plan to best understand who benefits and who loses. DRN suggests that USDA and PennVEST loans could be used to help solve any onlot sewage failures that may occur.

From a Pocono Record article in 2019, its noted sampling was conducted by HRG to determine sewage failures (<https://www.poconorecord.com/news/20191008/pike-townships-set-for-act-537-sewage-system-inspections>). Where are those results for the sampling? How many problem areas are there for septic? How big are those facilities that have the problems? Are they restaurants or a commercial business that could likely cart their waste away to the nearby plant especially since some of these commercial businesses may be more seasonal or busier in the warmer months? Why invest \$6-12 million on piping expansion to Westfalls that will ultimately lead to more sprawl along the pipe and less of a rural and quaint area that Pike County is known for and that helps benefit the borough and existing hamlet communities? Wouldn't the expansion create sprawl along the Rte 6/209 corridor which ultimately would take business out of the borough which is a walking community now with thriving small town character? Again – what entities are pushing for this expansion beyond speculators or developers looking to pave over additional green areas in the region for profit? Why the rush during a pandemic when the public is preoccupied with other concerns?

How does the finalizing of this plan, which DRN understands could come in February 2020 from correspondence from concerned residents in the borough (during a pandemic), fit into the more recent survey that was conducted by Milford Borough? Are those survey results available? Will they inform the alternatives in the Act 537 plan? Will there be another version of the plan with public comment incorporated before the borough votes on moving it forward?

Chapter 5 – Potential Wastewater Treatment Alternatives

This section is very important to have a thorough review but DRN on quick review has major concerns that this section does not adequately address all alternatives available fully as required under Act 537 and instead is really pressing for the expansion of pipes whether gravity fed or some other piping to the sewer plant - which again will increase direct discharge directly to the Delaware River and Special Protection Waters. The alternatives analysis contained in the Special Study is not adequate. In DRN's opinion, it does not meet the requirements of Act 537 (Title 25, §71.64.d). There is no evidence of any soil testing or soil suitability analyses, no preliminary hydrogeologic evaluation, no thorough discussion of other community land disposal alternatives and no discussion of municipal sewage management programs that could be employed. The analysis focused primarily on cost.

Why in section 5.4 is it stated that additional on lot disposal systems (OLDs) are not being considered as an option in the Act 537? It is stated “that is because the OLDs would be done on an individual basis.” This alternative should be considered and included in the plan and this rationale does not make sense.

5.5 Community On Lot, Small Flow or Package Treatment – “There are two (2) non-municipal package or small flow treatment facilities located within Westfall Township as described in Chapter 3. Milford Senior Care and Rehabilitation Center (NPDES Permit #PA0060020) and Delaware Valley School District (NPDES Permit #PA0032166) own and operate the two Wastewater Treatment Facilities. Milford Senior Care and Rehabilitation Center is permitted for 18,000 GPD, and Delaware Valley School District is permitted for 20,000 GPD. Both facilities intend to connect to the MATW WWTP, and furthermore, both facilities’ flows are significantly lower than the capacity. The two package facilities intend to connect once the sewer (there are missing words in the document here). As a result, upgrades to these facilities are not being considered as part of this planning effort.” (underlined for emphasis)

DRN Comment: If these facilities have working systems that are below capacity, why would these systems not be considered viable continued alternatives and excluded from this planning effort? Information to draw this conclusion is deficient. The analysis is incomplete.

5.6 Spray Irrigation – “On-lot drip irrigation systems appear to be a viable alternative based on the soil survey data for replacement of existing OLDs. However, the expense would solely be on the homeowner. Drip irrigation takes space, is expensive, and can cause issues in the winter. As a result, this alternative is not recommended due to the cost to residents and the need to establish system requirements when there are cheaper and more viable alternatives for individuals that are outside of the recommended structural alternatives. A spray irrigation system was briefly considered to serve Milford Borough as a means of wastewater treatment discharge. It was proposed that the treatment facility could be located in an empty lot owned by Pike County in Milford Township (Tax Parcel ID: 113.00-01-05.010). Since the same conveyance lines as a conventional sewage system would still need to be built, it is not cost effective to build a separate facility, when the flows could be conveyed to a regional WWTP that has excess capacity. Therefore, no further evaluations were completed and no spray irrigation systems are proposed.

DRN Comment: Dismissing the use of spray irrigation to the plan based on this short analysis is not in the spirit of Act 537. More details are needed. What are the costs? As stated earlier, the borough could use PennVest dollars to help subsidize the non-sewer line expansion and again pumping and other measures can help ensure better compliance for existing systems and should be included in the plan. Stating that running a line to a drip irrigation field to avoid a discharge to the River is not feasible but running a similar line to the direct discharge is feasible does not make sense. Information to draw this conclusion is deficient.

5.7 Holding Tanks – DRN agrees that this option is viable for commercial or industrial sites. We would argue that holding tanks have also been used for residences in other parts of the watershed so they should not be dismissed as indicated in the plan. More details are needed to rule out the point that residences would be too costly. Information to draw this conclusion is deficient and the analysis is not complete.

5.10 No Action Alternative – DRN disagrees with this section and furthermore believes one cannot dismiss “No Action” simply because as is stated in this brief section, “several businesses have told the municipalities that it is not financially feasible to stay in the area without central sewage.” What businesses? Who wins and who loses?

It is also not clear “the degradation that is occurring” based on the limited water sampling information provided warrants an expansion of sewer lines especially in light of other alternatives that have not been fully analyzed for this plan. The idea that no action alternative is not viable because it could “restrict or prohibit growth to the planning area’s potential growth and development areas” is also unacceptable and not thorough reasoning. One does not have to travel far to see sprawl and other impacts that come to thriving small towns when similar sewer lines are pushed through to benefit developers while the community is left to pay. It’s critical that at a changing time with COVID concerns, climate change impacts, aging infrastructure costs, and examples elsewhere of the harms that come with similar old thinking - that municipalities get smarter and not buy into the arguments and false analyses that a few developers continue to attempt to feed them to make their bucks and then leave the community behind.

DRN did not have time to review the cost estimates for the sewerage expansion in detail but we would note that there are no break outs for the other alternatives discussed which is woefully inadequate at meeting Act 537 requirements and ensuring the community can completely analyze the true costs.

Sprawl Concerns from Development Pressure in Pike County that is known for its conservation principles and values. Pike County and its communities are known for their conservation ethic. In fact, in November 2005, Pike County voters affirmed the importance of preserving and protecting the natural resources of Pike County and the County's scenic rural character, by voting "Yes" with a margin of more than 2 to 1 on the Scenic Rural Character Preservation \$10 Million bond referendum placed on the ballot by the County Commissioners. Approval of the Scenic Rural Character Preservation Bond was an important step in protecting the County's natural resources, preserving sensitive natural areas and critical open space, providing parks and recreation areas and improving planning efforts at both the County and Municipal levels. The expansion of a sewer system and the sprawl it will ultimately bring as is indicated in the plan for developer expansion flies in the face of what Pike County voters and residents want (Pike County Planning Commission website).

The plan talks of future development and expansion – the costs of that future expansion and development should also be laid out – again who wins and who pays? What are the long term projections and changes that will occur in the community if expansion is selected? As bigger box stores perhaps move in, what will that do to downtown walking communities? What will it do to the character of the Upper and Middle Delaware rural qualities that currently make this region special? What will it do to the Wild & Scenic River designation for the Delaware River?

Chapter 7.3.2 – the plan states that the municipalities will have to develop a mandatory connection ordinance and that that is required by the funding agencies. **DRN Comment:** Earlier in the document it was stated that connections would not be mandatory for some areas. This statement here is confusing. Please clarify.

7.3.3 – Rights of Way – The only map of the lines is a very large scale one. DRN does not see any maps showing how many stream crossings and wetland crossings would occur to run these new ROW’s. That impact should also be considered in the plan as part of the cost. DRN notes again that this area is in Outstanding Resource Waters and also High Quality or Exceptional Value tributaries under DEP’s Chapter 93 stream designations so anti-degradation requirements will need to be met for such a large scale expansion. As seen with pipelines and other ROW’s, multiple cuts through sensitive water resources have a cost and environmental impact. DEP recognizes some of these concerns and is in the process of revising

their Chapter 105 requirements because of the impacts ROW's can inflict on water resources. Eminent domain for a ROW is also a considerable cost to the properties and landowners that would be impacted especially for a sewer system that does not appear to be needed.

Thank you for your time and consideration of our concerns, questions, and comments. Please advise us if a longer timeframe for review will be provided at your earliest convenience. I can be reached at faith@delawariverkeeper.org or 215-369-1188 ext. 110

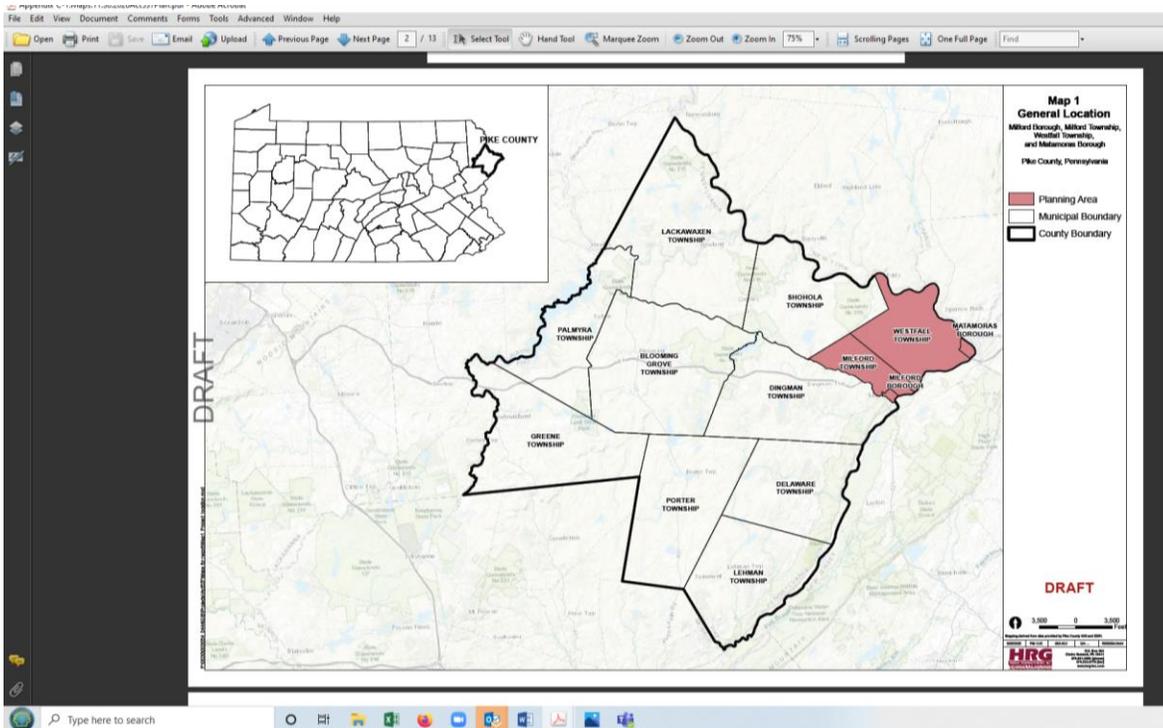
Sincerely,

A handwritten signature in cursive script that reads "Faith Zerbe".

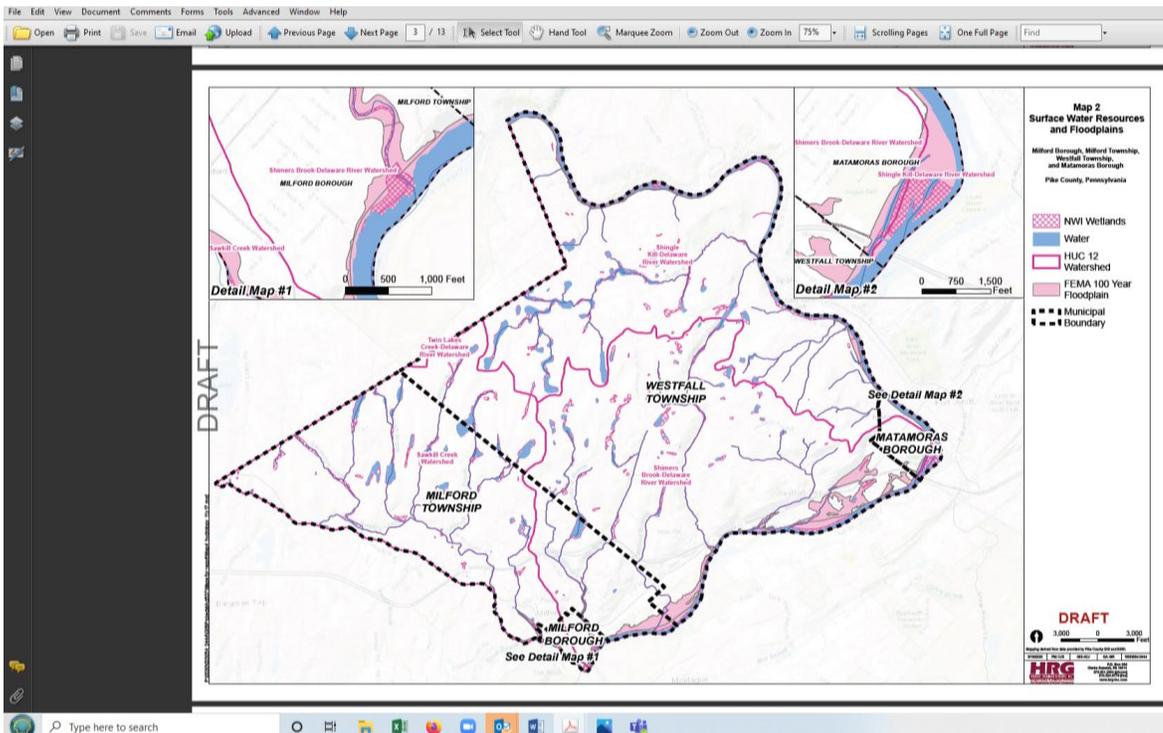
Faith Zerbe
Director of Monitoring
Delaware Riverkeeper Network

cc. Pike County Planning Commission planning@pikepa.org
Milford Township, Pike County
Maya K. van Rossum, the Delaware Riverkeeper
DRBC
PADEP

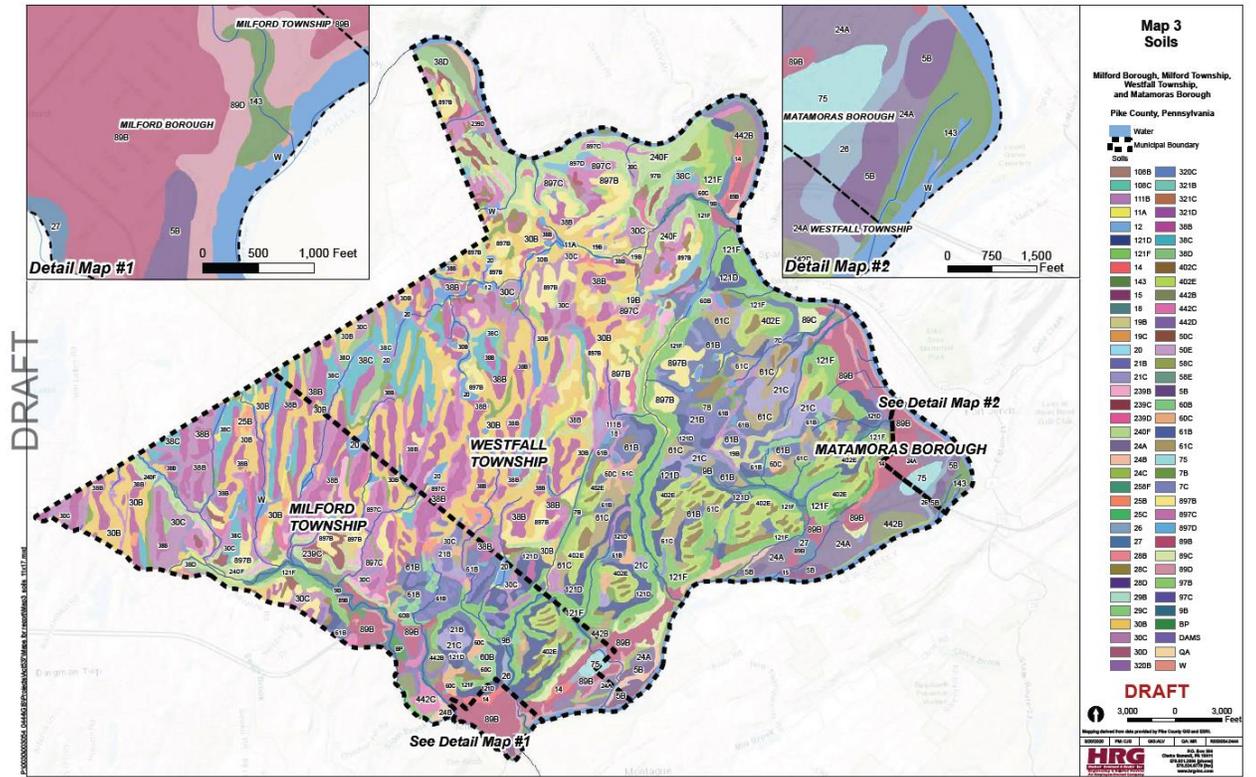
Map Excerpts from the Draft Act 537 Plan for Reference (screen shots)



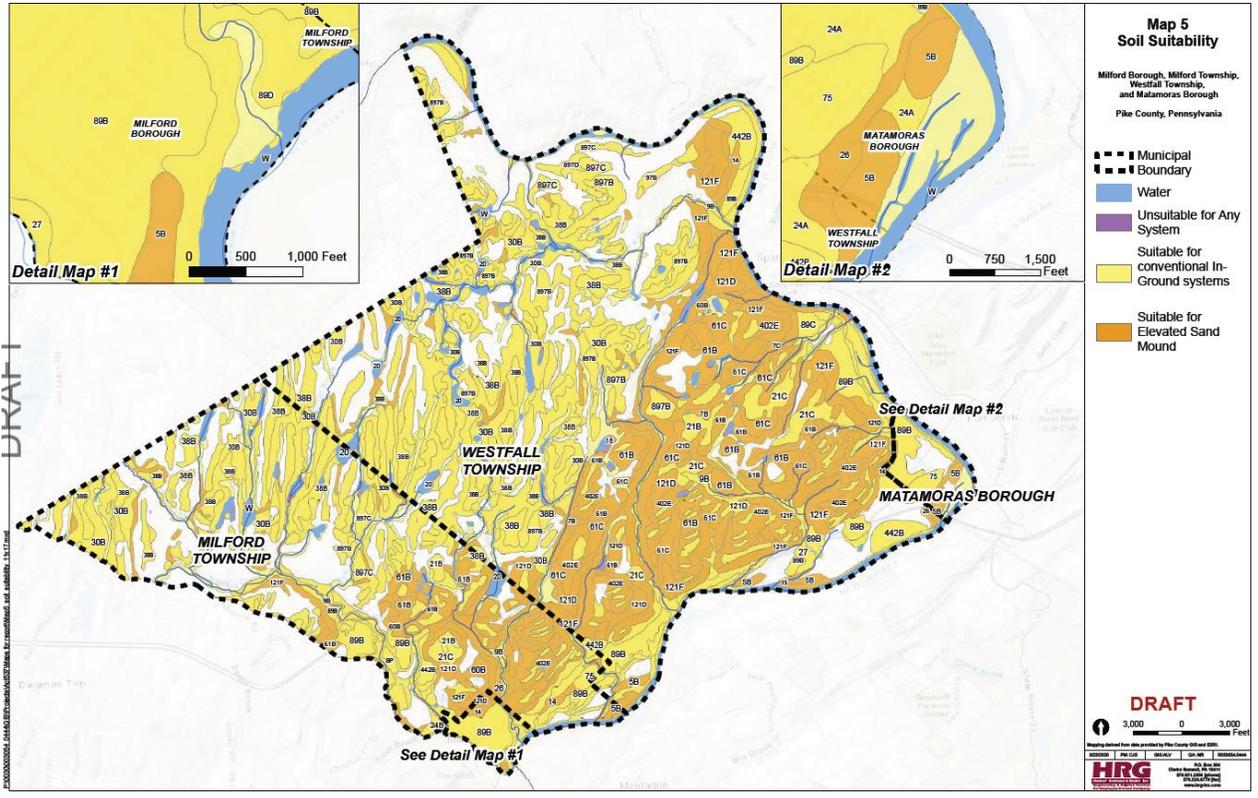
Study Areas are shown on Map 11 in (Appendix C).



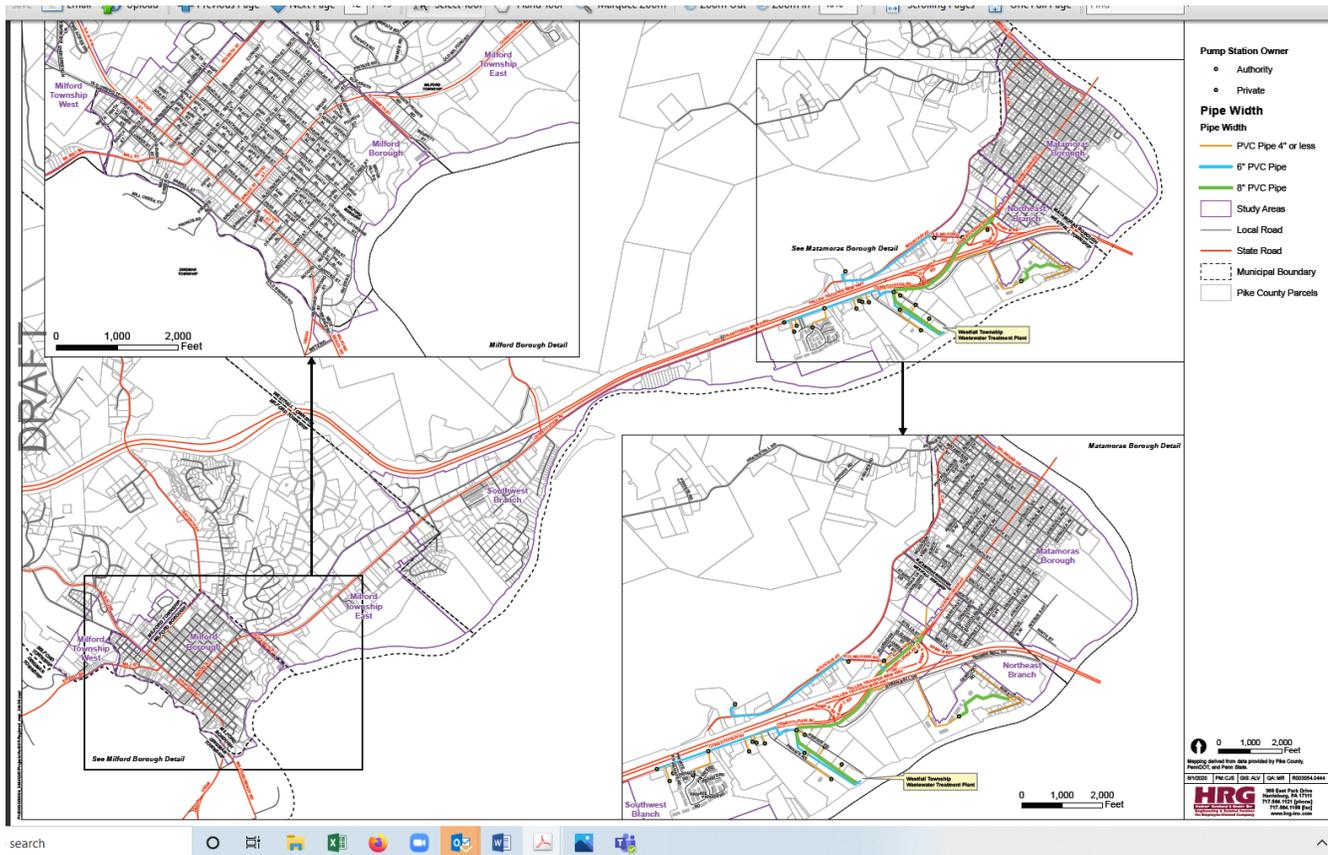
Surface Water Resources and Floodplains (Appendix C)



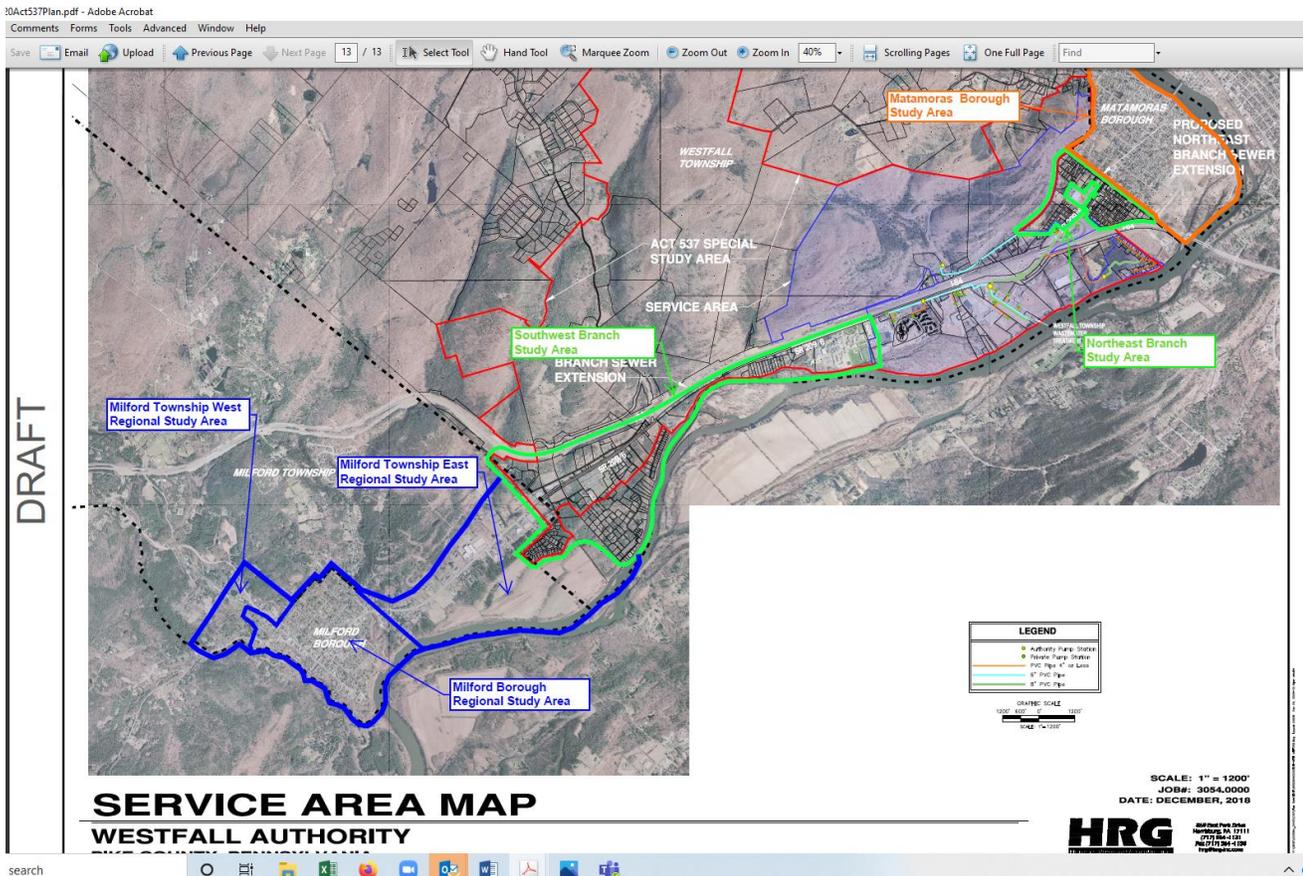
Soils – Appendix C



Soil Suitability (Appendix C)



Study Area



¹ <https://westfalltownship.org/public-notice-hearing-for-proposed-ordinance/> - Westfall Township Public Notice.