UTILITY and TRANSPORTATION CONTRACTORS ASSOCIATION OF NEW JERSEY

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September 2, 2022

Melissa P. Abatemarco, Esq.
Attn.: DEP Docket No. 04-22-04, PRN 2202-082
Office of Legal Affairs
TRANSMITTED VIA EMAIL TO: rulemakingcomments@dep.nj.gov

Re: Environmental Justice Proposed New Rules N.J.A.C. 7:1C

Dear Mrs. Abatemarco:

Please accept the following comments on the above referenced rule proposal on behalf of the Utility and Transportation Contractors Association of NJ (UTCA). The public works construction projects delivered by UTCA members and our partners in labor serve to improve the real-world challenges in communities that meet the new statutory definition as "overburdened communities" (OBCs). These civic improvements are just one example of how the members of our organization have been supportive of the underlying need to improve the environmental conditions in these communities well before N.J.S.A. 13:1D-157 (the "EJ Law") became law.

We thank the Department for preparing this proposal with meaningful stakeholder input from a range of interests. We have signed onto a joint comment letter (*attached*) to efficiently weigh in with the Department on areas we believe need to be corrected before the rules are finalized and adopted.

UTCA does not oppose using new regulatory or programmatic tactics to address the environmental and health challenges being faced in some areas of the state where legacy facilities and social conditions have led to conditions with enhanced risks and a lower quality of life. As we stated during the legislative process, there was a fundamental technical error made that has resulted in over 300 municipalities with one or more OBCs within them. We continue to disagree with the Legislature that over 2/3 of the state's population is part of an OBC. The Department appears to be making this situation worse by effectively declaring that over 90% of the OBCs are already disproportionately impacted. This extremely broad application will have detrimental impacts on the state's future economic growth potential and disrupts the balance the Legislature stated they were seeking.

While addressing the public comments, we encourage NJDEP to clarify the following process related items:

- **Re-Noticing Requirements:** The proposal is unclear as to whether or not an applicant for a new or renewed permit that triggers a full EJ review has to re-notice

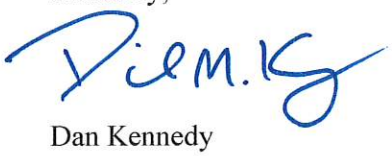
AFFILIATIONS
American Road & Transportation Builders Association
Clean Water Construction Coalition

after they agree to new actions that will lower the impact of their operations. UTCA recommends that the final rule proposal clarify that re-noticing is not required if the impacted variables that were originally triggered have been lowered.

- **Clear Timelines for DEP to Act:** The Department has no affirmative timeline to act or respond in various essential steps in the process. Land Use permits have these required "act by" dates and the EJ regulations must as well.

Thank you for the opportunity to comment on this proposal.

Sincerely,



Dan Kennedy
Senior Director / Environmental and Utility Operations

About the UTCA of NJ

The Utility and Transportation Contractors Association of New Jersey is a non-profit trade association headquartered in Wall Township, New Jersey. Founded in 1965, UTCA represents approximately 1,000 member firms in the public and private sectors, active in all phases of heavy, highway, utility, and marine construction, as well as site work including remediation of brownfields and contaminated sites.

On behalf of its member firms, UTCA strives to create a positive impact on New Jersey citizens, the health of the environment and our shared economic prosperity by leveraging its respected expertise and relationships to promote a sustainable infrastructure sector. We assist our members in achieving success through a collective focus on infrastructure funding, legislative and regulatory advocacy, labor relations, improved working conditions and project-based problem solving.