UTILITY and TRANSPORTATION CONTRACTORS ASSOCIATION OF NEW JERSEY

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September 16, 2021

Susan R. Grogan, P.P., AICP,
Acting Executive Director Pinelands Commission

VIA ELECTRONIC MAIL planning@pinelands.nj.gov

Re: Pinelands CMP Proposed Amendments (N.J.A.C. 7:50-2.11, 3.39, and 6.84)

Dear Ms. Grogan:

Please accept the following comments on the above referenced rule amendments on behalf of the Utility and Transportation Contractors Association of NJ (UTCA).

When the New Jersey Department of Environmental Protection (DEP) adopted its 2020 amendments to its stormwater management rule, UTCA agreed that the rule proposal was necessary to create clear standards for stormwater management techniques that can meet the "maximum extent practicable" test in the existing Stormwater Management rules at N.J.A.C. 7:8-5.3.

This rule proposal suffers from the lack of consultation with the leadership or staff at the NJ Department of Transportation or any other transportation agencies including but not limited to the NJ Turnpike Authority and South Jersey Transportation Authority. These public agencies have subject matter expertise in stormwater management as it related to public development throughout the area subject to Pinelands Commission (Commission) jurisdiction. These agencies have existing assets they need to manage and have planned projects to be proposed for approvals to implement their capital plans. We request that you take the comments you receive from them seriously and if necessary, repropose this regulatory reform with their input considered.

The UTCA supported aspects of the DEP 2020 amendments to its stormwater management rule including the following:

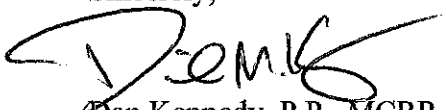
- The DEP proposal offered flexibility for the new requirement that major developments utilize green infrastructure to meet the "maximum extent practicable" standards of the Stormwater Management rules including, but not limited, to the ability to obtain a variance or waiver from strict compliance for enlargement of an existing public roadway or railway.
- The DEP proposal appropriately included a delayed operative date and "grandfathering" of major development applications to deal with fairness issues related to the transition to relevant new standards related to project design and layout

In reviewing the proposal, we note that the Commission has decided not to adopt the DEP provisions for waivers and exemptions for public development projects at N.J.A.C. 7:50-5 nor allow for any grandfathering or appropriate delays of application of these new standards after the rule is adopted. The UTCA recommends that the Commission repropose this rule with these aspects resolved. The absence of these two provisions will make the transition to these revised regulatory standards very challenging for active applicants in various stages of design, including critically need infrastructure projects that meet the definition of a major development.

In addition, we ask that Pinelands Commission provide justification for the standard proposed at N.J.A.C. 7:50-3.39iv(3)(A) that would require additional recharge standards if there is an increase of 1,000 SF of regulated motor vehicle surfaces as defined at N.J.A.C. 7:81-2. Please provide justification as to why the Commission feels it is necessary to deviate from existing standards and how it concluded 1,000 SF is an appropriate standard. This is not explained in the proposal.

Thank you for the opportunity to comment on this proposal.

Sincerely,



Dan Kennedy, P.P., MCRP
Director, Environmental and Utility Operations

About the UTCA of NJ

The Utility and Transportation Contractors 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.