UTILITY and TRANSPORTATION CONTRACTORS ASSOCIATION OF NEW JERSEY

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The National-Award-Winning Construction Association

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March 29, 2019

Via Electronic Mail to:
Commissioner Catherine McCabe
New Jersey Department of Environmental Protection
401 East State Street
Trenton, NJ

RE: Surface Water Quality Standards (C-1 Rule Proposal) PRN 2019-028

Dear Commissioner McCabe:

On behalf of the Utility and Transportation Contractors Association of NJ (UTCA) I am writing with two requests to the New Jersey Department of Environmental Protection (the "Department") related to the above-referenced regulatory proposal.

First, the UTCA is requesting that the Department amend the schedule for rule-making associated with this proposal in order for all affected parties and the general public to have an opportunity to provide informed feedback. This is a significant proposal that impacts the public and private sector equally. The 60-day comment period is insufficient for all parties to understand the full impact of this proposal. **Therefore, we are requesting a full 90-day comment period and a second public hearing be scheduled.**

Second, the UTCA is requesting that the Department reissue the **proposal to identify the true impact to all existing public infrastructure, including but not limited to water, wastewater, energy, and transportation**. The rule proposal is grossly insufficient in this assessment and puts the burden on owners and operators of existing critical infrastructure to have the data necessary to be able to understand if this proposal impacts them.

As part of this request, we ask that the true impact of these new designations be addressed. While the rule purportedly only changes the designation of 749 stream miles, its actual impact is far greater. Under the Flood Hazard Control Act all streams and tributaries flowing into C-1 stream segments that are within the same HUC 14 watershed are subject to the 300-foot riparian zone buffer. This adds potentially hundreds of additional stream miles to the rule's impact as well as thousands of adjacent properties. The anti-degradation policies would also make it more difficult and costly, perhaps impossible, to discharge wastewater upstream of a C-1 stream segment. These impacts are not adequately identified or addressed in the rule proposal making it difficult for the public to comment. **A true assessment of the impact of this proposal is warranted.**

AFFILIATIONS
American Road & Transportation Builders Association
Clean Water Construction Coalition

We were encouraged to hear during your confirmation testimony and elsewhere that you are committed to transparency and a robust stakeholder process. Although we do not feel the Department has lived up to this commitment on this proposal thus far, it is not too late to get it right. As such, we respectfully ask for you to immediately act on these requests. As always, I am open to discuss this or any matter with you or your staff at any time.

Best regards,

Dan Kennedy. PP / AICP, MCRP
Director, Environmental and Utility Operations
UTCA

CC: Deputy Commissioner Debbie Mans (via email)
Assistant Commissioner Michele Putnam (via email)

State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

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401 East State Street
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CATHERINE R. McCABE
Commissioner

April 16, 2019

Mr. Dan Kennedy
Utility & Transporation Contractors of NJ
P.O. Box 728
Allenwood , NJ 08720-0728
kennedy@utcanj.org

Dear Mr. Kennedy,

Please be advised that the Department of Environmental Protection (DEP) has reviewed and considered your request in conjunction with other requests made for an extension of the public comment period on the DEP's March 4, 2019 proposal of amendments to the Surface Water Quality Standards, N.J.A.C. 7:9B, to upgrade 749 river miles to Category One (C1) antidegradation designation.

In accordance with N.J.A.C. 7:1D-5.1(a), the DEP has determined that an extension of the comment period from May 3, 2019 until Monday, June 3, 2019 is appropriate to provide additional time for submission of written comment.

In light of the DEP's extension of the comment period in accordance with N.J.A.C. 7:1D-5.1(a), which will provide additional time for submission of written comment, and the recent public hearing held on April 8, 2019, it is not anticipated that an additional public hearing would be likely to result in receipt of additional comments that would raise issues or provide new information. Accordingly, the DEP will not be scheduling any additional public hearings on this rulemaking.

Sincerely,

Sean D. Moriarty, Esq.
Director

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