



Gary J. Brower, Esq.
Attn: DEP Docket No. 10-15-09
NJ Department of Environmental Protection
Office of Legal Affairs
Mail Code 401-04L; P.O. Box 402
401 East State Street, 7th Floor
Trenton, NJ 08625-0402

December 28, 2015

Re: DEP Docket Number 10-15-09

Dear Mr. Brower,

The League of Women Voters of New Jersey is guided by a principle of active and informed participation by citizens in government. We are a non-partisan, non-profit public interest organization with a longstanding position in support of protecting our natural resources and our drinking water.

We cannot support the latest proposals by the New Jersey Department of Environmental Protection making major modifications to the WQMP rules. A great deal of development in increasingly sensitive areas of our water supply watersheds has already occurred since NJ last adopted a Water Supply Master Plan in 1996. The DEP should not propose such consequential rule changes without an updated Plan to evaluate our water supplies and future needs. We are concerned that the goals of regulatory reform – simplicity, flexibility, and predictability – are being applied in a way that will weaken the regulations that preserve our ecologically important land and protect our drinking water quality.

More than 90 percent of our water in NJ already fails to meet federal clean-water standards. In spite of this, the proposed WQMP rule will allow treatment plants to reach 100% of their flow capacity – instead of 80% in the current rules - before they must submit a plan to reduce the flow or ban new sewer connections. Raising the capacity of treatment plants to 100% will allow sewers and development to extend further into our drinking water sources. That will happen without an anti-degradation review of the impacts to the watershed from more wastewater discharge and more non point runoff. There will be no analysis of depletive losses to stream base flow. Water conservation will be put off until treatment plants reach full capacity instead of 80%. These rules have even removed wastewater reuse as a requirement for capacity planning. This will enable more wastewater plants to treat more sewage from new connections in new construction currently prohibited by existing regulations. It will open up more land for development, just as a previous proposal allowed more construction in stream buffers and flood zones.

The WQMP rule proposes a new statewide nitrate dilution model that uses a 2.0 mg/L nitrate standard to determine how closely septic systems can be constructed. This one-size-fits-all standard will not steer growth away from environmentally sensitive land. It is ten times the groundwater standard of 0.21 mg/L for forested areas in the Preservation Area standards of the Highlands rules.

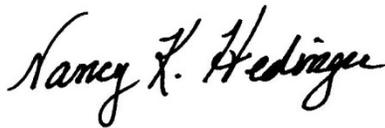
Regional differences will be further obscured by scale, because nitrate dilution will be modeled using large HUC11 stream basins instead of smaller HUC14s. Because they aggregate so many individual watersheds, there are often distinct differences in the geology of the upper and lower portions of major HUC11 basins. Geology determines the natural chemistry of groundwater and surface water - and its vulnerability to pollution. That will be invisible to the DEP if they apply one standard to such a large area. The analysis and standards need to be based on HUC 14 watersheds.

Up to now the state role in planning has been expanding and binding. These rules reverse that trend by deferring to municipalities – and then decoupling the local planning process from enforcement. As stated in the WQMP proposal, the DEP will no longer require local communities to “downzone or enact non point source pollution prevention ordinances as a condition of WMP adoption.” Not only will the nitrate dilution model use a more relaxed standard – zoning won't have to be aligned with the septic density determined by the model.

Instead of coordinated, cumulative, proactive planning, the DEP has decided that “determinations regarding the land use impacts of future development and the means to address wastewater treatment needs are more appropriate at the permitting stage, when detailed site specific information is available.” Replacing “planning” with “permitting” will shift that responsibility to the permittee. You cannot have adequate oversight of Planning when the state only steps in at the end of the process. Wastewater Management Planning is only one element of a well-developed Water Quality Management Plan. To be valid, and to ensure that adequate recharge to groundwater and aquifers takes place to maintain the needed clean base flow to the streams from which we take drinking water, it is essential that all Regulations regarding our water supply be based on a current Water Supply Master Plan (WSMP). Direct oversight should remain with the DEP and be carried out by scientists, not political appointees. Delegating oversight authority to the watershed level is impractical as watershed basin interconnections increasingly exist.

All this pivotal change is enabled by the conclusions and assumptions of the DEP's flow study – which is still a one-page Appendix to their Continuing Planning Process document, marked “under development.” That wouldn't be possible with an up-to-date Water Supply Master Plan. Only after the DEP releases their flow study for peer review and public discourse, can we consider changes in the regulations.

Sincerely,

A handwritten signature in black ink that reads "Nancy K. Hedinger". The signature is written in a cursive, flowing style.

Nancy Hedinger
President
League of Women Voters of New Jersey
204 West State Street
Trenton, New Jersey 08608