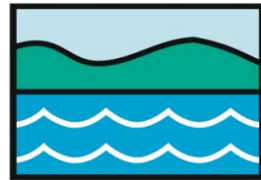




American Water Works
Association

New York Section



NYWEA
LEADING THE WAY IN
WATER QUALITY MANAGEMENT



**NEW YORK RURAL
WATER ASSOCIATION**

December 19, 2022

Jeshica Patel, Assistant Counsel to the Governor
for Environment, Agriculture, and Energy
NYS State Capitol Building NY-5
Albany, NY 12224
Albany, New York 12248

Katherine McNamara, Director
Office of Legislative Affairs
NYSDEC
625 Broadway
Albany, NY 12233-1010

Re.: Disadvantaged Communities – Changes needed to proposed S-08830/A-02103-D

Dear Ms. Patel and Ms. McNamara,

The New York Section American Water Works Association (NYSAWWA), the New York Water Environment Association (NYWEA), and the New York Rural Water Association (NYRWA) represent the drinking water, wastewater, and rural water interests of the New York water sector. Together, we work with our 7,000 plus members to ensure that all New York State residents have access to safe, clean, affordable, and reliable water and wastewater services. The members of our three professional associations are on the front line of protecting the health of all New Yorkers by providing safe drinking water and effective wastewater treatment. Many of the facilities our members design, build and operate are located in or near Disadvantaged Communities due to both geography and history. These facilities, and the entities that operate them, provide many important environmental health benefits to Disadvantaged Communities. They cannot continue to protect New Yorker's drinking water and receiving waters if their environmental permits are not thoughtfully issued or renewed.

Our three associations appreciate and support the intent of proposed S-08830/A-02103-D ["Disadvantaged Communities Amendment bill or "DCA bill"], namely to enhance the assessment of potential impacts on Disadvantaged Communities during the environmental permitting process. However, we believe that the citizens of New York would be best served if this bill were adjusted through some relatively straight forward modifications before it is signed by the Governor. Our three organizations fully support the proposed changes recently sent to you by the Business Council of New York (BCNY) which were endorsed by a wide range of New York municipal, educational and other organizations. It is our belief BCNY's proposed changes

are needed in order to effectively continue to provide these important water-related services to all New Yorkers. There are several points we'd like to emphasize further:

- In keeping with Subdivision 2 of [Section 8-0109 of the Environmental Conservation Law](#), all new provisions under any DCA bill must be limited to permits and other actions which have received a "Positive Declaration (i.e. have been determined to, or may have, a "significant effect on the environment"). Just because a permit is for an action located in or near a Disadvantaged Community, it must not trigger an automatic requirement that an Environmental Impact Statement be prepared.
- For ECL Article 15, Title 15 (water supplies) and Article 17 (wastewater discharges) permits, we recommend that minimum volume threshold be set below which the new DCA requirements would not apply.
 - For water withdrawal permits for drinking water systems that derive their sources from either ground water or surface water we recommend, consistent with existing SEQR regulations, that any new requirements imposed by this DCA bill only apply to withdrawals of 2 MG per day and greater.
 - For Article 17 permits, as suggested by [TOGS 1.2.2](#), we recommend that any new requirements imposed by this DCA bill apply only to average non-cooling wastewater discharges volumes of 0.5 million gallons per day (MGD) or more. For cooling water discharges, the minimum threshold should be set at 20 MGD.
- Similarly, for ECL Article 17 (wastewater discharges) permits, we recommend that any new DCA requirements under this bill be applicable only to permits for new facilities or to modifications that are due to a "facility expansion" as defined in the current SPDES regulations at [6 NCRR 750.1 \(a\)\(37\)](#).
- Applicant prepared Burden Reports must be limited to whatever environmental pollutants/factors its permit covers, not to all the environmental pollutants/factors which may be affecting a specific Disadvantaged Community. For renewals and new permits subject to this requirement, the required Burden Report should be limited to the potential impact from operational changes since the last substantive permit review.
- Under the DCA bill, the Department will only be allowed to issue a permit if the facility will not cause or increase any significant and adverse "disproportionate burden" on a Disadvantaged Community. Since "disproportionate burden" and "disproportionate impact" remain undefined terms, this continues to be of concern. However, we believe these terms should be defined in the implementing regulations and not in a revised DCA bill. Further, the implementing regulations should be developed with the input of representatives of both Disadvantaged Communities and environmental permittees who will be subject to the DCA bill.

Water experts from our three organizations are ready to provide support, information and data as the DCA bill is fine tuned to make it more efficient while still providing the intended enhanced protection for Disadvantaged Communities.

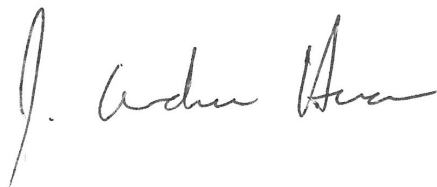
Respectfully submitted,



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Cc.:

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