



Senate Legislative Oversight Committee
Hearing on DEP's Water Quality Management Rules
June 4, 2009

Thank you for holding this important hearing and inviting me to speak. My name is Dianne Brake and I have been a land use planner for almost 30 years, 25 of them at PlanSmart NJ. PlanSmart just celebrated its 40th Anniversary last year.

Sewer service may not be a sexy topic, but it is one of the most important underpinnings of society. As planners, we take sewers very seriously. Without them, we would have squalor, disease and death.

In 2007, we brought all of our experience to bear on an evaluation of the proposed Water Quality Management Plan regulations. We submitted six pages of comments – including praise for some new ideas in the rules. But our overall assessment was that the rules would likely **obstruct growth, promote sprawl** and therefore **degrade the environment**. In fact, PlanSmart NJ became the only non-profit to ask DEP to start over.

We felt that with the best of intentions, **DEP had written rules that would end up protecting land from becoming sewerred**, instead of protecting water quality and providing the infrastructure New Jersey needs for communities to prosper. We believe that **infrastructure should follow land use**, not the other way around.

As things stand today, we still think the rules are likely to obstruct growth, promote sprawl and degrade the environment. Let me quickly go through each of these three points.

Problem 1: Obstructing growth: PlanSmart NJ is not an advocate of growth for growth's sake. We support growth that is needed to make conditions better. And we don't want growth just anywhere: **we want growth in sewer service areas in mixed-use centers**. Last year PlanSmart NJ completed a four-year Smart Growth Economy Project which showed us how desperate our economy had become, headed for a Rust Belt-like obsolescence. And this was before the current economic meltdown. New Jersey must ensure that its regulations do not obstruct companies from staying and growing in New Jersey. It is vital for the state to work to come out of this recession stronger than before.

Here is how the regs obstruct growth in sewer service areas:

1. DEP wants counties to draw back existing sewer service boundaries, so that less land will have access to sewers. These boundaries are different from the State

Plan cross-acceptance maps where there is broad agreement on appropriate growth areas.

2. Furthermore, DEP wants any undeveloped land of more than 25 acres **within** sewer service areas to be removed. This undermines planning for the future in areas that had already – painstakingly – been agreed as growth areas.
3. DEP asks for a plan based on an analysis of the capacity of the existing infrastructure and want the land use plan to fit within that cap.
4. The regs do make it possible to expand the sewer service area or the treatment facilities – but it is not easy or clear what criteria DEP will use to make a decision

Today, when our economy is already threatened, these obstructions are dangerously unacceptable. We firmly believe that DEP can fulfill its mission of protecting water in particular and the environment in general **without killing the economy**.

Problem 2: The regs promote sprawl. The regs promote sprawl by striving to manage septic areas by means of a watershed-wide restriction based on a model that is expected to create patterns of 4-7 acres per unit – **sprawl in its most elitist form**. Further, it is difficult to see how the septic areas will be managed, since watersheds cross municipal and county boundaries. And that brings us to problem # 3.

Problem 3: The regs will degrade the environment: To the extent that the regs obstruct growth in sewered areas, they push it into unsewered areas – if not out of state. That is sprawl. The regs encourage by default large lot sprawl, which all agree will degrade the environment. There are better ways – better rules – that could be adopted.

First, get all agencies of government to agree on growth areas that will meet all the state's needs. No more fear of Home Rule or platitudes about Smart Growth. Get specific – **How much growth? Where? To achieve what?** This will take leadership from the Governor and the Legislature. PlanSmart NJ has developed a framework for performance measures to hold the state agencies accountable. It includes government setting targets for **the jobs and housing** that we need, and finding places for them that will achieve three other targets: 1) **optimize transit** use to meet our greenhouse gas targets, 2) **reduce the concentration of poverty** to reduce the state and social costs it brings; and 3) **improve environmental conditions** and **protect prioritized natural resources** from growth.

In the past, DEP thought that reconciling their regs to meet other state goals is asking them to step away from their mission. This is far from the case. We only ask that they change their approach to their mission so that it does not undermine other important state goals. It can be done. It must be done, or New Jersey's future is very much in jeopardy. Thank you.