

THIS IS A COURTESY COPY OF THIS NOTICE. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE FEBRUARY 1, 2016 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE NOTICE, THE OFFICIAL VERSION WILL GOVERN.

ENVIRONMENTAL PROTECTION
WATER RESOURCE MANAGEMENT
Water Monitoring and Standards

Notice of Action on Petition for Rulemaking
Surface Water Quality Standards, N.J.A.C. 7:9B

Request for Category One antidegradation designation for the Raritan River, including the
Cuckels Brook tributary within Bridgewater Township

Petitioner: David S. Stempien

Take notice that the Department of Environmental Protection (Department) has denied the petition for rulemaking filed by David S. Stempien (petitioner). The petition was received by the Department on October 8, 2015. Notice of receipt of the petition was published in the November 16, 2015 New Jersey Register. The petitioner requests that the Department amend the Surface Water Quality Standards (SWQS), N.J.A.C. 7:9B. Specifically, petitioner requests that the antidegradation designation of the Raritan River, including the Cuckels Brook tributary to the Raritan River in Bridgewater Township, be upgraded to Category One (C1).

The Petition

The petitioner states that C1 designation is warranted because water is drawn from the Raritan River by the City of New Brunswick, with this water supplied to the City of New Brunswick, Milltown, and Franklin Township. Petitioner indicates that the populations of New Brunswick and Franklin Township were 55,181 and 62,000, respectively, according to the 2010 census and that Milltown has an estimated population of 5,500. Additionally, petitioner indicates that, of the 17,800 Rutgers University students living on campus during the 2013/2014 school year, more than 50 percent lived in New Brunswick. Based upon this, petitioner asserts that, even ignoring any increase in resident population since the 2010 census, the Raritan River supplies drinking water to at least 131,822 residents. Because of this, petitioner asserts the Raritan River and its tributaries should be designated as a C1 waterbody and thus protected by a 300 foot buffer.

The Department's Response to the Petition

THIS IS A COURTESY COPY OF THIS NOTICE. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE FEBRUARY 1, 2016 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE NOTICE, THE OFFICIAL VERSION WILL GOVERN.

The SWQS classify waters based on the designated uses set forth at N.J.A.C. 7:9B-1.12 and provides an antidegradation designation for purposes of implementing antidegradation policies set forth at N.J.A.C. 7:9B-1.5(d). Waters are classified based upon conditions found in discernible portions of the waterbody. If the use designation throughout a waterbody is uniform, the entire waterbody may have one classification. However, different segments of one waterbody may also have differing classifications (see, for example, Alloway Creek and Assiscunk Creek at N.J.A.C. 7:9B-1.15(e); see also N.J.A.C. 7:9B-1.15(g) regarding differing classifications for segments of the Upper Raritan River and Raritan Bay Basin). Cuckels Brook is a tributary to the Raritan River in Bridgewater Township. Cuckels Brook in Bridgewater Township, as well as the Raritan River downstream of the confluence with the Cuckels Brook that flows through the New Brunswick area, are currently classified as freshwater non-trout (FW2-NT); category 2 waters.

In accordance with the SWQS at N.J.A.C. 7:9B-1.4, “category one waters” are those designated for protection from measureable changes in water quality based upon enumerated factors. One of the factors that may qualify a waterbody for C1 designation is exceptional water supply significance. Exceptional water supply significance under that section means a water supply system that serves a population greater than 100,000, including any reservoirs and their natural tributaries from source to the reservoir.

The petitioner asserts that the Raritan River and Cuckels Brook should be designated as C1 because of water supplied to the City of New Brunswick, Rutgers University, Milltown, and Franklin Township. However, water supply for these municipalities does not come from the Raritan River segment which is the subject of the petition. While New Jersey American Water Company is the water supply system that provides water to Franklin Township; New Brunswick Water Department is the water supply system that provides water to Milltown, New Brunswick, and Rutgers University. The water supply source for Franklin Township is from the Delaware and Raritan Canal, Millstone River, or Raritan River upstream of the confluence of Cuckels Brook and Raritan River. The water supply source for New Brunswick, Milltown and Rutgers

THIS IS A COURTESY COPY OF THIS NOTICE. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE FEBRUARY 1, 2016 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE NOTICE, THE OFFICIAL VERSION WILL GOVERN.

University is the Delaware and Raritan Canal and Lawrence Brook. There are no potable surface water intakes on the Raritan River downstream of the confluence of Cuckels Brook and the Raritan River. Accordingly, the segment of the Raritan River from the confluence with the Cuckels Brook is not the source for water supply for any of the identified municipalities.

For these reasons, Cuckels Brook and the Raritan River downstream of Cuckels Brook do not qualify for C1 designation based on the Exceptional Water Supply Significance. Therefore, in accordance with N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-4.2, after careful consideration of the petition, the Department has determined to deny the petition for rulemaking.

This notice and the full text of the petition filed in this matter are available on the Department's website at <http://www.nj.gov/dep/rules/petition.html>. A copy of this notice has been mailed to the petitioner as required by N.J.A.C. 1:30-4.2 and 7:1D-1.1.