



**SEWAGE FREE  
STREETS AND RIVERS**  
Your Waterways, Your Neighborhood, Your Money, Your Voice

January 29, 2021

Patricia Gardner, Assistant Commissioner Water Resource Management, NJ DEP  
Janice Brogle, Director Division of Water Quality, NJ DEP  
Susan Rosenwinkle, Bureau Chief, NJ DEP  
Nancy Kempel, Dwayne Kobesky, Joe Mannick, Marcus Roorda, NJDEP CSO Team Leads

Dear Assistant Commissioner Gardner, Director Brogle, Bureau Chief Rosenwinkle and CSO Team Leads,

We are submitting the following comments on behalf of the Sewage-Free Streets and Rivers partners to the New Jersey Department of Environmental Protection (NJDEP) on the combined sewer overflow (CSO) Long Term Control Plans (LTCPs).

The Sewage-Free Streets and Rivers campaign is a coalition of community and advocacy organizations that are based in and work with communities with combined sewer systems. We are writing to you as members of CSO supplemental teams and advocates who are working with CSO communities to provide recommendations on the CSO LTCPs. We have copied all the CSO permit holders because we have been working with them and we want to maintain open and ongoing communications. We are submitting general comments based on our review of all of the reports. Sewage-Free Streets and Rivers partners are also independently submitting comments on their towns plans.

We acknowledge that we have reached a major milestone with the submission of the CSO LTCPs. Thank you to all of the staff at the New Jersey Department of Environmental Protection for getting us to this point. We would also like to acknowledge all of the work that was done by the CSO permit holders and their consultants to develop these plans as well as members of the Supplemental CSO Teams, community members and stakeholders who have worked together over the last five years. The purpose of our comments is to build upon this work and to provide recommendations for ways to improve these plans, as well as recommendations for the next CSO permit.

Our recommendations center on the following issues:

- 1.) Improving water quality and access.
- 2.) Making environmental justice part of all aspects of these plans.
- 3.) Ensuring equitable financing of these plans.
- 4.) Implementing a green infrastructure first approach.
- 5.) Informing, engaging and empowering communities.
- 6.) Using the most recent climate change data in the selection, implementation and evaluation of these plans.

It is important to note that the Selection and Implementation Alternatives Reports, to our knowledge, were not reviewed by the public or the Supplemental CSO Teams before they were submitted to the NJDEP. These reports contain new information related to the selected CSO controls, cost and implementation schedule. This makes your consideration of the comments extremely important because there was not an opportunity for the community to weigh in on these important decisions before the plans were submitted.

Thank you in advance for considering our recommendations. We look forward to continuing to work with you to ensure that the CSO Long Term Control Plans are compliant and equitable for CSO communities.

Signed by the following organizations:

Association of New Jersey Environmental Commissions  
Canco Park Conservancy  
Clean Water Action  
The Embankment Preservation Coalition  
Future City Inc.  
Ironbound Community Corporation  
Hackensack Riverkeeper  
Hamilton Park Neighborhood Association  
MnM Consulting  
Morris Park Neighborhood Association  
Natural Resources Defense Council  
NewarkDIG  
New Jersey Future  
NY/NJ Baykeeper

Passaic River Coalition  
Raritan Riverkeeper  
Riverview Neighborhood Association  
Paterson Green Team  
Perth Amboy Supplemental CSO Team members  
Pershing Field Neighborhood Association  
South Ward Environmental Alliance  
Sustainable Jersey City

CC.

Thomas Laustsen, Chief Operating Officer, Passaic Valley Sewerage Commission  
Tim Boyle, Superintendent, City of Bayonne  
Frank Pestana, Licensed Operator, East Newark Borough and Guttenberg Town, Executive Director, North Bergen MUA and North Bergen MUA-Woodcliff  
Rocco Russomano, Chief Engineer, Harrison  
Jose Cunha, Executive Director, Jersey City MUA  
Stephen Marks, Town Administrator, Town of Kearny  
Kareem Adeem, Director of Newark Water and Sewer Utilities  
Della McCall-Fischer, Chief of Staff, Paterson City  
Alan O'Grady, Superintendent, Ridgefield Park Village  
Richard Wolff, Executive Director, North Hudson Sewerage Authority  
Joseph P. Cryan, Executive Director, Middlesex County Utilities Authority Luis A. Perez Jiminez, Director of Operations, Middlesex Water Company  
Dan Loomis, City Engineer, City of Elizabeth  
Samuel McGhee, Executive Director, Joint Meeting of Essex and Union Countie  
Eric Fooder, Director of the Department of Utilities, Gloucester City  
Scott schreiber, Executive Director and Chief Engineer, Camden County MUA  
Robert E. Laux, Executive Director, Bergen County Utilities Authority  
Mike Maresca , DPW Director, Borough of Fort Lee  
Wayne Vriesema, Project Manager, City of Hackensack

**Sewage-Free Streets and Rivers general comments on the combined sewer overflow Long Term Control Plans.**

***Submitted on January, 29, 2021***

**Water quality:**

The combined sewer overflow (CSO) Long Term Control Plans (LTCPs) are designed to meet existing water quality standards and do not consider future water quality standards or criteria.

- To increase public access and safe recreational activities, the LTCP activities should move toward achieving future standards and designated uses.
- The plans should consider the water quality the local community wants to attain as well as improving access to waterfronts.
- The majority of public access to local rivers and streams happens along the banks and shorelines. Water quality tests should be required to be taken from close to CSO outfalls as well as more central locations within larger waterbodies.
- A majority of the waterbodies are only suitable for secondary uses and the majority of permittees are currently meeting minimum standards. There is also evidence that primary contact already occurs at these water bodies, such as illegal swimming/wading and small boat sailing. The LTCP activities should work toward making these primary-use waterbodies. The plans should state how long it will take to achieve fishable/swimmable standards (e.g. return of investment).
- The Passaic Valley Sewerage Commission regional plan will achieve 85% capture over the region rather than on a municipal level, although hydrologically connected. The reports should state how the regional plans will improve water quality and increase access to these waterbodies locally.

**Environmental justice:**

Environmental justice considerations vary from plan to plan. For example, environmental justice was deliberately considered and informed the approach taken by the Camden County Municipal Utilities Authority, leading to a focus on near-term community benefits.

Unfortunately, the majority of the submitted plans do not significantly address environmental justice concerns, nor do they anticipate future cumulative impacts on the local environment as a result of the selected controls. The plans did not include impact study maps of the proposed projects and the effects of CSOs on environmental justice communities.

The New Jersey Department of Environmental Protection (NJDEP) should:

- Require permit holders to use the Environmental Protection Agency’s Environmental Justice Screening Mapping Tool to map overburdened neighborhoods and use this to assess environmental considerations in the Selection and Implementation of Alternatives Reports and future reports.
- Require CSO permit holders to engage community members, specifically environmental justice organizations, representatives, and groups, in the design and implementation of the LTCP to develop a community feedback loop (e.g. citing initial sites, 30% design sketch with community, implementing feedback to final design).
- Prioritize environmental justice communities for CSO mitigations and ensure that the siting of gray infrastructure will not have negative cumulative impacts on these communities.
- Prioritize environmental justice communities for workforce development programs related to the projects that will be implemented as part of the CSO LTCP and ensure that funding considerations are addressed up front.
- Prioritize environmental justice communities for green infrastructure implementation and other CSO controls that address localized flooding.

**Financing:**

The financial capabilities assessment that was used in the reports was based on rate increases and the municipalities’ ability to finance the plans. These narrow assessments influence the proposed implementation schedule and unfairly burden residential ratepayers without addressing the impact of impervious cover. The majority of LTCPs did not include considerations of alternative funding mechanisms which could offset the costs of these plans. Rather than considering alternative financing mechanisms, permit holders have requested longer implementation schedules to complete the plans. We are concerned that these assessments and plans could perpetuate health, environmental, and economic burdens that fall disproportionately on communities of color and communities of lower incomes.

NJDEP should require permittees to do the following, and to re-assess their “financial capability” based on the results:

- Commit to utilizing the I-Bank to the greatest extent possible to finance these plans, except in any cases where lower-cost financing is available elsewhere.
- Evaluate alternative rate structures and consider low-income affordability programs to ensure that households of lower-incomes will not be overburdened by the rate increases associated with the plans.
- Evaluate alternative funding options like stormwater utilities that distribute the costs associated with stormwater across the larger contributors that currently are not

appropriately charged—or are not charged at all—for stormwater runoff that contributes to combined sewer overflows.

- Evaluate green infrastructure as a CSO control alternative based on a triple bottom line analysis, which includes the social, economic, and environmental benefits.
- Evaluate how the costs and CSO controls are shared between regional authorities and all of the municipalities in the service that contribute to the treatment plant to alleviate the financial burden as much as possible on the economically distressed CSO communities.
- Thoroughly examine other options to reduce costs by optimizing system operations or improving financial management (e.g., by eliminating transfers of rate revenues for use on local government expenses unrelated to services that a municipality renders to the wastewater system).

### **Green infrastructure:**

Green infrastructure was mostly included as a supplemental CSO control in the plans attributed more to public pressure than effectiveness. There is little evidence that green infrastructure was evaluated with a “good faith” examination for CSO reduction or in conjunction with gray infrastructure for reduction of stormwater and to reduce localized flooding. If the reduction of CSOs from green infrastructure is not considered in conjunction with gray projects, we lose several benefits of a combined approach, not least of which is the cost savings of digging once to install a gray and green project at the same time.

The New Jersey Department of Environmental Protection should:

- Require CSO permit holders to implement green infrastructure first, within the first five to 10 years of the CSO LTCPs.
- Evaluate green infrastructure for stormwater capture and CSO reduction so that communities get the multiple financial and environmental benefits of these projects.
- Prioritize environmental justice communities for green infrastructure implementation.
- Evaluate green infrastructure based on pollutant load. Given the nature of green infrastructure to both store and clean stormwater, pollutants would be a more accurate way to evaluate green infrastructure.
- Urge the municipal permit holders to update their municipal stormwater ordinances by January 2022 and increase the requirements at the municipal level to:
  - Lower the project area threshold at which stormwater management and green infrastructure is required from the state level of one acre, to a lower threshold (0.5 acres to 5000 square feet).

- Eliminate allowing the exemption of a project from the existing imperviousness in the current and model NJDEP stormwater ordinance. When developing stormwater calculations, stormwater management should be based on total project imperviousness, regardless of conditions prior to development. This will result in redevelopment projects improving stormwater conditions instead of simply maintaining existing conditions.

**Public participation:**

In general, local community advocates reported that the public participation process lacked the two-way dialog advised in the NJDEP guidance documents. After the 2018 Public Participation Process report there is no further mention of public input. Specifically, the Selection and Implementation of Alternatives Reports do not indicate how permit holders succeeded or failed to reach out to the general public to inform them of CSO reduction plans and to solicit feedback. Additionally, no mention is made of the will of the public beyond including some element of green infrastructure within the plans because of public pressure.

The New Jersey Department of Environmental Protection should:

- Require public engagement in the next permit, and require the CSO permit holders to submit an annual report detailing public engagement efforts and feedback mechanisms.
- Require CSO permit holders to make meetings fully accessible to a wide range of the public. Priority actions should include: holding meetings at accessible locations (meaning having both accessible ramps and elevators and also being close to public transportation), giving at least two weeks notice before meeting dates, distributing materials in multiple languages, holding meetings on evenings and weekends, providing live translation for both in-person and virtual meetings, adding closed captioning for virtual meetings, and having project materials and reports posted and easily accessible on the permittee's website.
- Require permit holders in the next CSO permit to engage the public using multiple methods with increased engagement based on the type and scope of the project. This requirement should come with benchmarks for reaching a measurable segment of the population with meaningful interaction and evidence of feedback taken into consideration.
- Require permit holders to identify neighborhoods affected by CSOs and substantially engage those communities in the design and implementation of CSO controls where appropriate. This engagement requirement should have measurable benchmarks.
- Require the permit holders to include representation from environmental justice communities in the public participation process.

- Require regular reporting on evidence of public participation (i.e. demographics and number of people who participated, outreach materials distributed, website clicks, number of meetings held, and meeting notes) to be included with ongoing reporting.

**Climate change:**

The model storm year that was used by most of the CSO permit holders was 2004. While this year was chosen to account for increased rainfall over a 20-year period, we now have projections for increased precipitation and sea-level rise for New Jersey that should be used in future models and the design of the CSO mitigation projects.

The New Jersey Department of Environmental Protection should:

- Require permit holders to update the rainfall model with the latest data every five years within six months of the last CSO permit cycle.
- Develop sea-level rise and precipitation projections for CSO communities, specifically to be used by the CSO permit holders.
- Require projects be designed for climate change capacity for the projections for 10-20 years from now. For example, NYC is designing in preparation for increased capacity to accommodate the impacts of climate change that uses this approach.
- Require CSO permit holders to use NJDEP's new data on sea-level rise and increased precipitation from the NJ 2020 Scientific Report on Climate Change to design, implement, and evaluate the selected alternatives to CSOs in the next permit.