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The Passaic River Coalition's General Comments to NJDEP on Combined Sewer Overflow Long Term Control Plans with additional comments on the Paterson Plan

Submitted January 29, 2021

The Passaic River Coalition has been involved in discussions, advisory committees and other actions regarding the CSO issues of the PVSC service area since at least the early 1980s. It has been a long, long road to reach the first set of comprehensive LTCPs in New Jersey, and we commend the NJDEP for having taken the plunge into a permit-based program for CSO controls. While the results are not entirely where they should be, the immense effort of the department, the permittees and the interested public should be commended.

Passaic River Coalition's Comments on Paterson CSO LTCP

Our review focused on the Paterson component of the LTCP, as the only PVSC CSO municipality where all CSOs are to the non-tidal Passaic River, harming the river, the Great Falls, Dundee Lake and the tidal Passaic River. What happens in Paterson matters greatly. Many of our comments for Paterson also apply more generally to CSO communities, and we request that NJDEP consider our specific comments for other municipalities as well. Therefore, our comments begin with general issues, and then address Paterson specifically.

The major concerns we have are regarding the limited reduction in CSO flows anticipated due to the Presumption Approach; for example, only a 20% annual reduction in CSO flows for Paterson. Associated with this concern, the commitment to green infrastructure is inadequate and too often appears to be a token commitment in response to public pressure. Finally, the potential for achieving gains through municipal development requirements for redevelopment projects appears to be ignored, despite the potential for redevelopment to remake significant portions of our urban areas over the next decades. Redevelopment can result both in increase dry-weather sewage flows and opportunities to reduce stormwater generation from existing conditions. Redevelopment should not be treated as an "unknown variable" or "conservative assumption," it should be planned for to maximize benefits.

Our General Comments on CSO LTCP

NJDEP should include with each CSO NJPDES permit an ongoing obligation to increase green infrastructure commitments, which should be incorporated into all redevelopment plans, use of existing public open spaces in a manner compatible with the intended uses, and incorporation within new public open spaces that are created from existing brownfields (e.g., as in Hoboken). In line with this thinking, the NJDEP Green Acres program should adopt guidance regarding the use of existing public open spaces for watershed management purposes, including green infrastructure, using methods that maintain or enhance park functions. We are aware of ongoing discussions through Jersey Water Works regarding this approach.

The draft LTCP shows little evidence of involvement from city planning departments regarding future redevelopment plans and their potential impact on sewer flows, green infrastructure opportunities, etc. The draft LTCP largely reads as a document by engineers for engineers. Given that the LTCP projects will be implemented over multiple decades, the LTCP should explicitly recognize that redevelopment will occur and that a significant number of dispersed management techniques (e.g., green infrastructure, internal beneficial reuse of wastewater, water conservation) can reduce stormwater and sewage flows to the combined sewer systems; however, redevelopment can also increase the level of sewage flowing daily. The potential for increased sewage flows from redevelopment, and mitigation techniques, were not clearly noted in the draft LTCP.

The screening of CSO control technologies does not sufficiently address improved storage in combined sewers through maintenance, sediment removal and other non-structural approaches. These should be explicitly addressed, given the positive experiences of CCMUA in the City of Camden.

The evaluation of CSO control alternatives should more explicitly include co-benefits to host communities as benefits, such as reduced street and basement flooding, reduced combined sewer failure, and increased quality of life through green infrastructure co-benefits. The draft LTCP mentions these but provides no analysis of them. Green infrastructure can increase property values and the "curb appeal" of a city, to the benefit of its residents and businesses. Again, a planner's perspective would be a valuable input for these engineering studies.

The PRC's experience with the public participation process showed clearly that insufficient funding was dedicated to this task, and there were insufficient, if any, metrics used to determine the success of the program. We do not agree that the process was effective. While the PRC was represented at most stakeholder meetings, little value was derived, and few opportunities were provided for substantive engagement in the planning process, often because detailed documents were not provided well before the meetings. Rather, the focus was more on describing to stakeholders what had been done or decided.

The negligible public outreach component was relegated to stakeholders, but no monies were set aside to do so. One might consider why, even in the very early stages, PVSC and/or municipalities did not send out information about the CSO LTCP directly to customers through their billings and emails. Some attempt was made with the Clean Waterways/Healthy Neighborhoods website as a resource tool, but it is rather difficult to understand for many communities that will be affected by the LTCP. Outreach for this long-term project needs to be ongoing to get the message out successfully to all communities. Reaching directly and often to bill payers, makes consumers aware of what is in the works for their future and potentially initiates engagement. Additionally, reaching all sectors of a municipality to engage in the future of their community, including renters and disadvantaged communities who will be impacted, needs to be funded, planned and implemented. Participation is negligible if there is a lack of awareness and continuity in reaching the public. This should be addressed going forward, with funds to do so.

Finally, we note that the draft LTCP does not provide an evaluation of effectiveness; rather, it provides a summary of activities and comments. There is no sense from the discussion that the public participation made a significant difference in the results other than a limited inclusion of green infrastructure.

In Section ES-7, the PVSC draft LTCP says regarding 85% capture of volume: "Not all Permittees will reach 85% capture individually in the Regional Alternative, but the combination of CSO control technologies used across the entire region will meet this criterion." While this approach might be sufficient where multiple municipalities discharge to the same river reach or estuary section, it is not appropriate where the municipal CSOs discharge to different water reaches (e.g., Passaic River upstream of Dundee Dam versus Newark Bay versus Hackensack River). NJDEP should ensure that the presumptive approach target is met for each water reach. We do acknowledge that both the regional and municipal alternatives for Paterson achieve 85% capture.

NJDEP should include within each CSO NJPDES permit a presumptive target of treating with green infrastructure at least 10% of stormwater-derived CSO flows generated by the impervious surface within the CSO sewershed; the municipality should be able to show that local constraints justify a lower target.

The issue of financial capacity (Section I) is important in many of the PVSC CSO municipalities. We agree with the discussion in Section I.5.1 that much of the national conversation on affordability shows use of MHI (median household income) is not appropriate; as mentioned, recommendations are trending toward use of the 20th percentile income as more indicative of household financial stress. We agree with the need for consideration of cost of living, as in Section I.4.1, including housing affordability. USEPA just finalized changes to its guidance, which should be reflected in the final LTCP, as it may result in modifications to the findings.

Further Comments Regarding Paterson

The PRC recognizes the positive steps that Paterson has taken in improving its sewer capacity, including sewer separation projects to replace failing sections of combined sewers. We acknowledge that Paterson is committing to green infrastructure for 75 acres, or 2.5% of its impervious area (according to the LTCP Executive Summary), as part of the Regional Alternative. However, the 75-acre commitment is only 1.63% of the CSO service area (identified as 4,595 acres in Table C-1), a very small commitment; from the text in Appendix F, we can only draw the conclusion that this commitment is a limited effort in response to public demands for more green infrastructure, not a serious effort to reduce flows. More can be done with green infrastructure in ways that will benefit Paterson and somewhat reduce the storage tunnel requirements. (We note that Jersey City has a commitment to addressing 7% of their impervious surface area.) At this point, the Paterson plan is dependent on all gray infrastructure, which will maximize the total flow of sewage to the PVSC plant, comprised of existing flows to PVSC plus the capture of roughly 20% of existing CSO flows. More effort (in all municipalities) should be focused on reducing total combined sewer flows, which will reduce both CSO volumes and wastewater treatment costs.

The schedule in Table ES-3 of the draft LTCP relegates green infrastructure in Paterson to the years 2056-2060. This table conflicts with the information in Table J-1, which indicates that green infrastructure projects would begin within the initial CSO NJPDES permit cycle and extend throughout the project period. Table ES-3 should be modified to reflect implementation from 2021-2056, not just the final period, and green infrastructure should be front-loaded to maximize early benefits and develop community familiarity with and support for the approach. Green infrastructure can be implemented faster than most other projects and provides immediate, incremental benefits. The CSO NJPDES permit schedule should require initiation of green infrastructure in the first permit. Likewise, the first permit should require adoption of a stormwater

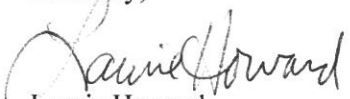
ordinance requiring that all major developments incorporate green infrastructure to reduce stormwater generation; this provision would replace Paterson's current "no net increase" requirement.

Tables D-1 and D-2 in Appendix F appear to show that implementation of Alternative 9 (85% Capture) for the Paterson portion of the LTCP will provide limited benefits in reducing the number of CSO events and volumes for most outfalls, though some show better results. Only a 20% reduction in CSO volumes results (Table D-2), which means that 80% of existing CSO volumes will continue to be discharged after completion of all committed projects. We question why allowing 80% of CSO flow volumes of dilute raw sewage to continue would be considered an acceptable result in modern times. Alternative 4c (4 events) would result in a nearly 90% reduction in CSO flows, a far more acceptable result.

As noted in Appendix N, p.24, Paterson sewers receive sewerage from upgradient systems in other municipalities, specifically the Boroughs of Haledon, Totowa, and West Paterson. The NJDEP should ensure that Paterson can impose restrictions on I&I associated with contributing sewers from other municipalities, as a significant opportunity to reduce CSO flows. Any contributing system should also receive a CSO NJPDES permit, given their contribution to the CSOs.

Thank you for the opportunity to submit these comments for consideration. Please feel free to contact us with any questions you might have.

Sincerely,



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