



TO: Dwayne Kobesky, CSO Team Leader and Susan Rosenwinkel, Bureau Chief
NJDEP Division of Water Quality, Bureau of Surface Water and Pretreatment Permitting

FROM: Amy Goldsmith, New Jersey State Director, Clean Water Action

RE: General Comments regarding Long Term Control Plans (LTCP) and in Selected NJ Cities

DATE: January 27, 2021

Clean Water Action is a national organization with over 1 million members nationwide and 150,000 in New Jersey. Our founding director, David Zwick, helped draft and pass the original Clean Water Act, hence our name Clean Water Action. We have had an active presence in New Jersey since 1982 (and in Newark for over 20 years) working on local, regional, state and national issues and solutions that ensure safe and affordable drinking water, clean water, an environment and communities free of toxics, climate change mitigation, environmental justice (EJ) as well as fair and inclusive democratic processes for public engagement, especially for disenfranchised communities of color.

Clean Water Action’s comments and recommendations regarding the SIAR Report (July 2020) below are in some cases general in nature, and in other instances specific to the Long Term Control Plan (LTCP) of the City of Newark and the Passaic Valley Sewer Commission (PVSC). If you have question or seek clarification regarding this document, please do not hesitate to contact me at: agoldsmith@cleanwater.org or via cell at (732) 895-2502.

The comments below are divided into six (6) categories. The order of each recommendation does *not* reflect a particular prioritization within each category.

- Equity & Justice
- Climate
- Water Quality
- Green Infrastructure
- Public Participation & Education
- Financial

Equity & Justice

- Environmental and climate justice considerations are not substantially mentioned in LTCPs (not in Newark plan at all), even though cities adopting LTCPs are largely People of Color, low income, not English proficient and have been long overburdened by pollution and sewage for decades.

They deserve receipt disproportionately greater water safeguards at a time when local waterways and aging infrastructure are at their most vulnerable to the impacts of climate change and public health is already compromised by the pandemic.

- Compliance with NJ's new cumulative impacts law (signed September 2020) and corresponding soon to be proposed regulations will need to be factored into future permit renewals and/or expansions of sewage treatment plants. An impacts analysis will be required. Benefits of green over gray infrastructures should be highlighted and implemented in much greater proportions than described in LTCPs.
- Local "gray" projects should be designed so as not to negatively impact, disrupt, and/or displace residents and neighborhoods that are already disproportionately impacted.
- A "regional" approach (or 85% capture averaged over the entire region) may mean that local waters most impacted receive less relief from sewage discharge and overflows than warranted. The LTCP must consider not just the region as a whole but also do a better job addressing specific localized hotspots and implementing improvements especially in historically and disproportionately impacted neighborhoods and waterways.
- Environmental justice and economic justice must occur simultaneously. LTCPs and larger state policy must spell out workforce development, hiring and contract bidding processes that will create greater opportunities for local residents within CSO cities that have been largely left behind or out of economic and societal benefits.

Climate

- The data used to calculate sea level rise is from 2004. We are concerned that this older data underestimates future conditions and annual trends. On average, New Jersey can now expect a 4-11% increase in annual rain and sea level rise by 1.5 feet by 2050. Instead of planning for a future that is real, permit holders will be spending precious resources to design and install for early obsolescence. There should be a mandate to update to the best climate data and projections on a regularized basis, for specific locations throughout the state and before each five-year permit renewal.
- LTCPs must include climate projections with regards to frequency and intensity of storm surges which push sewage and water borne toxics back into the neighborhoods with Super Storm Sandy being an extreme and possibly repeatable example. During Sandy, PVSC was completely shut down for several weeks – with no other option other than to discharge raw sewage into Newark area waterways.

Water Quality

- Water samples are taken midstream and do not reflect the shore line impacts where people have the greatest direct contact with the water including fishing. Samples should also be taken at the shore line, near outfalls, as well as where people most frequent and have public access.

- It does not appear that the LTCP and water quality data are being used to actually improve a specific waterway and its future designated use, but instead to only maintain the current designated uses. This is not the intent of the Clean Water Act, which has a stated aspirational goal of achieving zero discharge and making “Waters of the US” fishable, swimmable and suitable for contact use by a certain date. The LTCP should set a goal and path for achieving water quality improvements, not status quo designated uses, as well as improve public access.

Green Infrastructure

- Green infrastructure (GI) should be implemented as a primary strategy, not “supplemental” consideration, and evaluated in tandem with gray infrastructure to maximize the combined benefits.
- GI should be given the highest priority with regards to timeline (within first 5-10 years) and funding given the multiple benefits achieved over gray (pipes and mortar) approaches. Green infrastructure provides additional societal benefits – such as onsite storm water collection, green spaces/rain gardens, pocket parks, curbside bioswales and other greenery options, cleaner air, heat island mitigation, community gardens/healthy food, local green jobs training and employment opportunities, etc.
- Focus GI installation in our most vulnerable EJ communities to reduce future flooding, pollution and sewage harms, as well as anticipated climate impacts.
- The GI model used by the City of Philadelphia should be actively considered and adopted to address pollution loads, not just volume of water.
- Use GI as a way to not just reduce localized flooded, but also to more actively engage local residents and organizations in designing remedies and shaping how they want their neighborhood to look in the future.
- The GI options selected (i.e. rain gardens and tree plantings) in LTCPs are too narrow. Other GI options, such as permeable pavement, should be incorporated into future projects involving road, side walk, and parking lot repairs and construction. New buildings must be required to integrate GI in their design.
- Camden and Perth Amboy have taken a 10% approach to GI. In doing so, they are increasing the scale and lowering costs of GI. Newark should be required to do more than 5% green infrastructure in order to reduce localized flooding and improve a neighborhood’s quality of life.

- Municipal stormwater ordinances should be updated by January 2022. The update should allow a lower project area threshold for GI from 1 acre to .5 acre (or 5,000 square feet). This will provide more flexibility in highly urbanized areas with significantly smaller lots. In addition, provisions that “grandfather” existing imperious areas and development should be eliminated. Municipalities should also have the authority to require the incorporation of GI elements in redevelopment projects and when improvements are made on a given parcel.

Public Participation and Education

- Public input does not appear to have truly been considered in drafting the LTCPs. The public wanted more than 5% GI, but there is no evidence of its consideration. Supplemental Teams were created, but not sure how much they were actually listened to regarding direction and specifics.
- There should be ongoing transparency and accountability of permitholders to the public through effective looped outreach, constructive dialogue, open records, documentation of meetings and decisions, active verifiable consideration of recommendations from the public, easily understandable materials, and local hires for LTCP projects. Permitholders should be required to document multi-dimensional public outreach (timeline and plans for input, types of input, evidence of social media and website use, numbers reached, effectiveness and outcome).
- The “public” involved must represent the residents and demographics of the most impacted neighborhoods, not just local officials. Multilingual materials and translations must be offered where necessary and requested. Meetings should be in community-approved locations.
- The public education elements of the LTCPs regarding conservation mention the benefits, but do not speak about specific plans, mechanics or cost associated with conducting a successful and comprehensive community outreach program including the conservation devices offered to customers. Specific activities and costs of public education and outreach must be reflected in both the narrative sections of the plan as well as its line item budget. When Newark distributed water filters and a 1-year supply of replacement cartridges, the city absorbed all the costs of the device as well as its distribution.

Financial

- In the financial section, Newark talks about seeking state (e.g. I Bank) and federal funds, but has no promises of being awarded funds. Financial planning for the implementation of its LTCP must include a variety of equitable and affordable cost sharing options, as well as contingency plans if hoped for state and federal funds do not materialize or other unanticipated emergencies arise.

- Newark is the PVSC sewer plant host and should be given a price break given the environmental and quality of life burdens it bears by being literally at the end of the sewer line for 48+ towns. It appears that only Newark, Bayonne, Kearny, East Newark, Harrison, Jersey City, North Bergen and Paterson will bear the financial burden of the PVSC system that included 48 municipalities. This is unjust.
- A “regional” approach also means that the City of Newark gets the short end of the stick. It should not bear a disproportionate share of the cost burden of implementing the LTCP, given that there are 48 + towns in the PVSC system. Newark residents have experienced disproportionate harms for decades as a result of being the host community for the PVSC sewage and sludge treatment plant. Adverse impacts include experiencing the effects of an overloaded sewage system generated “upstream” communities, foul smells, localized flooding, untreated sewage solids and toxins that backup in neighborhoods, streets, homes, etc. The City of Newark should receive compensation for its burden - a rate/cost reduction compared to other towns.
- Towns and utilities typically secure long-term loans (30-40 years) as a way to spread out the cost of infrastructure improvements. While understandable from a rate/taxpayer perspective, permitholders should not be granted extensions on their implementation timelines at the expense of achieving long overdue water quality improvements, public health protections and equity sooner.
- Alternative funding mechanisms including stormwater utilities and impervious cover fees should be actively considered.
- Payment schedule for sewer/CSO mitigation should be based on ability of ratepayers to pay (rate relief as individual customer or town) with a safety net for people who require “lifeline” rates (set maximum rate for people on fixed incomes).
- Sewage plants are notorious energy guzzlers. All operations should be required to utilize proven cost saving measures (e.g. solar power, energy conservation, more efficient technologies and processes) to keep costs and rates down. Camden MUA successfully adopted extensive cost saving measures in order to make improvements to the system without raising rates for decades.
- Institutional customers and larger users should be included in cost and rate base, not just residential users.
- Lifetime costs listed in the LTCP appear to be generalized estimates. Reliable true costs of specific projects designed to address a particular system’s CSO problem are needed.

Newark should not bear so much of the burden when there are so many others who can....



PASSAIC VALLEY SEWER COMMISSION Municipalities List

<https://www.nj.gov/pvsc/who/municipalities/>

Contracted Municipalities

A municipality that connected to PVSC's main trunk sewer under PVSC's original 1911 contract or its eight supplemental amendments or a municipality that does not utilize the PVSC main trunk sewer for conveyance.

- [City of Bayonne](#)
- [Township of Belleville](#)
- [Township of Bloomfield](#)
- [City of Clifton](#)
- [Borough of East Newark](#)
- [City of East Orange](#)
- [Borough of East Rutherford](#)
- [City of Garfield](#)
- [Borough of Glen Ridge](#)
- [Borough of Haledon](#)
- [Town of Harrison](#)
- [City of Jersey City](#)
- [Township of Kearny](#)
- [Borough of Lodi](#)
- [Township of Lyndhurst](#)
- [Township of Montclair](#)
- [City of Newark](#)
- [Borough of North Arlington](#)
- [Township of North Bergen](#)
- [Township of Nutley](#)
- [Township of Orange](#)
- [City of Passaic](#)
- [City of Paterson](#)
- [Borough of Prospect Park](#)
- [Borough of Rutherford](#)
- [City of Union City](#)
- [Borough of Wallington](#)

Lessee Municipalities

A municipality that has entered into a lease agreement with PVSC for wastewater treatment services.

- [Borough of Elmwood Park](#)
- [Borough of Fair Lawn](#)
- [Borough of Glen Rock](#)
- [Borough of Hawthorne](#)
- [Township of Little Falls](#)
- [Borough of North Haledon](#)
- [Township of Saddle Brook](#)
- [Township of South Hackensack](#)
- [Borough of Totowa](#)
- [Borough of Woodland Park](#)
- [Borough of Wood-Ridge](#)

Non-Contracted Municipalities

A municipality within the PVSC service district that connects to the PVSC system through an agreement with a Contracting or Leasing Municipality.

- [Township of Cedar Grove](#)
- [City of Elizabeth](#)
- [Township of Franklin Lakes](#)
- [City of Hackensack](#)
- [Borough of Hasbrouck Heights](#)
- [Township of Hillside](#)
- [Borough of North Caldwell](#)
- [Village of Ridgewood](#)
- [South Orange Village](#)
- [Township of West Orange](#)