



Patricia Gardner, Assistant Commissioner Water Resource Management, NJ DEP
Janice Brogle, Director Division of Water Quality, NJ DEP
Susan Rosenwinkle, Bureau Chief, NJ DEP
CSO Team Leads

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

On behalf of the [Sewage-Free Streets and Rivers partners](#), we are submitting the following comments on the response letters regarding the combined sewer overflow (CSO) Long Term Control Plans. 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 appreciate the thorough review conducted by the NJDEP Division of Water Quality. Our comments build off the NJDEP's comments and include specific recommendations that are needed to ensure that:

- Future public participation is inclusive, accountable, and transparent.
- Plans are implemented within 20 years and address flooding and the impacts of climate change.
- Green infrastructure is implemented within the first five years of the plans, and gray infrastructure projects with the greatest impact are prioritized.
- Environmental justice is part of the implementation and decision-making processes.
- Costs for rate-payers are reduced through cost sharing between regional utilities and municipal permit holders, utilizing the I-Bank, and evaluating stormwater utilities.

This CSO permit process started with a three-way dialogue that included the NJDEP, CSO permit holders, and the public. Now that we are nearing the final decision-making process, the public has been left in the dark. Many of the Sewage-Free Streets and Rivers partners have submitted comments individually and as a group and have not received a direct, clear response from the CSO permit holders or the NJDEP. Sewage-Free Streets and Rivers partners and members of the Jersey Water Works CSO LTCP subcommittee conducted a joint effort to review the NJDEP response letters. Sewage-Free Streets and Rivers partners and the JWW CSO committee are sending separate detailed comments; while there is some overlap between the comments, their content is distinct. The following two requests are from both groups.

We request a series of public meetings for each of the regional Long Term Control Plans within the next six months that would be hosted jointly by the NJDEP, the regional utility, and municipal permit holders. The meetings would provide opportunities to respond to comments and questions from the public on the CSO Long Term Control Plans and would enable the public to provide input on public participation in the next CSO permit. This will be key to ensuring comprehensive communication among the State, utilities, and municipal representatives and stakeholders. The Sewage-Free Streets and Rivers partners can provide feedback on the meeting structure and issues that may be discussed.

We also request that the NJDEP Office of Environmental Justice and the Division of Water Quality coordinate efforts and include representatives of communities that are overburdened by industrial pollution and combined sewer overflows, as well as communities of color and/or low-income communities. To facilitate this coordination, we request a meeting of our stakeholder group with the appropriate representatives within the NJDEP Office of Environmental Justice and the Division of Water Quality to discuss the coordination of CSO Long Term Control Plans with environmental justice goals and requirements.

Sincerely,

Sewage-Free Streets and Rivers Advisory Board Members

- **Jose Amarante**, Perth Amboy community leader
- **Drew Curtis**, Ironbound Community Corporation
- **Kim Gaddy**, Clean Water Action
- **Amy Goldsmith**, Clean Water Action
- **Moriah Kinberg**, New Jersey Future
- **Michele Langa**, NY/NJ Baykeeper
- **Nicole Miller**, NewarkDIG

CC.

Shawn LaTourette, NJDEP Commissioner, NJDEP

Olivia Glenn, Deputy Commissioner, NJDEP

Katie Angarone, Associate Commissioner for Science and Policy

Dave Rosenblatt, Chief Resilience Officer, NJDEP

Sean Moriarty, Chief Advisor for Regulatory Affairs, NJDEP

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 Counties
 Eric Fooder, Director of the Department of Utilities, Gloucester City
 Scott Schrieber, Executive Director and Chief Engineer, Camden County MUA
 Robert E. Laux, Executive Director, Bergen County Utilities Authority
 Alfred Restaino, Borough Administrator, Borough of Fort Lee
 Wayne Vriesema, Project Manager, City of Hackensack

Sewage-Free Streets and Rivers detailed comments.

Public Participation:

Future public participation must be required in the next CSO permit so that there is accountability, benchmarks, and funding allocated to ensure that the public is informed, engaged, and empowered throughout the implementation of CSO controls. Sewage-Free Streets and Rivers partners can assist with developing a rubric.

We recommend that the NJDEP:

- Require permittees to submit documentation verifying that they are following the agency’s requirements to use Supplemental CSO Teams for “feedback on community reaction, effective ways to share information, and input on the permittees’ public participation strategy,”^[1] and that they are taking this feedback into consideration in the implementation of LTCPs.
- Require permit holders to hold quarterly public meetings (at a minimum) that take community accessibility into consideration. For example, dates, times, and locations of meetings must be accessible to most members of the community (i.e., held in the evening, near public transit, and with parking), meetings must be held in multiple languages (based on the languages spoken in the municipality), outreach materials must be produced in multiple languages, meetings must be live-streamed, and childcare or kids’ activities must be provided.

¹ NJDEP. (2016). “Forming and Utilizing Your Supplemental CSO Team: For New Jersey’s Combined Sewer Overflow (CSO) Permits and Long Term Control Plans.” Retrieved from:
<https://www.nj.gov/dep/dwq/pdf/supplemental-team-resource-doc-5.9.16.pdf>

- Require the use of platforms that allow people to subscribe to updates from the permittee. Additionally, websites should include names of all of the CSO Supplemental Team members and Municipal Action Team members and provide links or ways to get involved and access information. Information should be in a “format and language appropriate to community demographics.”^[2]
- Require quantitative reporting on the number and type of stakeholders participating. “Document public participation events, including the number of people attending and record a summary of participants' comments.”^[3]
- Require reporting on local hiring for green and gray infrastructure projects.
- Require that funding be made available for community leaders and community organization staff to participate in the Supplemental CSO Team and bring information back to their communities.
- Engage community members in solutions they can implement to reduce CSOs, such as an adopt-a-catch-basin program, rain barrels, water conservation, the removal of impervious surfaces, and the installation of green infrastructure projects. This could also be completed in conjunction with their Municipal Separate Storm System (MS4) requirements.
- 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 and particular focus on neighborhoods where anticipated implementation (gray or green) will be occurring. 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/neighborhoods in the public participation process and use the [Jersey Water Works equity mapping tool](#) and/or [EPA’s Environmental Justice screening and mapping tool \(EJSCREEN\)](#).
- Develop a process for the selection of the supplemental team members that is transparent and goes through a public nomination process. The selection should be made by a third party rather than the municipality.
- Provide a platform for residents to bypass the supplemental teams and still have meaningful public input.
- Outline the ways in which it will support the community’s right to public input. Delineate consequences for failure and opportunities for redress on the part of the public. If, for example, there were no public hearings for a major project, “It is too late now” is not an acceptable response on the part of the permit holder nor the NJDEP.
- Require permit holders to include language justice in all of its public participation, with written translation of all materials, as well as live translation of all community meetings, supplemental team meetings, report-backs, and other meetings. Translation must be provided in Spanish and

² Id.

³ NJDEP. (2016). “Forming and Utilizing Your Supplemental CSO Team: For New Jersey’s Combined Sewer Overflow (CSO) Permits and Long Term Control Plans.” Retrieved from: <https://www.nj.gov/dep/dwaq/pdf/supplemental-team-resource-doc-5.9.16.pdf>

American Sign Language, as well as any other language commonly spoken in the jurisdiction, as determined by the community engagement team.

Green Infrastructure (GI):

We agree with the NJDEP response to the CSO LTCPs that GI should be implemented to address and prioritize localized flooding and recommend that mapping flooding and implementing GI should be done equitably and within the first five years of the CSO LTCPs.

We recommend that the NJDEP:

- Require permit holders continue to assess GI in the next five-year permit and provide specific requirements on how to assess GI. The public must have input on how GI is assessed and the metrics used to evaluate potential implementation.
- Provide requirements on GI standards for the next CSO permit and that public input be used to develop the requirements.
- Advise on how the new stormwater rule and mandated ordinance can be amended to assist with GI and CSO goals.
- Advise permit holders on how the new MS4 permit can assist with GI goals in both MS4 and CSO areas of the municipality.
- Require that LTCPs and regular monitoring reports document the amount and percentage of CSO reductions owing to GI.
- Require a minimum percentage of CSOs to be managed using GI.
- Require an additional 5% of impervious surface managed by GI on top of what the permit holders are already doing to account for increased precipitation, or provide evidence demonstrating why 5% GI is not feasible.
- Require that permit holders use a triple bottom line analysis to evaluate GI and provide CSO permit holders with guidance on how to engage residents in the evaluation.
- Require annual reporting on the construction of green and gray infrastructure projects and their delivery of CSO reductions and direct community benefits.
- Require communication between the Planning Department, Office of Sustainability, and other agencies that are working on GI.
- Require a GI-certified professional to be consulted or hired to work on projects.
- Require training for public works staff on how to maintain GI.
- Require that a certain percentage of GI entail nature-based solutions, such as trees and rain gardens. Engineered GI solutions, such as cisterns, should be prioritized for areas where there is already paving (as opposed to in parks and scarce urban green spaces, which would result in a loss of trees and vegetation). For example, Bayonne has adopted solutions that are “gray” in material, in addition to implementing gray infrastructure in green areas, such as parks. The unintended consequence is that our green spaces are paved over in order to impose engineered

“green” solutions. If one only goes by volume captured in considering GI—and only considers public land for siting—a park turned into a paved storm drain will be chosen over trees and rain gardens. Bayonne has asserted that volume captured by trees is “unquantifiable.”

Climate Emergency:

We agree with the NJDEP’s response to the CSO LTCPs that CSO controls must address the climate emergency and recommend that the NJDEP provide permit holders with requirements on the climate data that should be used to evaluate the CSO controls.

We recommend that the NJDEP:

- Require that projects be designed for climate change capacity for the projections for 10-20 years from now.
- Incorporate green energy resiliency into treatment plants.
- Require permit holders to update the rainfall model with the latest data every five years within six months of the last CSO permit cycle.
- Require permit holders to use the USACE model for projections.
- Require CSO permit holders to use the 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.
- Require permit holders to size projects for different events, specifically precipitation, and extreme rain events.

Environmental Justice:

We agree with the NJDEP’s response to the CSO LTCPs that there is an Environmental Justice Law and recommend that CSO plans be coordinated with NJ’s Environmental Justice Law.

We recommend that the NJDEP EJ Division and the Division of Water Quality:

- Coordinate efforts and include representatives of communities that are overburdened by industrial pollution and combined sewer overflows, as well as communities of color and/or low-income communities. We request a meeting of our stakeholder group with the NJDEP EJ Division and Division of Water Quality to discuss the coordination of the CSO LTCP and EJ Law.

Flooding:

We agree with the NJDEP’s response to the CSO LTCPs that CSO plans must address flooding. The NJDEP should require and recommend more specifics on how each municipal and utility permit holder can address flooding, as well as guidance on mapping flooding and environmental justice communities.

We recommend that the NJDEP:

- Require permit holders to use the Jersey Water Works Equity Mapping tool developed by Rutgers University or the U.S. Environmental Protection Agency’s Environmental Justice Screening Mapping Tool (EJSCREEN) to map overburdened neighborhoods and prioritize green infrastructure implementation and other CSO controls that address localized flooding and protect public health.
- Develop a Nine Minimum Controls checklist for enforcement.
- Priority given to areas of heavily flooded residential areas in the next permit cycle.
- Conduct a joint effort between Division of Water and Division of Enforcement to ensure, at the minimum, the prioritization of reduced flooding in residential areas and properly maintained, clean sewers.

Financial capabilities assessment:

The financial capabilities assessment that was used for the CSO LTCPs was flawed. The financial capability assessments should be revised to consider the following:

- Alternative rate structures and low-income affordability programs to ensure that lower-income households will not be overburdened by the rate increases associated with the plans.
- 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 the combined sewer system.
- 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 flow to alleviate the financial burden on economically distressed CSO communities as much as possible.
- 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).
- Financial impacts using 20th-percentile income, rather than relying exclusively on Median Household Income.

Water Quality and Access:

NJDEP notes in the response letters that the Pathogen Water Quality Modeling is still under review. We recommend that:

- To increase public access and safe recreational activities, the LTCP activities should move toward fully achieving the Clean Water Act goals by considering future standards and designated uses.

- The plans should consider the water quality needed to attain the public access and recreational activities the local community desires, while improving access to waterfronts.
- Water quality monitoring should be required to sample near CSO outfalls, existing public access sites (official and unofficial where known recreation occurs), and more central locations within larger water bodies.
- A majority of the water bodies are only suitable for secondary uses, and the majority of permittees are currently meeting existing standards. There is also evidence that the public engages in primary contact recreational activities in these water bodies, such as illegal swimming/wading and small boat sailing. The LTCP activities should prioritize efforts towards attaining water quality criteria supportive of primary use. The plans should state/model 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 the region is hydrologically connected. The reports should state how the regional plans will improve water quality and increase access to these water bodies locally.
- 85% capture will be reached without Kearny. How will the lack of participation impact the regional plan's overall capture rate?

Implementation Schedule:

We support NJDEP's request that projects that will have a significant impact on reducing flooding be expedited. For example, Paterson's proposed plan includes the 19th Avenue relief sewer, which was originally identified in 2010 to reduce flooding within the City of Paterson.

Cost Sharing:

CSO controls that benefit an entire region, like blending and expansion of sewer treatment plants, should be prioritized over gray municipal projects that burden municipal governments with the costs and construction associated with reducing CSOs. For example, if BCUA were able and willing to share costs across member municipalities, residents of Hackensack, Ridgefield Park, and Fort Lee would have lower rates.