



Recommendations to NJDEP Concerning CSO Public Participation Process and Evaluation and Selection of CSO Control Alternatives

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Dear Assistant Commissioner Putnam and Acting Director Brogle,

Thank you for meeting with us to discuss ways to improve the Combined Sewer Overflow (CSO) Long Term Control Plan (LTCP) public participation process and the evaluation and selection of alternatives.

We understand that the New Jersey Department of Environmental Protection (DEP) is now in the process of a sixty-day review of the four reports that each permittee submitted on July 1, 2018, including the Public Participation Process Reports. We are writing to you as members of CSO supplemental teams and advocates who are working with CSO communities, to provide recommendations on the public participation process and the upcoming process involved in evaluating and selecting alternatives.

We have copied all the CSO permit holders and Municipal Action Teams because we have been working with them and we want to maintain open and ongoing communications. We would also like to acknowledge that some of these recommendations are already being implemented, to varying degrees, by CSO permit holders.

We urge DEP to ensure that the Public Participation Process Reports (Permit Condition Part IV.D.3.b.iii.) are consistent with the attached public participation recommendations -- and, if they are not, to require changes consistent with these recommendations before

approving the reports. All of our public participation recommendations are aimed at achieving the goal of an actual “two-way dialogue” between the permittees and the Supplemental CSO Teams and the public so that the communities who are most impacted by these plans are included in evaluation and selection of alternatives.

We also urge DEP to provide guidelines to the permittees now, as they begin developing their Alternatives Analyses, concerning how to communicate various aspects of that analysis in a manner that facilitates meaningful public engagement. Our recommendations concerning the Development and Evaluation of Alternatives Report (Permit Condition Part IV.D.3.b.v.) are also attached.

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 Plan process actively involves the affected public.

Sincerely,

Captain Bill Sheehan, Riverkeeper & Executive Director, Hackensack Riverkeeper
Drew Curtis, Senior Equitable Development Manager, Ironbound Community Corporation
Lawrence Levine, Director, Urban Water Infrastructure & Senior Attorney, Natural Resources Defense Council
Chris Sturm, Managing Director, Policy and Water, New Jersey Future
Greg Remaud, Baykeeper & CEO, NY/NJ Baykeeper

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Jennifer Feltis, NJDEP
Rachel Pepe, NJDEP
Julie Krause, NJDEP
Jeff McMullen, NJDEP
Bridget Mckenna, Chief Operating Officer, Passaic Valley Sewerage Commission
Tim Boyle, Superintendent, City of Bayonne Department of Public Works
Frank Pestana, Licensed Operator, East Newark Borough and Guttenberg Town, Executive Director, North Bergen MUA and North Bergen MUA-Woodcliff
Rocco Russomano, Town Engineer, Harrison Town
Rich Haytas, Senior Engineer, Jersey City MUA
Steven Fulop, Mayor, Jersey City
Jeremy Farrell, Executive Director, Jersey City MUA
Robert Smith, Town Administrator, Town of Kearny
Andrea Hall Adebowale, Director of Newark Water and Sewer Utilities
Ras Baraka, Mayor, City of Newark
Manny Ojeda, Director of Public Works, 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, Perth Amboy

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
Francisco “Frank” Moran, Mayor, City of Camden
Andrew Kricun, 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
Alyssa Arcaya, Chief, Clean Water Regulatory Branch, EPA Region 2
Robert Pirani, Program Director, New York-New Jersey Harbor & Estuary Program
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Christopher C. Obropta, Associate Extension Specialist in Water Resources, Rutgers Cooperative Extension Water Resource Program
Cheryl Mack, Bayonne Water Guardians
Sarah Bryant, Camden SMART
Mike Duffy, Gloucester City Municipal Action Team
Mayor James Fife, Harrison TIDE
Katherine Lawrence, Jersey City START
Thomas Gibbons, Jersey City START
Chris Vasquez, Kearny AWAKE
Dave Mach, Keany AWAKE
Nicole Miller, Newark DIG
Sue Levine, Paterson SMART
Maximo Vazquez, Perth Amboy SWIM
Kandyce Perry, Trenton Green Infrastructure Partners

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Submitted 8/3/18 by Hackensack Riverkeeper, Ironbound Community Corporation, Natural Resources Defense Council, New Jersey Future, NJ/NY Baykeeper

1. Public Participation Process:

DEP has stated that permit holders should establish a “two-way dialogue”¹ with the Supplemental CSO Teams and the public “to share information and to provide input to the planning process”² on the LTCP. This includes soliciting “their input for consideration in the evaluation of CSO control alternatives”³ and ensuring that community benefits are reported on in the Development and Evaluation of Alternatives report and the LTCP.

We recommend the following to meet this objective:

- DEP should require permittees submit documentation verifying that they are following the agency’s guidance to use Supplemental CSO Teams for “feedback on community reaction, effective ways to share information, and input on the permittees’ public participation strategy,”⁴ and that they are taking this feedback into consideration before finalizing outreach plans and materials. As noted by DEP, local community groups have knowledge of local community issues and constraints that permittees need to utilize in order to conduct meaningful community outreach.⁵

- DEP should require permit holders to solicit comments from the public on complete drafts of both the Development of the Evaluation of Alternatives and the Selection and Implementation of Alternatives reports. DEP should require permit holders to prepare and publish responses to comments that “document decisions or changes made in response to comments,”⁶ and

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>

² NJDEP. (2018). “Public Participation Process Report: A Guide to Developing Your Public Participation Report.” Retrieved from: https://www.nj.gov/dep/dwq/pdf/CSO_Public_Participation_Resource_Document.pdf

³ Id.

⁴ 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>

⁵ NJDEP. (2018). “Community Collaboration.” Retrieved from: <https://www.nj.gov/dep/dwq/cso-commcoll.htm>

⁶ Kirk Pfugh, K. (2015) “How to Engage the Community in Long Term Control Planning.” Presentation from NJDEP Reinvesting in Urban Water Infrastructure through CSO LTCP, Newark, NJ. Retrived from: <https://www.nj.gov/dep/dwq/pdf/cso-ppt-engage-comm-ltcp.pdf>.

these comments and responses should be submitted to DEP as an appendix to their final reports.

- Either the permit holder should develop a community engagement plan with the Supplemental CSO Team/Municipal Action Team and submit an endorsement letter to DEP documenting an agreed upon plan (for example, the City of Newark has a robust community engagement plan that was developed with Newark DIG and its Community-based CSO Supplemental Team), or complete drafts of the Development and Evaluation of Alternatives reports should be released to the Supplemental CSO Teams, Municipal Action Teams, Green Teams, and the general public for review at least 60 days before the deadline for submission to DEP and the Selection and Implementation of Alternatives reports released at least 90 days before the submission deadline. The 60-day and 90-day periods should be structured to allow both a fair opportunity for public comments and adequate time for permittees to review public comments and make changes as appropriate (e.g., a 30-day comment deadline for the first report, and a 45-day deadline for the latter).
- As recommended by DEP, permit holders should hire dedicated appropriate personnel, such as an “Outreach Coordinator”⁷ to maintain regular communication and transparency with stakeholders, and provide timely responses to requests for information.
- For improved public participation, it is recommended that DEP require permit holders either to hold a minimum of three public meetings during the Development and Evaluation of Alternatives (Permit Condition Part IV.D.3.b.v.) and the Selection and Implementation of Alternatives Report in the final LTCP (Permit Condition Part IV.D.3.b.vi.) or to submit an endorsement letter signed by the Supplemental CSO Team/Municipal Action Team documenting an agreed upon engagement plan.

These meetings should include:

- 1.) A launch meeting for the evaluation of alternatives, to define the problem.
- 2.) A meeting to present the draft Development and Evaluation of Alternatives report, that could be 60-days before it is submitted to

⁷ Id.

the DEP or at an agreed upon date with the Supplemental CSO Team.

3.) A meeting to present the the Selection and Implementation of Alternatives Report in the final LTCP draft to the public, that could be 90 days before it is submitted to the DEP or at an agreed upon date with the Supplemental CSO Team.

- DEP should meet with/or attend CSO Supplemental Team and Municipal Action Team meetings to gather feedback on the Public Participation Plans before deciding whether to approve them.
- DEP previously “request[ed] permittees to make information public on an easily accessible platform that is regularly updated.”⁸ DEP should recommend 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 to access information. Information should be in a “format and language appropriate to community demographics.”⁹
 - The DEP should require permittees to post all CSO reports publicly on their websites or sharing platform that is accessible to the public.
- DEP should 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.”¹⁰
- DEP should require permittees to describe the extent to which disproportionately impacted populations have participated.
- Municipal permittees participating in regional efforts (such as municipalities served by the Passaic Valley Sewerage Commision or by a regional sewerage or utilities authority) should submit public participation reports that outline their plans for public participation within their own municipality.

⁸ NJDEP. (2018). “Public Participation Process Report: A Guide to Developing Your Public Participation Report.” Retrieved from: https://www.nj.gov/dep/dwq/pdf/CSO_Public_Participation_Resource_Document.pdf

⁹ Id.

¹⁰ Kirk Pfugh, K. (2015) “How to Engage the Community in Long Term Control Planning.” Presentation from NJDEP Reinvesting in Urban Water Infrastructure through CSO LTCP, Newark, NJ. Retrived from: <https://www.nj.gov/dep/dwq/pdf/cso-ppt-engage-comm-ltcp.pdf>.

- All permit holders should “include information on how and when hydraulically connected communities are incorporated into the public participation process.”¹¹
- DEP should meet with leadership of CSO permittees (mayors, utility CEOs, business administrators) to explain the evaluation and selection of alternatives process and public participation process requirements.
- As questions arise, DEP should provide information on its website on how it interprets permit requirements to the public and permit holders to create a baseline understanding for review. For example, which “water quality standards” should the alternatives be evaluated against?
- DEP should clarify the role of community leaders and organizations who attend Supplemental CSO Team meetings in CSO and LTCP community education efforts. Funding should be made available for community leaders and staff of community organizations who are using their own resources to bring information back to their communities.

2. Development and Evaluation of Alternatives and Selection and Implementation of Alternatives:

DEP should issue guidance to permittees on the Development and Evaluation of Alternatives and the Selection and Implementation of Alternatives reports as soon as possible.

We recommend this guidance include:

- Producing public-facing executive summaries that are targeted for the general public, elected officials, and community groups. (DEP should consult with stakeholders including the Jersey Water Works Combined Sewer Overflow Committee, on the recommended contents of the executive summaries). These executive summaries should include quantitative reporting on the contribution towards CSO mitigation of various gray and green techniques as well as on the community benefits anticipated from the various green and gray alternatives proposed for the LTCP.
- Quantitative techniques for reporting on the contribution towards CSO mitigation of various gray and green techniques. (Note that Jersey Water Works Combined Sewer Overflow committee is working to recommend reporting options; the group

¹¹ NJDEP. (2018). “Public Participation Process Report: A Guide to Developing Your Public Participation Report.” Retrieved from: https://www.nj.gov/dep/dwq/pdf/CSO_Public_Participation_Resource_Document.pdf

includes permittees, consultants, environmental advocates, DEP staff, and others.)

- Quantitative techniques for reporting on the community benefits anticipated from the various green and gray alternatives proposed for the LTCP. How to incorporate into the LTCPs community-based GI projects already installed, specifically on how to handle community-based projects that may not have design metrics (i.e., rain barrels, cisterns, small rain gardens, etc.).
- Guidance specifically directed at municipalities with very limited capacity.
- Options for how to finance CSO mitigation, specifically to inform the development of the evaluation and selection of alternatives.