



**Comments on  
Draft NJPDES CSO Permits—Town of Guttenberg and  
North Bergen Municipal Utilities Authority**

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

Dear Assistant Commissioner Gardner, Director Brogle, and Bureau Chief Rosenwinkle,

Thank you to the New Jersey Department of Environmental Protection (NJDEP or the Department) for the opportunity to provide comments on the draft New Jersey Pollutant Discharge Elimination System (NJPDES) combined sewer overflow (CSO) permits issued to the Town of Guttenberg and the North Bergen Municipal Utilities Authority. The release of these draft permits signals the prioritization of NJDEP to reduce CSO discharges that will improve New Jersey's waterways.

New Jersey Future (NJF) is largely in support of this draft permit, and supports requirements to reduce combined sewer discharges to improve water quality in New Jersey. Addressing water quality issues by: 1) reducing flooding and CSO discharges, and 2) ensuring the proper maintenance of infrastructure will protect public health, the environment, and economic redevelopment. NJF appreciates that the permit addresses the following issues: climate resilience, green infrastructure, water quality, environmental justice, and increased public engagement. However, we request modifications to this permit for stronger requirements, enforcement, and public engagement in a few areas.

We ask that this final permit, and all future CSO permits, have clear conditions and requirements reflecting the highest standards for design of control measures, implementation, and public engagement. Where updated permit requirements are not possible, we request that NJDEP provides separate guidance documents to permittees. Below are NJF's recommendations as well as some questions that need further clarification.

**Green Infrastructure and Control Measures:**

NJF supports the prioritization of green infrastructure projects to improve water quality, reduce localized flooding, and increase wet weather CSO capture. CSO control alternatives, including

green infrastructure, are important components in achieving 92% capture of combined sewage collected during wet weather.

- NJF regards green infrastructure as an integral stormwater management practice and an essential climate-resilient solution that has benefits for CSO volume reduction and water quality improvement. Overall, we would like NJDEP to encourage green infrastructure and the maintenance of these projects throughout the permit. NJDEP must ensure that the benefit from the few green infrastructure projects required as part of this permit be maximized by accelerating timelines. Below are specific recommendations:
  - The Department should provide additional guidance for permittees to ensure that green infrastructure is considered as part of gray infrastructure projects to address both solutions simultaneously and achieve economies of scale while ensuring affordability to ratepayers.
  - The Department should require an expedited project timeline for green infrastructure projects, including the 100 planter boxes - shorter than the 10 years allowed in the permit.
  
- This permit contains nine CSO controls that were also included in the 2015 permit. The first control requires “Proper Operations and Maintenance Programs for the Sewer System and CSO.” Under section f.iii. of this permit (Page 8 of 21), a system cleaning program must be implemented, requiring the system components be inspected and cleaned. The permittee is required to submit an annual progress report on this system cleaning with the intention of 100% of the system inspected and cleaned by the end of the effective permit. The permit should require the permittee to provide documentation that all green infrastructure practices are being inspected and maintained in accordance with the operations and maintenance manual. We ask that NJDEP’s role in enforcing green infrastructure projects be clarified in this permit and future permits. Recommendations include:
  - Enforcement mechanism in place to ensure that the green infrastructure practices required as part of the permit are being properly maintained.
  - Guidance for the inspection and enforcement of all projects, including green infrastructure. What method will be used to ensure that the permittee is complying with the maintenance plan for these projects?
  
- The community should be included in the planning and implementation of green infrastructure, including the planter boxes, to ensure equitable outcomes. To this end, recommendations include:
  - Having the permittees work closely with the community in the siting of the planter boxes and other green infrastructure projects mentioned in the permit.
  - Ensuring the community has additional information on the two green infrastructure projects cited in the North Bergen Municipal Utilities Authority permit. They are currently described as green infrastructure project #1 and green infrastructure #2.

- We recommend that NJDEP incorporate the [Green Infrastructure Supplemental Resource](#) from 2018 into the LTCP, as well as this permit and future permits, and that the supplemental resource is updated to include accurate data to control stormwater issues.

### **Climate Change Modeling and Resilience Planning:**

New Jersey faces a multitude of climate change impacts, including more intense rain events and rising sea levels. Flooding issues will be worsened due to climate change, so it is imperative to plan ahead and create climate resilient communities. It is important to use updated and accurate data to protect the environment, infrastructure, public health, and all New Jerseyans from the consequences of climate change.

We are happy to see that the facility flood proofing plan is based on sea level rise data that will protect the plant from climate threats. NJF also supports that the permittee is required to track changes in precipitation and address them. At this time, there is still vague language in the permits related to climate change and adaptive management planning that should be addressed to provide more consistent and clear guidance that aligns with the pending New Jersey Protection Against Climate Threat (NJ PACT) rules. Specific recommendations include:

- Providing clear guidance on how NJ PACT rules, anticipated in 2023, will be incorporated into this permit and future regional CSO permits.
- Future hydrologic and hydraulic modeling should be updated, [based on precipitation data and modeling](#) from the Northeast Regional Climate Center released in November 2021.

### **Funding and Affordability:**

- We appreciate that an Asset Management Plan (AMP) requirement is included in this permit. NJF recommendations include the following:
  - NJDEP provides clarity as to how affordability is assessed as part of the AMP.
  - The Supplemental Team is able to provide feedback on the Asset Management Plan and how rates are established to ensure that rates are fair and transparent.
  - NJDEP provides specificity in its guidance to permit holders around other cost-effective, innovative financing opportunities to help finance this work equitably, such as Infrastructure Bank low-interest loan programs, utilizing more green infrastructure, grants, and more.
- This permit should not extend the timeline for requirements to reduce rate increase, as this will extend the time that the community faces environmental and public health issues caused by CSO discharges during wet weather. We recommend that:
  - NJDEP works with the permittees to ensure the shortest possible timelines, while still ensuring affordability.
  - NJDEP provides guidance to permittees on tracking and demonstrating how affordability is demonstrated.
- In 2023, the Environmental Protection Agency (EPA) released the final 2023 [Clean Water Act Financial Capability Assessment Guide](#), which was created to help

communities “seek ways to minimize financial impacts while ensuring residents also enjoy the benefits of infrastructure investments and improved water quality.” To ensure that rate-payers are not affected by the impacts of longer schedules while minimizing financial impacts on lower income households, NJF asks that NJDEP and permit holders for this permit and subsequent CSO permits, follow the EPA’s 2023 Clean Water Act Financial Capability Assessment Guidance.

- This permit does not provide clarity regarding the distribution of costs between the municipal and utility permit holders. The permit mentions that the Treatment Plant construction will be financed by the NBMUA and that the costs will be passed on to Guttenberg through rate increases. It is unclear what the rate increases will be, and how they will impact lower income households. We recommend that NJDEP incorporates a fair distribution of costs between municipal and utility permit holders applied across all permittees.
- NJF recognizes that it is vital to consider the financial impact on lower income rate-payers and overburdened households. NJF recommends that a review of the permit holders financial capability analysis, including interest and inflation rates and related calculations be incorporated into the permit and clarify how affordability for lower income households is reflected.

## **Public Engagement and Environmental Justice**

We are glad to see the aspects of the permit that require public engagement, such as the requirement of hiring a Long Term Control Plan (LTCP) Coordinator, continuing a CSO Supplemental Team and subsequent team meetings, and the creation of a website with public notifications. Engaging and informing the community are important tools towards reducing or eliminating CSOs, which is why we ask NJDEP to strengthen requirements related to environmental justice, accessibility, and language justice.

- The Long Term Control Plan Coordinator requirement is a positive shift toward transparency. NJDEP should provide clear guidance on training and onboarding so that this position is consistent and transparent across all permit holders.
- We support the requirement of permittees to hold Supplemental Team meetings that require permittees to notify the Department of Environmental Justice 30 days in advance of a meeting, in order to include overburdened communities. Holding a combination of virtual and in-person meetings that are accessible must be a requirement and should include all community members. Regular meetings that provide a consistent and clearly defined feedback loop with the public where they are able to provide input as projects are implemented, and see how or if input is incorporated into final decisions will make the implementation process more successful. Recommendations include :
  - Ensuring that overburdened communities are fairly represented on Supplemental Teams.

- Requiring a minimum number of meetings yearly or quarterly to provide updates to the CSO Supplemental Team and the public to maintain transparency, consistency, and engagement.
- Clear definition for accessibility of meetings in this permit.
- Sewage back-ups may expose community members to *Escherichia coli* (*E. coli*) and other harmful bacteria and chemicals. Since this permit will not completely eliminate all flooding and water quality issues, it is important that community members are notified in advance of possible flooding events. We recommend that NJDEP require permittees to create alerts through a municipal notification system, similar to those used for emergency situations, in advance of potential sewer back-ups.

Overall, New Jersey Future supports this draft permit as it will improve water quality and reduce combined sewer overflows. Again, we ask NJDEP to please strengthen requirements as recommended and where that is not possible, to provide permittees separate guidance documents for the highest design standards, implementation and public engagement. We appreciate this opportunity to provide comments on the draft NJPDES CSO permits issued to the Town of Guttenberg and the North Bergen Municipal Utilities Authority.