

**Comments on Guttenberg/North Bergen Municipal Utility Authority (NBMUA) Draft
Combined Sewer Overflow (CSO) Permits
Submitted on behalf of the Jersey Water Works CSO Committee**

Jersey Water Works (JWW) is a collaborative effort of many diverse organizations and individuals who embrace the common purpose of transforming New Jersey's inadequate water infrastructure by investing in sustainable, cost-effective solutions that provide communities with clean water and waterways; healthier, safer neighborhoods; local jobs; flood and climate resilience; and economic growth.

JWW believes that municipalities and water systems should adopt innovative Combined Sewer Overflow (CSO) Long Term Control Plans (LTCPs) with cost-effective solutions that meet or exceed permit requirements and provide multiple community benefits. The Jersey Water Works CSO Committee has reviewed the Guttenberg/NBMUA Draft CSO Permits, with this goal in mind.

The JWW CSO Committee sincerely thanks and commends the New Jersey Department of Environmental Protection (NJDEP) for all of its work on the CSO Long Term Control Plan process from the very beginning of the initiative to its culmination with the issuance of the CSO permits. Throughout this process, the NJDEP has truly prioritized water quality, public health and safety, community benefit, public participation and environmental and social justice in an engaged and transparent way. This approach has resulted in Long Term Control Plans that will improve the quality of life for the CSO communities and the waterways of New Jersey. We thank the Department for their thoughtful approach to this complicated problem.

The JWW CSO Committee respectfully submits the following comments:

Public Engagement: We commend NJDEP for shifting the focus from public participation to public engagement in order to inform, educate and engage specific implementation of the CSO control projects. Public engagement should be continuous and effective to ensure that the public knows what is in the plan and its consequences (page 5, [JWW comments on LTCP](#)).

We recommend the following:

Supplemental Team:

1. Clarify the **role and responsibilities of the "Supplemental Team."** We recommend that the language be adjusted to ensure that members of the community, and especially those from Environmental Justice overburdened communities, are included in public engagement.
 - a. The Supplemental Team should have a transparent process of recruiting members and that the process is shared publicly.
 - b. Develop minimum requirements on methods used to recruit and replace CSO Supplemental Team members that ensures a cross-sector representation from the community, given the particular community's makeup.
 - c. Require that a majority percentage of community members are aware of the opportunity to participate on the team.
 - d. Ensure that once team members are identified, they are listed on the website with

clear methods to get in contact with them.

2. Develop **minimum requirements around the number of Supplemental Team meetings** to be held annually so that meetings are not only held when a project is occurring, but with a frequency that will keep the public informed. For example, require a minimum of two meetings annually, outside of any project-specific meetings. Require that these meetings also be an opportunity to share funding, jobs and training opportunities.
 - a. Require Permittee's public meetings to be held on-line, in person or a combination of both. Require meeting accessibility.
 - b. Clearly establish a process for how Supplemental Team input will be documented, incorporated into the planning and design process, and made public.
 - c. Clearly define the process on how the public within and outside of the community can give input to the Supplemental Team.
 - d. Clarify minimum outreach requirements to ensure overburdened communities are aware of Supplemental Team meetings including through social media and traditional print.
3. The Supplemental Team and the CSO public engagement **website** should post regular updates on the progress of implementing the LTCP. And, should any significant change to the LTCP be contemplated, the Supplemental Team and website viewers should also be notified as well, and given an opportunity to comment.
 - a. The website should also be updated with meeting materials including presentation slides and materials, flyers and meeting minutes.
 - b. The permittee should be required to provide responses to all questions regarding the LTCP, either from the Supplemental Team or from the public through the website, and make both questions and answers readily available on the website, to ensure full responsiveness and transparency.

LTCP Coordinator: NJDEP should draft a baseline requirement for what the LTCP Coordinator role is and their responsibilities including the minimum requirements for communication and outreach to the community.

4. Release a training manual for selecting and onboarding a new LTCP Coordinator. Provide clear guidance on how the permittee shall select an LTCP Coordinator and what training the LTCP Coordinator should receive to perform the role effectively.
5. Require a minimum number of LTCP milestone meetings with successful efforts in engaging the community.

Control Measures and Green vs. Gray Infrastructure: The permit should require that implementation of the LTCP, for either gray or green infrastructure, be accomplished in a manner that minimizes impact to the host community, especially during construction activities. This includes, but is not limited to, obeying local ordinances, dust, noise and traffic control, etc. We recommend that priority be given to the green and gray projects that have the fastest and greatest impact on CSO reduction and water quality improvement.

We recommend that NJDEP

1. Prioritize controls and projects based on the impact on CSO volume reduction and water quality improvements including well-designed green infrastructure.
2. Ensure that green infrastructure is implemented as much as possible, where possible, as quickly as possible.

3. Accelerate timelines for green infrastructure projects required in permit to maximize benefits. Green infrastructure projects should achieve significant results; they should not just create the appearance of action.
 - a. Is it possible for DEP to require the implementation of the green roof ordinance ASAP instead of waiting until 2026?
 - b. Can DEP adjust the implementation schedule of the 100 planter boxes to be installed within the next 5 years rather than 10 years?
4. Create a mechanism of enforcement to ensure that the permittee implements the system cleaning program.
5. Ensure the permit requires the permittee to provide documentation that all green infrastructure practices are being inspected and maintained in accordance with the operations and maintenance manual. A cross-reference to NJAC 7:8 and NJAC 7:14A requirements for stormwater practice maintenance would be useful.
6. Create a system of enforcement to ensure that green infrastructure practices are being maintained.
7. The plan calls for sewer separation but there is no discussion of treating the new stormwater discharges that will be created as part of this sewer separation. Will NJDEP require a reduction in total suspended solids from motor vehicles surfaces?

Climate Change and Resilience: NJDEP should provide guidance on how to incorporate rules being developed by the New Jersey Protecting Against Climate Threats (NJPACT) process. Additionally, permit conditions should include a requirement to update models reflecting available climate data and incorporate projections from NJ PACT ([page 4, JWW comments on LTCP plans](#)). NJDEP should require an updated recalibration based on new climate data at the end of each permit cycle.

Water Quality: We recommend NJDEP

1. Require the permittee to conduct water quality sampling near CSO outfalls during implementation of LTCP projects and during wet weather events that generate overflows.
2. Utilize water quality and precipitation data to look at opportunities to improve protections on the waterbody such as a Use Attainability Analysis.

Construction, Operations and Maintenance: We recommend NJDEP

1. Define more clearly the Department's role in inspecting and enforcing all projects, including gray and green infrastructure.
2. Include language that explains the steps the DEP will take if the permittee does not comply annually on the system cleaning program and if they do not meet the 100% inspection and cleaning of the system at the end of the respective permit (5 years).
3. Require performance factors and deficiencies to be communicated to the public.

The JWW CSO Committee sincerely thanks the NJDEP for accepting and incorporating its earlier comments regarding the necessity of cleaning the sewers on a regular basis in order to maximize wet weather storage and conveyance. The requirement of an affirmative certification of the cleaning is very important as well. We also suggest that the permit include some sort of compliance and enforcement language that makes it clear to the permittees that there will be serious consequences if this permit requirement is not met on a continual basis.

Financing and Affordability: We recommend NJDEP

1. Ensure the CSO Supplemental Team provides input on the Asset Management Plan and how the wastewater utility or municipality is establishing rates.
2. Specify guidance to permit holders around other cost-effective, innovative financing opportunities to help finance this work equitably, such as stormwater utilities, Infrastructure Bank low-interest loan programs, utilizing more green infrastructure, grants, and more.
3. Provide guidance on ways the permittee can demonstrate their commitment to affordability.
4. Will NJDEP apply the new EPA guidelines ([Clean Water Act Financial Capability Assessment Guidance](#), February 2023) to insist on permittees doing a Financial Alternatives Assessment and shorten compliance schedules to more equitably and affordably fund CSO controls?

The JWW CSO Committee once again thanks the NJDEP for its outstanding work to develop CSO permits that are protective of the public health and environment and endeavor to maximize community benefit as well. We appreciate the opportunity to submit the foregoing comments and appreciate your consideration of them. Please let us know if you have any questions or would like to discuss any of these comments with us.

Sincerely,
Jersey Water Works CSO Committee

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