

**Comments on City of Elizabeth and Joint Meeting of Essex & Union Counties (JMEUC) 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.

At JWW, we believe it is important for cities and water systems to use innovative solutions to control Combined Sewer Overflows (CSO). The Long Term Control Plans (LTCPs) created to address CSOs should promote stringent permit requirements that bring affordable benefits to the community. The New Jersey Pollutant Discharge Elimination System (NJPDES) Draft Combined Sewer Overflow Permits NJ0108782 and NJ0024741—the City of Elizabeth and the Joint Meeting of Essex and Union Counties (JMEUC)—were reviewed by the JWW CSO Committee with these objectives in focus.

The JWW CSO Committee thanks the New Jersey Department of Environmental Protection (NJDEP) for all of its work on the CSO LTCP process from the very beginning of the initiative to its release of the CSO permits.

The JWW CSO Committee respectfully submits the following comments:

We recommend that the NJDEP strengthens requirements in certain areas as described in the comments below. Where strengthening requirements is not possible by NJDEP, we recommend that the NJDEP provide **separate, concurrent guidance (in a document) for permittees**. When providing guidance, we recommend NJDEP be as **specific and prescriptive** in their overall guidance as possible.

Public Engagement: We acknowledge and commend the NJDEP for drafting a [Public Engagement Guidance](#) document for the public to review. We look forward to reviewing it and providing suggestions. In the meantime, we would like to make the following recommendations for consideration while the guidance is still being created.

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 or overburdened communities, are actively included in public engagement.
 - a. The Supplemental Team should have a transparent process for recruiting members and that process should be 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 online, in person, or in a hybrid setting. Require meeting accessibility with clearly defined terms for accessibility for language, visual, audio, and physical access.
 - 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. Regular progress updates on the implementation of the LTCP should be posted on the Supplemental Team and CSO public engagement website. In case of any significant changes to the LTCP, the Supplemental Team should notify the website viewers and provide them with 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 both questions and answers should be 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 what their responsibilities are, 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. Furthermore, strongly encourage the permit holder to select an LTCP Coordinator who is a current community member from an overburdened community, as this will increase the chances that community voices are part of the public engagement process.
5. Require a minimum number of LTCP milestone meetings with successful efforts in engaging the community.

Control Measures and Green vs. Gray Infrastructure: All controls should be prioritized to have the greatest impact on CSOs and local flooding in the shortest timeframe, while maintaining affordability for lower income households. For this permit, the greatest concern is the 20-year timeframe.

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, 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.

More specifically, we recommend that NJDEP:

1. Work with the permit holder to leverage their expertise and support to accelerate implementation of the Upper Westerly Interceptor Upgrade and the Morris Avenue Siphon Upgrade. This is another avenue for shortening timelines toward achieving the minimum 85% capture goal. If funding is required to support this, encourage the permit holder to take advantage of the once-in-a-lifetime federal funding from NJ Water Bank, etc. to get projects underway sooner.
2. We appreciate that the permit holder is committed to a green infrastructure pilot program. NJDEP must ensure that the benefit from the program is maximized by accelerating timelines and creating maintenance plans. The permittee should work collaboratively with the community to identify locations for green infrastructure projects to maximize community benefit.
3. Include interim project deliverables in this permit and subsequent permits.
4. Prioritize controls and projects based on the impact on CSO volume reduction and water quality improvements including well-designed green infrastructure.
5. Ensure that green infrastructure is implemented as much as possible, wherever possible, and as quickly as possible.
6. Create a system of enforcement to ensure that green infrastructure practices are being maintained.
7. Ensure that 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 New Jersey Administrative Code 7:8 and New Jersey Administrative Code 7:14A requirements for stormwater practice maintenance would be useful.
8. Ensure that the permit holder develops a plan to evaluate changes in precipitation trends and quantifies the impact on the implementation plan and makes appropriate changes accordingly.
9. Provide concurrent guidance documents to permittees outlining best practices on engaging communities on water conservation methods to ensure this control alternative is properly utilized.

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](#)).

In addition, we recommend that NJDEP:

1. Require an updated recalibration based on new climate data at the end of each permit cycle.
2. Require the permittees to review the projected CSO reductions from the municipal Green Infrastructure projects and track and report on the impact that they will have on CSO

volume.

Water Quality: We recommend NJDEP:

1. Encourage the permittee to shorten project timelines to achieve 85% capture in the City of Elizabeth, as prolonged timelines will further impair the Elizabeth River, Arthur Kill, and Newark Bay. Specifically, the planned projects that should be implemented as soon as possible include the Upper Westerly Interceptor Upgrade, the Morris Avenue Siphon Upgrade, and the new wet weather pump stations expected to be completed in the year 2039-2043.
2. Require the permittee to conduct water quality sampling near CSO outfalls during implementation of LTCP projects and during wet weather events that generate overflows.
3. Further protect the public from the effects of CSO events by maintaining transparency and conducting outreach around water quality and sampling. Due to the increased risks in the 24–72 hours after a CSO event, this information should be communicated to recreational users of the impacted waterways in a timely manner.
4. Utilize water quality and precipitation data to look at opportunities to improve protections on the waterbody such as a Use Attainability Analysis.
5. Partner with organizations such as New York-New Jersey Harbor & Estuary Program to expand [this digital tool](#) for recreational uses in New Jersey waters, specifically in the state's CSO-impacted bodies of water. This information should inform reclassification of waters, particularly where swimming or other primary contact recreation is taking place in waters not currently managed for that use, and water quality standards should be updated to ensure that primary contact users are protected.

Construction, Operations, and Maintenance: We recommend NJDEP:

1. Define more clearly NJDEP's role in inspecting and enforcing all projects, including gray and green infrastructure.
2. Include language that explains the steps that NJDEP 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 (five years).
3. Require performance factors and deficiencies to be communicated to the public.
4. Include compliance and enforcement language that makes it clear to the permittees that there will be serious consequences if the requirement of cleaning the sewers is not met on a continual basis.

Financing and Affordability: We appreciate NJDEP's requirement that a financial capability analysis be conducted.

We recommend NJDEP:

1. Issue concurrent guidance to permittees to assist them with tracking and demonstrating their work on affordability.
2. Specify guidance to permit holders around other cost-effective, innovative financing opportunities to help finance this work equitably, such as stormwater utilities, Water Bank low-interest loan programs, utilizing more green infrastructure, grants, and more. This guidance on innovative funding strategies should be given concurrently with the release of the final permit so that it may be incorporated into the final implementation plans with a

goal of shortening timelines around critical projects while maintaining affordability for ratepayers.

3. Engage community members in discussions to decide innovative funding strategies.
4. Provide guidance and technical assistance for municipal CSO permittees to conduct stormwater utility fee feasibility studies to determine if this assessment opportunity would be beneficial for their communities.
5. Ensure the shortest timeline possible, while still ensuring affordability.
 - a. Can NJDEP require that permittees not only do the standard calculations but also an alternative calculation taking into account new federal funding that would reduce ratepayer burden and accelerate environmental and community benefits?
 - b. We recommend NJDEP encourage JMEUC to undertake this project for the City of Elizabeth so that the costs would be spread out over all of Joint Meeting's customers, rather than just customers of Elizabeth. The same total costs would be spread out over more users that have a higher median household income. This would improve the affordability calculation considerably.
6. Ensure the CSO Supplemental Team provides input on the Asset Management Plan and how the wastewater utility or municipality is establishing rates.
7. Regarding this permit and future regional CSO permits, will NJDEP and permit holders utilize the new U.S. Environmental Protection Agency guidelines ([Clean Water Act Financial Capability Assessment Guidance](#), February 2023) to lessen the impact on residents during longer implementation schedules while minimizing financial impacts on lower income households?
 - a. Knowing that connecting this funding to the ability to shorten timelines is so critical, how can the NJDEP actively encourage and help permit holders to take advantage of this?

The JWW CSO Committee expresses thanks to the NJDEP for their efforts in developing CSO permits. Thank you for the chance to provide these comments. We look forward to your response and hope you can incorporate these recommendations before this permit and the previous permit for North Hudson Sewerage Authority are finalized.

Sincerely,
Jersey Water Works CSO Committee

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