

**Comments on the Middlesex County Utilities Authority and the City of Perth Amboy Draft
Combined Sewer Overflow (CSO) Permits
Submitted on behalf of the Jersey Water Works CSO Committee
January 2026**

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 wastewater systems to use innovative solutions to control Combined Sewer Overflows (CSOs). 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 for Middlesex County Utilities Authority (NJ0020141) and the City of Perth Amboy (NJ0156132) 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 these CSO permits.

The JWW CSO Committee respectfully submits the following comments:

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

Public Engagement: We commend the NJDEP for issuing the *Public Engagement Guidance* document. The distribution of the *Public Engagement Guidance* document should be prioritized by NJDEP. We recommend the following:

Supplemental Team: Over the last year, JWW partners have participated in the Supplemental Team meetings held by permittees with finalized permits, which have been valuable in engaging the community.

1. Clarify the **role and responsibilities of the "Supplemental Team."** We recommend that the language be adjusted to ensure that members of the community, 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 this process should be publicly shared.
 - b. Develop minimum requirements on recruiting and replacing CSO Supplemental Team members that ensure cross-sector representation of the community, given

- its 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 for contacting them.
2. Develop **minimum requirements for the number of Supplemental Team meetings** to be held annually, ensuring that meetings are not only held when a project is ongoing, but also at a frequency that keeps the public informed and engaged. For example, require a minimum of two meetings annually, outside of any project-specific meetings. Require that these meetings also serve as an opportunity to share funding, job opportunities, and training opportunities.
- a. 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 of how the public within and outside of the community can give input to the Supplemental Team.
 - d. Clarify the minimum outreach requirements to ensure that overburdened communities are aware of Supplemental Team meetings, including through social media and traditional print media.
3. Regular progress updates on implementing the LTCP should be posted on the Supplemental Team and CSO public engagement website. In the event of any significant changes to the LTCP, the Supplemental Team should notify website viewers and provide them with an opportunity to comment.
- a. The website should also be updated with meeting materials, including presentation slides, 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. 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 the LTCP Coordinator's role and responsibilities, including the minimum requirements for communication and outreach to the community.

- 1. 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 local to the area, or at least, a person with actual familiarity working in/with the community, as this will increase the effectiveness of the engagement.
- 2. Require a minimum number of LTCP milestone meetings with successful efforts in engaging the community.

Going Beyond the Supplemental Team: Permit holders should engage as many community members as possible in the decision-making process, not only through the CSO Supplemental Team, but also through associated outreach via local community-based organizations.

- 1. Ensure community members in impacted and overburdened neighborhoods are deeply involved throughout the implementation process.

2. Utilize existing networks and frameworks of community groups to facilitate outreach and engagement. However, it is important not to put the workload on these groups, but to simply funnel information to be shared widely within the community.

Overall, we recommend a consistent process for evaluating the success of the public engagement process. NJDEP should require routine and periodic evaluations.

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.

The permit should require that implementation of the LTCP, for either gray or green infrastructure (GI), 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, maintaining dust control, minimizing noise, and adhering to traffic control regulations, among others. We recommend prioritizing the green and gray projects that have the fastest and greatest impact on CSO reduction and water quality improvement.

To achieve significant reductions in CSO events and to enhance community engagement while maximizing benefits, we recommend that GI projects be completed within the first five years. These projects can help achieve a significant reduction in the number of CSO events by eliminating CSOs associated with smaller precipitation events.

More specifically, we recommend that NJDEP:

1. Work with the permit holder to leverage their expertise and support to accelerate the implementation of the sewer separation projects. 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 federal funding from NJ Water Bank, etc., to get projects underway sooner.
2. Provide additional guidance for permittees to ensure that high-impact green infrastructure is considered as part of gray infrastructure projects, addressing both solutions simultaneously and achieving economies of scale, while ensuring affordability to ratepayers. Permittee holders should be encouraged to explore opportunities for implementing Complete and Green Streets. For reference, the New Jersey Department of Transportation's [Complete & Green Streets for All: Model Complete Streets Policy and Guide](#) outlines policy implementation strategies and checklists to enable the implementation of complete and green streets. We hope permittees will conduct LCTPs simultaneously with green streets to reduce the overall cost and impact on community members during construction.
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 sections 7:8 and 7:14A would be useful for the requirements related to stormwater practice maintenance.
8. Provide concurrent guidance documents to permittees outlining best practices for engaging communities on water conservation methods, ensuring 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 that reflect available climate data and incorporate projections from the NJ PACT (page 4, JWW comments on LTCP plans).

Governor Phil Murphy announced the adoption of the landmark Inland Flood Protection Rule to better protect New Jersey communities on the frontlines of severe flooding and increased storm events. The Inland Flood Protection Rule updates outdated portions of the Flood Hazard Area and Stormwater Management Rules to better protect people and property from the devastating flooding that science indicates is occurring with increasing frequency due to climate change.

1. How will the Permit Holder be required to adjust their current 15-year plan to include these new precipitation models and projections?
2. How will this be documented and reported on? Will the NJDEP require permit holders to review the projected CSO removals and determine whether current projections of precipitation and sea level rise due to climate change necessitate alterations to the implementation plan?
3. In addition to addressing extra rainfall in the climate reports that are required, is Perth Amboy also looking at river level rise? River level rise could make it more difficult for combined sewer overflow outfalls to release at high tide and could, correspondingly, result in more combined sewage flooding within the City.

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 climate change impact that they will have on CSO volume.
3. Require that permittees make public how climate change will impact their Vulnerability Assessments during emergency conditions as part of an Emergency Plan to ensure the effective operation of the treatment works and facilities under emergency conditions.
4. Encourage all permit holders to use EPA's [Climate Resilience Evaluation and Awareness Tool](#) (CREAT) for assessing climate resiliency.

Water Quality: We are pleased to see that the project schedule targets some of the more expensive areas early, resulting in a 70% capture rate within the first 16 years. However, since most of the work is sequential, it leads to a 40-year duration. We recommend that NJDEP:

1. Encourage the permittees to shorten project timelines to achieve an 85% capture rate, as prolonged timelines will further impair the Raritan River and the Raritan Bay. NJDEP should encourage permittees to shorten the estimated 40-year project timeline in the permit so as not to prolong and worsen water quality impairments.
 - a. How many overflows per year are anticipated if/when the 85% capture goal is met?
2. Require the permittee to conduct water quality sampling near CSO outfalls during the 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 the 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 the reclassification of waters, particularly where swimming or other primary contact recreation is taking place in waters not currently managed for that use. Water quality standards should be updated to ensure that primary contact users are protected.

Construction, Operations, and Maintenance: It is critical to ensure that the planning, design, and construction of CSO controls are well-planned, adequately funded, and properly maintained.

In addition, we recommend NJDEP:

1. Define NJDEP's role in inspecting and enforcing all projects, including gray and green infrastructure, more clearly.
2. Include language that explains the steps that NJDEP will take if the permittee does not comply annually with 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. Require proper maintenance and setting of the regulators and tide gates to ensure that there are no dry weather overflows and that wet weather flow is captured optimally.
5. Require the permittee to engage communities in identifying methods to mitigate construction impacts, going beyond informing the public.
6. Include compliance and enforcement language that makes it clear to permittees that there will be serious consequences if the requirement to clean the sewers is not met on a continuous basis.

Financing and Affordability: We appreciate NJDEP's requirement that a financial capability analysis be conducted. Permittees should conduct a thorough review of funding alternatives to see if they can reduce costs and shorten the timeline with equity in mind.

We recommend NJDEP:

1. Ensure fair apportionment of CSO improvement costs. Any improvements to the upstream sewer collection systems that reduce flow to the MCUA treatment plant should also be

borne by MCUA, not the individual CSO municipality, because reduced flow at the regional MCUA treatment plant benefits all MCUA customers.

- a. Could MCUA require upstream, separate sewer municipalities to implement infiltration/inflow reductions in order to free up more wet weather capacity at their sewage treatment plant? If not, could MCUA consider paying for a portion of Perth Amboy's CSO costs?
2. Issue concurrent guidance to permittees to assist them with tracking and demonstrating their work on affordability.
3. Specify guidance to permit holders around other cost-effective, innovative financing opportunities to help finance this work equitably, such as stormwater utilities, century bonds, NJ Water Bank low-interest loan programs, green infrastructure, grant programs, and more. This guidance on innovative funding strategies should be released concurrently with the final permit, allowing it to be incorporated into the final implementation plans. The goal is to shorten timelines for critical projects while maintaining affordability for ratepayers.
4. The NJDEP should encourage permittees to collaborate on applying for Water Bank low-interest loans, thereby distributing the project cost among ratepayers. By spreading the cost among ratepayers, the 40-year project timeline could be reduced while ensuring affordability to ratepayers.
5. Engage community members in discussions to decide innovative funding strategies.
6. Provide guidance and technical assistance to municipal CSO permittees to conduct stormwater utility fee feasibility studies, determining whether this assessment opportunity would benefit their communities.
7. Ensure the shortest timeline possible while still ensuring affordability.
 - a. Can the NJDEP require permittees not only to conduct the standard calculations but also to perform an alternative calculation considering how available federal funding would reduce the ratepayer burden and accelerate environmental and community benefits?
8. Ensure the CSO Supplemental Team provides input on the Asset Management Plan and how the wastewater utility or municipality establishes rates.
9. Regarding this permit and future regional CSO permits, will NJDEP and permit holders utilize the 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. Recognizing the importance of connecting this funding to the ability to shorten timelines, how can the NJDEP actively encourage and support permit holders in taking advantage of current federal funding opportunities?

The JWW CSO Committee thanks the NJDEP for its efforts in developing the CSO permits and for the opportunity to provide these comments. We look forward to your response and hope you can incorporate these recommendations before this permit and the previous permits are finalized.

Sincerely,
Jersey Water Works CSO Committee

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