



## State of New Jersey

PHIL MURPHY  
*Governor*

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Mail Code – 401-02B  
Water Pollution Management Element  
Bureau of Surface Water & Pretreatment Permitting  
P.O. Box 420 – 401 E State St  
Trenton, NJ 08625-0420  
Phone: (609) 292-4860 / Fax: (609) 984-7938

SHAWN M. LATOURETTE  
*Commissioner*

SHEILA OLIVER  
*Lt. Governor*

July 22, 2021

Daniel J. Loomis, City Engineer  
Department of Public Works  
Office of City Engineer  
50 Winfield Scott Plaza  
Elizabeth, NJ 07201-2462

Stephen Dowhan, Superintendent  
Joint Meeting of Essex & Union Counties  
500 South First Street  
Elizabeth, NJ 07202

Re: Review of Selection and Implementation of Alternatives of the Long Term Control Plan (LTCP)  
City of Elizabeth, NJPDES Permit No. NJ0108782  
Joint Meeting of Essex & Union Counties (JMEUC), NJPDES Permit No. NJ0024741

Dear Permittees:

Thank you for your submission dated October 2020 entitled “Selection and Implementation of Alternatives Report” for the City of Elizabeth (the City) and Joint Meeting of Essex & Union Counties (JMEUC) as submitted to the New Jersey Department of Environmental Protection (the Department). This report was submitted in a timely manner and was prepared in accordance with Part IV.D.3.b.vi of the above referenced New Jersey Pollutant Discharge Elimination System (NJPDES) permit. This submission was issued in response to the Long-Term Control Plan (LTCP) submittal requirements as due on October 1, 2020.

The overall objective of the LTCP is to identify and select CSO control alternatives that meet the requirements of the Federal CSO Control Policy Section II.C.4, N.J.A.C. 7:14A-11, Appendix C, and the USEPA Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832-B-95-002). The Federal CSO Policy establishes a framework for the coordination, planning, selection, and implementation of CSO controls required for permittee compliance with the Clean Water Act. This subject report builds on other previously submitted LTCP reports referenced in Part IV.D.3.b of the NJPDES permit, which includes an approved hydrologic, hydraulic and water quality model and other information in the June 2018 “System Characterization Report” (approved by the Department on January 17, 2019); the June 2018 “Public Participation Process Report (approved by the Department on February 7, 2019); the June 30, 2018 “NJCSO Group Compliance Monitoring Program Report” (approved by the Department on March 1, 2019); the June 2018 “Identification of Sensitive Areas Report” (approved by the Department on April 8, 2019); and the June 28, 2019 Development and Evaluation of Alternatives Report (DEAR) (approved by the Department on December 3, 2019).

The below represents the Department's initial comments. The Department reserves the right to further comment on these issues. Comments below are organized by report section where the majority of the specific subject matter is discussed within those sections of the letter. Revisions to the Executive Summary may be required as a result of comments on specific sections of the report. Comments are as follows:

## Certifications

Comment 1: Part IV.D.1.b of your existing CSO permit states the following:

"b. All reports submitted to the Department pursuant to the requirements of this permit shall comply with the signatory requirements of N.J.A.C. 7:14A-4.9, and contain the following certification:

- i. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for purposely, knowingly, recklessly, or negligently submitting false information".

The Department acknowledges that the above referenced certification statement is included in the report and signed by representatives for both permittees.

## Executive Summary

Comment 2: On page ES-1 under Introduction the following is stated:

"This submission fulfills the permit requirements for the selection of a practical and technically feasible Long Term Control Plan, documenting the process used to select a control program to cost-effectively meet the water quality-based requirements of the Clean Water Act. The proposed control program has been developed by the City and JMEUC, in consultation with NJDEP and the public, to meet the regulatory requirements with a reasonable and sustainable expenditure of public funds."

The NJPDES CSO permit requires permittees to meet the water quality based and technology-based requirements of the Clean Water Act (CWA) consistent with the National Combined Sewer Overflow Control Strategy issued on August 10, 1989 (54 Federal Register 37370). As stated in the March 12, 2015 NJPDES CSO permit:

**RESPONSE 63**: CSOs are subject to both the technology-based and water quality-based requirements of the CWA's discharge permitting system, National Strategy, 54 Fed. Reg. at 37371; National Policy, Part I.A, 59 Fed. Reg. at 18689, and permittees must satisfy the more stringent of the technology-based or water quality-based requirements of the CWA. N.J.A.C. 7:14A-13.2..."

Revise this statement.

## Section 2, Sewer System and Treatment Facilities Description

Comment 3: Section 2.1.3, Flow from Neighboring Communities states the following:

“The 42” Roselle Park storm sewer connection contributes significant wet weather flow to the upstream end of the large combined sewer drainage basin of the northwestern section of the City of Elizabeth. Furthermore, its impact on localized street flooding at the intersection of Park Avenue and Glenwood Road was recognized in a prior study by the City. Roselle Park has delineated a 120-acre drainage area as being tributary to the 42” storm sewer connection to the City combined sewer system. The City has been monitoring the flow from the connection on a continuous basis since December 2017 and has provided a draft inter-municipal agreement to the Borough of Roselle Park for the connection at Park Avenue, including a cost structure for a user charges and future construction and capital expenditures...”

In addition, Section 2.2, JMEUC Trunk Sewer System states the following:

“Historically, the JMEUC has not observed issues with sewer system overflows or flooding and the hydraulic modeling results have indicated no measurable flooding in the JMEUC system during the Typical Year rainfall, as described in the City of Elizabeth and JMEUC System Characterization Reports.”

Flooding of combined sewage in streets is a public health concern and is not acceptable. The Department acknowledges the City’s efforts to address the flooding issue with Roselle Park in the Park Avenue and Glenwood Road area. However, expand on this section to clarify which storm events cause this, and any other areas of localized flooding in the City. The LTCP must address the elimination of street flooding where this should be the utmost priority in the selection of alternatives.

Comment 4: Section 2.5, Significant Indirect Users states the following:

“The NJPDES CSO Permit requires that impacts from significant indirect users (SIUs) contributing to the CSOs are minimized. Based on the loading and toxicity of SIU contributions, each SIU is required to incorporate a level of pretreatment prior to discharge to the sewer system. JMEUC monitors SIUs for compliance with pretreatment requirements.

A facility is classified as a SIU if the permitted discharge is greater than 25,000 gallons per day (gpd) or the equivalent loading for a specific pollutant, or if the facility falls under a federal categorical group. This additional information indicates that eight (8) facilities located in Elizabeth are classified as Significant Indirect Users...”

Table 2-6 then includes a listing of eight facilities. Based on a review of the annual Pretreatment report, the Department notes that there are 3 additional facilities in the City of Elizabeth that discharge to JMEUC but are not included in this table, namely: Deb-El Food Products LLC, Duro Hilex Poly LLC and The Mills at Jersey Gardens. Clarify and/or amend this table accordingly.

### **Section 3, Baseline Sewer System Performance**

Comment 5: Section 3.4, Model Adjustments, Hydraulic Model Development states the following regarding the precipitation and sewer flow monitoring program utilized to develop the model for the combined sewer system:

“Following the completion of the baseline model for the system characterization, additional model review was conducted as were additional investigations under the City’s Municipal Separate Storm Sewer System (MS4) program...”

The updated model has been used as the base model for the evaluation and selection of the CSO control program, using the same precipitation data, flow metering data, and calibration periods...Percent

capture can be calculated based on either (1) the total flow in the full JMEUC system (i.e. JMEUC’s entire service area), or (2) the flow in only the Elizabeth sewer system. Calculations have been made and reported in this LTCP using both methods. The percent capture changes in the baseline condition resulting from updating of the model are presented in the following table. While the overflow volumes were reduced by about 20%, the wet weather inflow volumes decreased as well, resulting in a lower percent capture when using output from the updated model. The change in percent capture for both the Elizabeth system only, as well as the full JMEUC system are provided below:

**Table 3-1: Updates to System-Wide Percent Capture Calculation**

Percent Capture: System Characterization Model		Percent Capture: Updated Model	
Elizabeth system only	Full JMEUC system	Elizabeth system only	Full JMEUC system
66.5%	83.1%	58.3%	81.0%

The Department acknowledges these updates to the modeling and that the above values represent slightly more conservative baseline results. However, compliance will be assessed against a minimum of 85% capture of combined sewage entering the collection system during wet weather for the Elizabeth system only and not the Full JMEUC system. Confirm that this is the intended course of action

**Section 4, Water Quality Objectives**

Comment 6: Section 4.6, Consideration of Sensitive Areas, includes major findings and conclusions from the sensitive area evaluations including the following:

- “ • Overall, there are no exceptional water quality elements or uses for the City and JMEUC receiving waters that would distinguish any CSO outfall discharge area as being more critical or of greater concern than other discharge areas.”

Regarding the statement on sensitive areas, note that the permittee submitted the June 2018 “Identification of Sensitive Areas Report.” Refer to the Department’s April 8, 2019 findings.

Comment 7: The 2015 NJPDES CSO permit requires selection of either the Presumption Approach or the Demonstration Approach. The Federal CSO Control Policy and the NJPDES permit at Part IV.G.4.f.ii specify that wet weather capture is a means of compliance under the Presumption Approach as follows:

- “ii. The elimination of the capture for treatment of no less than 85% by volume of the combined sewage collected in the CSS during precipitation events on a system-wide annual average basis;”

The Department acknowledges the selection of the Presumption Approach throughout the report and in Section 4.8, namely 85% capture of combined sewage entering the collection system during wet weather. Section 4.9, Baseline Percent Capture includes the following information and equation:

“Percent capture was calculated using the following equation, where wet weather inflow is represented as the sum of base groundwater inflow, sanitary diurnal flow, and wet weather runoff from the contributing area:

$$Percent\ Capture = \frac{(Total\ System\ Wet\ Weather\ Inflow - Total\ CSO\ Volume)}{(Total\ System\ Wet\ Weather\ Inflow)}$$

It is then further stated:

“The percent capture was calculated using two different approaches to defining the Total System Wet Weather Inflow: the first is percent capture at the inflow of the Trenton Avenue Pump Station (TAPS), and the second is percent capture at the inflow of the Joint Meeting WWTF... Because the Total System Wet Weather Inflow is so much greater at the WWTF than at the TAPS (which includes only the City of Elizabeth service area), the percent capture measured at the WWTF is much higher. Both approaches are considered appropriate and useful, however, for the plan selection alternatives, achieving an 85% capture using the wet weather inflow limited to the City of Elizabeth service area was targeted.

**Table 4-6: Baseline System-Wide Percent Capture Performance**

Item	Elizabeth system only, TAPS	Full JMEUC system
Total Wet Weather Inflow (MG)	2,150	6,650
Wet Weather Inflow Captured (MG)	1,250	5,750
CSO Volume (MG)	898	898
% Capture	58.2%	86.5%

The Department maintains that compliance with minimum percent capture should be evaluated against the Elizabeth system only as shown above. Explain the rationale for including the information regarding the “full JMEUC system” shown above in Table 4-6. In addition, clarify what percentage of the flow conveyed through TAPS is from combined sewer areas versus separate sewer areas. Note that approval of this report hinges in part on the inputs and results of this equation being clearly demonstrated and reproducible.

## Section 6, Public Participation Process Update

Comment 8: Section 6 includes robust information regarding public participation including subsections for Background; Supplemental CSO Team and Public Meetings; Presentations and Updates to Council and Board Officials; Regional and Watershed Based Partnerships; Community Organization and School Events; Posters, Flyers, Brochures and Handouts; News Releases and Media Coverage; Social Media and Websites; CSO Identification Signs; CSO Notification System; Green Infrastructure Signage; Combined Sewer Infrastructure and Treatment Plant Tours; and Future Public Participation. Overall, the LTCP provides a robust summary of public participation activities and feedback to date.

However, Section 6.13, Future Public Participation states the following:

“The CSO LTCP provides planning level recommendations for the selection of a suitable and feasible CSO control program. The City and JMEUC will continue to conduct public outreach through the detailed design and implementation phases for the selected CSO control program, in order to provide information on construction schedules, anticipated traffic or community impacts, and to gain public input on items such as the selection of specific sites around the city. This outreach may be in the form of periodic meetings open to the public or selected representative community members to provide project updates, the circulation of informational flyers in the mail or on social media, or public notices posted on the City website or local newspaper. The City and JMEUC are committed to ensuring that members of the public are provided with information as well as an opportunity to comment throughout the duration of planning and implementation of the selected CSO control program.”

Public participation will continue in the next NJPDES permit and could include three primary goals: inform, educate, and engage. The Department is evaluating this issue and is in the process of preparing updated

NJPDES permit language to advance this issue for the next permit renewal as part of a stakeholder process. One element for future public participation could include public input on the siting of green infrastructure projects. Provide input on the viability of public input on this topic.

## **Section 7, Plan Selection**

Comment 9: Section 7.1, Current and Planned Stormwater Control Projects states the following:

“There are several ongoing and recently completed stormwater control projects that have been undertaken by the City of Elizabeth which, when completed, will contribute to the reduction of combined sewer overflows discharging to the local receiving waters. These projects... have been accounted for in the future conditions model simulation. It is also noted that these projects have already been included in the existing sewer system budget.”

The Department acknowledges the proactive manner in which the City of Elizabeth has moved forward with CSO controls. This includes the completion of the Progress Street Stormwater Control project, Trumbull Street Stormwater Control project and the South Street Flood Control project where the Trumbull Street project includes a green infrastructure installation. The Department also acknowledges that these projects do address localized flooding. Provide detail on the benefits from these projects and explain if any reductions are already considered in the baseline percent capture analysis or if “credit” should be considered as part of a subsequent analysis.

Comment 10: Section 7.1 includes Section 7.1.2, Current Design Projects which includes the following:

“The City of Elizabeth currently has plans to implement the following capital projects to address the multiple goals of combined sewer overflow reduction, street flooding mitigation, stormwater management compliance, and sewer system renewal. The scope of the projects involve stormwater drainage improvements, partial sewer separation, and off-line combined sewer flow storage facilities.”

These projects are then listed as the South Second Street Stormwater Control Project, Atlantic Street CSO Storage Facility Project, Lincoln Avenue Stormwater Control Project, Park Avenue Stormwater Control Project. The Department concurs that these projects have been appropriately identified as part of the LTCP process and the Department has no objection to commencement of these projects in advance of the LTCP determination. This project will work towards a reduction in CSOs and will contribute to overall compliance with the 85% wet weather capture as allowable under the Presumption Approach. The Department also agrees that projects to minimize CSO related flooding should be prioritized. While this comment does not necessitate a response at this time, the Department hereby notes this information for the Administrative Record.

Comment 11: Section 7.2.1, Phase 1 Upgrade: Increase Pumping with Real Time Controls and Existing Pumps states the following:

“The first phase of upgrades to the TAPS will allow the station to pump at the peak hydraulic capacity of the facility (estimated to be up to 55 million gallons per day (mgd)). Previous analysis completed as part of the Development and Evaluations of Alternatives Report show that implementation of RTC [real time controls] would allow the Trenton Avenue Pumping Station to safely discharge to the JMEUC’s trunk sewer system at rates greater than the current contractual limit of 36 mgd. The increased flow requires a revision to the existing contractual agreement between the City of Elizabeth and the JMEUC to allow the increase in pumping, and contractual modifications are being developed at the time of this report.

The proposed RTC would take advantage of the peak timing difference in wet weather flows from the separate sewer municipalities serviced by the JMEUC, and flows from Elizabeth’s combined system, which reach peak much more quickly...

...

Model results indicate that implementation of the RTC described above will result in an immediate improvement in typical year CSO capture volume. A CSO volumetric reduction of between 165 and 197 million gallons (MG) during the Typical Year is predicted (dependent on throttling of upstream sluice gates which limit debris reaching TAPS wet well screens).”

The Department agrees that the proactive implementation of Phase 1 TAPS improvements will result in a marked reduction in CSO volumes being discharged. In fact, the Department acknowledged this project in the May 1, 2020 NJPDES permit modification as follows:

“Modification to these requirements will allow the permittee to accept additional wet weather flows from the Trenton Avenue Pump Station (TAPS) where these flows are currently untreated and discharged as CSOs.”

Given the importance of this project and its ongoing implementation, provide an update on contractual negotiations for the current 36 MGD contractual limitation as well as the incorporation of RTC. In addition, provide additional explanation for Figure 7-4 “Peak Timing Difference in Flows Through TAPS and From JMEUC’s Upstream Municipalities for 9/18/2004 Event” to explain the benefits as well as for Figure 7-6, “Modeled Control Rule Representing Proposed Phase 1 RTC.”

Comment 12: Section 7.6.1 CSO Basin 012 states the following:

“CSO Basin 012 covers approximately 9 acres and extends north and south of Rahway Avenue between the Elizabeth River and Broad Street. Regulator R012A and R012B are located along the sewer in Rahway Avenue, with R012A positioned approximately 110’ downstream of R012B. Dry weather flows are first diverted at R012B and combined flows from R012B continue downstream to R012A. This basin was selected for sewer separation because of its small size and relatively short tributary sewer lengths. In order to provide sewer separation for CSO Basin 012, it is necessary to isolate the existing outfall from sanitary flows by plugging the overflow outlet at Regulator R012B and the dry weather flow outlet at Regulator R012A. The existing storm inlets at the Rahway Avenue and Elizabethtown Plaza intersection will then redirected to an existing separate storm sewer outfall...”

Clarify if this project will result in the elimination of outfall 012.

Comment 13: Section 7.7, Green Infrastructure Pilot Program states the following:

“As such, prior to City-wide implementation of green infrastructure, the City intends to implement a Green Infrastructure Pilot Program to gain a more comprehensive understanding of the costs and benefits of this control strategy...A pilot program of this type evaluates the effectiveness of the investigated controls at reducing the volume and rate of stormwater runoff from the drainage area through measuring quantitative aspects like inflow and outflow rates, as well as qualitative issues like maintenance requirements, appearance, and community perception. The City of Elizabeth intends to incorporate green stormwater infrastructure at locations throughout the City on a pilot basis, potentially scaling up depending on the effectiveness of the program or limiting implementation of GSI under the LTCP to the Pilot Program.

Consistent with the approach in NYC [New York City], the City will perform desktop investigations, field visits and geotechnical (infiltration) testing to identify suitable locations for infiltration. Prospective sites will be identified from areas maintained and controlled by the City and pilot locations will be selected based on input from City staff, elected officials and the public. The City will initially select up to 10 sites where rain gardens will be installed, along with interpretive signage to explain its purpose and function.”

Provide any preliminary data regarding whether or not potential sites have been located as part of the pilot program.

## **Section 8, Financial Capability Assessment**

Comment 14: Section 8.1, Background states the following:

“A key component of the Long Term Control Plan (LTCP), as noted in Part IV.G.8. of the NJPDES CSO Permits, is to develop an implementation plan for the selected control alternatives that recognizes the financial context of the permittees. A Financial Capability Assessment has been completed to evaluate the financial capability of the City of Elizabeth and its sewer system ratepayers to support future investments required for a proposed CSO control program. The objective is to balance the schedule for LTCP implementation with the financial and economic capability of the permittees and ratepayers. The assessment is made for the City of Elizabeth alone, as the costs to maintain the combined sewer system and control the CSO discharges from it that are the subject of this LTCP are the responsibility of the City of Elizabeth and other users of the combined sewer system. This section outlines the existing sewer system costs, financial capability indicators, and the ability of residential sewer system users to fund the costs of the CSO control plan.”

In addition to the information in Section 8, Appendices A-C provide information in table format regarding the Time-Based Financial Model Summary Data listing for each year (0 to 60) capital outlay and loan amounts, O&M costs, debt service, cost per household, and other costs. The Department acknowledges that the detail provided by Elizabeth’s Time-Based Financial Model Summary Data outlines their anticipated annual financial commitment.

The objective of the LTCP is to select CSO control alternatives to demonstrate compliance with the Federal CSO Control Policy where the resultant schedule length is determined based on the financial capability of the affected municipality. The Department will comment on the financial capability components as revisions to the LTCP are made. In sum, the Department reserves the right to provide additional comments on this section.

## **Section 9, Implementation Schedule**

Comment 15: Section 9.5, Adaptive Management describes several factors that could affect the implementation schedule, which will require adaptive management, to keep the implementation of the CSO projects on track. The Environmental factor is listed as follows:

“ • Environmental: There is significant uncertainty associated with the future potential impacts of climate change. Future conditions such as changes in precipitation patterns and sea level rise will impact the effectiveness of proposed CSO control projects. Current research on climate change impacts should be considered throughout the implementation schedule, and projects may be modified to consider these impacts, both to adjust capacities and ability to capture/treat CSO flows, as well as structural considerations to provide resiliency to potentially vulnerable infrastructure.”

The State of New Jersey and the Department are working to address and mitigate the impacts of climate change where additional information is available here: <https://www.nj.gov/dep/climatechange/>. Climate change can have an impact on the design for CSO control alternatives and resiliency requirements must be considered in the design of any infrastructure. Specifically, in accordance with the provisions of Executive Order 11988, the USEPA and the New Jersey Water Bank require that funded infrastructure be located outside of floodplains or elevated above the 500-year flood elevation. Where such avoidance is not possible, the following hierarchy of protective measures has been established:

1. Elevation of critical infrastructure above the 500-year floodplain;
2. Flood-proofing of structures and critical infrastructure;
3. Flood-proofing of system components.

Address how the selected CSO control alternatives address climate change and sea level rise.

Comment 16: Section 9.5, Adaptive Management describes that Adaptive Management is the systematic use of information to improve operations, especially in the face of uncertainty. Section 9.6.3, Implications for the Long Term CSO Control Program further states the following:

“Given the current and likely continuing uncertainties as to the New Jersey and national economic conditions, the City and JMEUC cannot commit to the construction and financing schedule for CSO controls without the incorporation of adaptive management provisions, including provisions to revise and reschedule the long term CSO controls proposed in this report based on emergent economic conditions beyond the permittees’ control. Under the adaptive management considerations described in Section 9.4, these provisions could include scheduling the implementation of specific CSO control measures to occur during an initial five-year period and allowing an amended affordability assessment to be submitted during the next NJPDES CSO permit period to update the controls that are financially feasible during the subsequent period. Although a complete implementation schedule is being proposed as part of this Selection and Implementation of Alternatives Report, a revised affordability assessment should be performed during review of the next NJPDES permit to re-evaluate and validate the financial conditions and to identify any revisions to the proposed controls that may be required.”

The Department agrees that financial capability and economic conditions are critical components of the LTCP review. As a separate process, the Department is currently conducting rulemaking for New Jersey’s Environmental Justice Law (N.J.S.A. 13:1D-157) as signed by Governor Murphy on September 18, 2020, as indicated on the Department’s website: <https://www.nj.gov/dep/ej/>.

The Department acknowledges that changing conditions could support an Adaptive Management approach that could serve as a compliance “check in” as the projects proceed, and an Adaptive Management requirement could be a component of a future NJPDES permit action. Adaptive Management could also allow flexibility from the perspective of treatment technology advancements and compliance provided the resultant percent capture requirement is attained. However, while flexibility can be a component of each five year permit cycle, the permittee is obligated to set forth a path for compliance with the Federal CSO Control Policy through measures set forth in the LTCP. Note that any changes to projects set forth in the NJPDES permit as part of the LTCP will require a NJPDES permit modification or renewal. While this comment does not necessitate a response at this time, the Department hereby notes this information for the Administrative Record.

## **Section 10, Operational Plan**

Comment 17: Section 10, Operational Plan states the following:

“As the proposed CSO control facilities are implemented, the existing O&M programs and manuals will be expanded and updated accordingly as part of the LTCP operational plan. The City and JMEUC will continue to review the O&M Program and Manual on an annual basis and make updates to reflect any additional operations and maintenance requirements for new system assets. Training will be provided where necessary, to ensure that staff are able to operate any new CSO control assets.”

As noted within the LTCP, Part IV.G.6 of the NJPDES CSO permit states the following regarding Operational Plan:

“a. Upon Departmental approval of the final LTCP and throughout implementation of the approved LTCP as appropriate, the permittee shall modify the O&M Program and Manual in accordance with D.3.a and G.10, to address the final LTCP CSO control facilities and operating strategies, including but not limited to, maintaining Green Infrastructure, staffing and budgeting, I/I, and emergency plans.”

In accordance with N.J.A.C. 7:14A-6.12 of the NJPDES Rules, the permittee must maintain and operate the treatment works and facilities installed by the permittee to achieve compliance with the terms and conditions of the discharge permit. The rules provide that proper operation and maintenance includes, but is not limited to, effective performance; adequate funding; effective management; adequate staffing and training; regularly scheduled inspections and maintenance; and adequate laboratory/process controls. While you have provided information regarding the O&M Program and Manual and updates that will be performed in the future for CSO controls, expand upon this section as to how the Operational Plan for the LTCP, including the Emergency Plan and Asset Management Plan, will address effective performance; adequate funding; effective management; adequate staffing and training; regularly scheduled inspections and maintenance; and adequate laboratory/process controls. In addition, acknowledge that an operational plan will be prepared for any operation and maintenance of green infrastructure.

## **Section 11, Post Construction Compliance Monitoring**

Comment 18: Section 11.6, Reporting states the following:

“To demonstrate compliance under the Presumption Approach, the City and JMEUC will continue to update and calibrate the H&H model after the implementation of CSO control measures and postconstruction monitoring phase data has been collected. The model will be used to simulate the combined sewer system performance and to demonstrate compliance with the performance criteria identified, i.e., a minimum of 85% capture by volume of the system-wide wet weather volume during the Typical Year.

Reporting on the post-construction compliance monitoring program will be completed at regular intervals following completion of major project milestones as established through discussion with the NJDEP and then scheduled in NJPDES permit renewals. The Permittees will submit a series of milestone reports to the NJDEP detailing the implementation and performance of CSO control measures. A LTCP update or an Adaptive Management Plan will be developed in the event that CSO control measures exceed or do not meet the identified performance criteria.”

The Department concurs that a rerun of the H&H model would be appropriate particularly after significant construction projects are completed. This will allow verification of the percent capture calculations as part of Adaptive Management to provide an assessment of compliance against 85% wet weather capture.

However, note that any effort to recalibrate the H&H model should be performed after consultation with the Department. Clarify accordingly.

Please incorporate these changes to the report and submit a revised version of the report to the Department no later than 60 days from the date of this letter. Thank you for your continued cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Susan Rosenwinkel". The signature is written in a cursive style.

Susan Rosenwinkel  
Bureau Chief  
Bureau of Surface Water & Pretreatment Permitting

C: Marco Alebus, Bureau of Surface Water & Pretreatment Permitting  
Josie Castaldo, Bureau of Surface Water & Pretreatment Permitting  
Nancy Kempel, CSO Team Leader, Bureau of NJPDES Stormwater Permitting & Water Quality Management  
Dwayne Kobesky, Bureau of Surface Water & Pretreatment Permitting  
Joseph Mannick, Bureau of Surface Water & Pretreatment Permitting  
Adam Sarafan, Bureau of Surface Water & Pretreatment Permitting  
Stephen Seeberger, Bureau of Surface Water & Pretreatment Permitting