



## State of New Jersey

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SHAWN M. LATOURETTE  
*Acting Commissioner*

SHEILA OLIVER  
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**Via E-mail**  
June 11, 2021

Stephen D. Marks, Town Administrator  
Town of Kearny  
402 Kearny Avenue  
Kearny, NJ 07032

Re: Review of Selection and Implementation of Alternatives Report for the Town of Kearny -  
Appendix K  
Town of Kearny, NJPDES Permit No. NJ0111244

Dear Mr. Marks:

Thank you for your submission dated October 2020 entitled “Selection and Implementation of Alternatives Report for Town of Kearny”, as submitted, in a timely manner, to the New Jersey Department of Environmental Protection (the Department).

This report was submitted by the Passaic Valley Sewerage Commission (PVSC) on behalf of the Town of Kearny as “Appendix K” in the “Selection and Implementation of Alternatives for Long Term Control Planning for Combined Sewer Systems – Regional Report” (Regional Report), where it was prepared in accordance with Part IV.D.3.b.vi of the above referenced New Jersey Pollutant Discharge Elimination System (NJPDES) permit. The Regional Report serves to comply with the Long-Term Control Plan (LTCP) submittal requirements as due on October 1, 2020.

The Regional Report presents a “Regional Alternative” for all PVSC’s combined sewer communities as well as a “Municipal Alternative” which is shown in the individual appendices for each of its eight (8) member combined sewer municipalities. This subject letter serves to provide a response to Appendix K which is specific to the Town of Kearny whereas a response to the Regional Report is provided under separate cover.

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 April 12, 2019); the June 30, 2018 “NJCSO Group Compliance Monitoring Program Report” (approved by the Department on March 1, 2019); the June 2018 “Public Participation Process Report” (approved by the Department on March 29, 2019); the

June 2018 “Identification of Sensitive Areas Report” (approved by the Department on April 8, 2019) and the June 2019 Development and Evaluation of Alternatives Regional Report (DEAR) (approved by the Department on January 17, 2020).

The below represents the Department’s initial comments. The Department reserves the right to further comment on these issues. Comments are as follows.

## **Section A, Introduction**

Comment 1: Section A.1, Introduction, states the following:

“The Town owns and operates a combined sewer system (CSS) which is permitted under NJPDES Permit No. NJ0111244, Category CSM (Combined Sewer Management), with an effective date of July 1, 2015. However, it shall be noted that only a portion of the Town is serviced via a CSS. Generally, the area to the west of Schuyler Avenue within the Town is serviced via a CSS, whereas areas to the east of Schuyler Avenue are generally serviced via separate sanitary and stormwater conveyance system. While the Town owns all of the conveyance systems and discharge facilities, along with associated pumping stations, the Town does not own associated discharge facility regulators or any treatment facilities. Therefore, all combined sewer flows from the Town of Kearny are transported to the Passaic Valley Sewerage Commission (PVSC) wastewater treatment plant via gravity pipe conveyance. However, during wet-weather events, the PVSC wastewater treatment plant reaches an allowable capacity. This, along with local and regional hydraulic constraints, limits the amount of flow that can be conveyed to the treatment plant during wet-weather events. This ultimately results in excess combined sewage being discharged into receiving waters as Combined Sewer Overflows (CSOs). The Town of Kearny has five (5) permitted outfalls through which CSOs may be discharged into the receiving waters. Three (3) of these outfalls discharge along the Passaic River and the remaining two (2) outfalls discharge to a tributary of the Lower Passaic River known as Frank’s Creek...”

While this comment does not necessitate a response, the Department acknowledges the inclusion of this descriptive information that provides an overview of the combined sewer system and serve to assist in providing background for the rest of the report.

Comment 2: Section A.1, Introduction, states the following:

“This report, the Selection and Implementation of Alternatives Report (SIAR) describes the selected alternatives from the Development and Evaluation of Alternatives Report (DEAR) for the Town of Kearny. PVSC NJDEP Permit Part IV.G Section 10 requires that permittee is “*responsible for submitting an LTCP that addresses all nine elements in Part IV.G*”. The nine elements are listed below:

1. Characterization Monitoring & Modeling of the Combined Sewer System
2. Public Participation Process
3. Consideration of Sensitive Area
4. Evaluation of Alternatives
5. Cost/Performance Considerations
6. Operational Plan
7. Maximizing Treatment at the Existing STP
8. Implementation Schedule
9. Compliance Monitoring Program

Items 1, 2, 3, and 9 above are addressed in the Regional SIAR. Each of the NJDEP-approved reports for items 1, 2 and 3 are included in the appendices of the regional report. The regional report also discusses the typical year selection and includes the NJDEP-approved Typical Hydrologic Period Report.”

In order to ensure that all nine components of the LTCP within this specific appendix are addressed for compliance purposes. As a result, supplement this section or Section D with a chart of each of the LTCP elements included in Part IV.G of the NJPDES CSO permit along with the identification of the specific section of another report that serves to address the requirement. Below is a section from Appendix F of the Regional Report which can be used as a model:

**Table A-1: Review of Major Requirements of the SIAR**

| Permit Section | Permit Requirement  | SIAR Section Reference  |
|----------------|---|---|
| Part IV G1     | Characterization Monitoring and Modeling of the Combined Sewer System | Presented in the Regional LTCP as Appendix A  |
| Part IV.G2     | Public Participation Process  | Presented in the Regional LTCP as Appendix E  |
| Part IV G3     | Consideration of Sensitive Area                                       | Presented in the Regional LTCP as Appendix C  |
| Part IV G4     | Evaluation of Alternatives  | Presented in the Regional LTCP as Appendix D and summarized in Section C of this SIAR |
| Part IV G5     | Cost/Performance Considerations                                       | See Section D.3 of this SIAR  |
| Part IV G6     | Operational Plan  | See Section F.6 of this SIAR  |
| Part IV G7     | Maximizing Treatment at the Existing STP                              | See Appendix A of this SIAR   |
| Part IV G8     | Implementation Schedule   | See Section F.5 of this SIAR  |
| Part IV G9     | Compliance Monitoring Program   | Presented in Section K of the Regional LTCP   |

**Section B, Screening of CSO Technologies**

Comment 3: Section B.3, Combined Sewer Optimization states the following:

“Combined sewer optimization refers to increasing storage and conveyance capacity in the existing sewer system. Overall, this can be achieved via several measures. Such measures include construction of additional conveyance pipe, modifications to the existing regulators, outfall consolidation / relocation, or real time control of the sewer system. The DEAR established that modifications to the existing regulators (i.e. raising the weirs) would likely exacerbate existing flooding conditions within the Town. In addition, it was noted that the regulators are owned by PVSC and cannot be modified without prior approval.”

Provide additional information as to the areas where existing flooding conditions occur in addition to flooding in the area of outfall 006A as described in Section C.2, Development and Evaluation of Alternatives. In addition, the Department notes that the June 2019 DEAR specifies that flooding occurs in Section D.1.2.2, Kearny Outfall Sites as follows:

**“Outfall 007A (Ivy Street):** This outfall site is in a low lying residential/commercial area which is prone to flooding. It is surrounded by commercial businesses including a lumber yard, and is

surrounded on all sides by existing structures, making access for vehicles difficult. This outfall site is characterized by a large netting chamber, with two rows of nets, and by a long channel going out to the Lower Passaic River...

Improvements described in the LTCP are targeted for KE006 and KE010 only with no suggested improvements for KE007. This is unacceptable as the LTCP must include a discussion of how flooding conditions at KE007 and elsewhere in the Town on Kearny system will be eliminated. Similarly, discussion on flooding conditions at KE010 must be included given its proximity to KE007.

Describe the areas prone to flooding and explain if this flooding is strictly related to sewer backups, stormwater flooding or tidal inundation. Flooding of combined sewage in streets is a public health concern and is not acceptable. The LTCP must address the elimination of street flooding where this should be the utmost priority.

#### **Section D, Selection of Recommended LTCP**

Comment 4: Section D.1, Introduction states the following:

“Based upon directive from PVSC, and based upon feedback from NJDEP, the 85% CSO volume capture scenario was analyzed for the Town of Kearny. Additionally, PVSC evaluated the 85% capture scenario on a regional basis, when including all hydraulically connected communities within the PVSC district. However, it shall be noted that this report includes information pertinent to Kearny only and does not consider CSO mitigation solutions on a regional basis. This plan has been designed such that the Town of Kearny achieves the 85% capture metric on an individual basis.”

Section D.2, LTCP Selection Process further states the following:

“The Town of Kearny has selected the Presumptive Approach and the alternatives selected in this plan have been designed to ensure that a minimum of 85% of the CSO volume is captured within the combined sewer system.”

The Department acknowledges that the permittee has selected the following option under the Presumption Approach as a means of compliance:

- “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;”

Given this selection, the derivation of percent capture is central to a review of this report. See Comment 7 below.

Comment 5: Section D.1, Introduction states the following:

“The selection of alternatives for the Town of Kearny LTCP has been a collaborative and iterative process between the Town of Kearny, PVSC and adjacent hydraulically connected conveyance systems. By way of the regional Supplemental CSO Team and through a meeting with a local environmental group (Kearny AWAKE), the Town has acquired public input and feedback regarding this plan, as well as the overall process.”

Additional detail regarding the more recent public participation process needs to be included. The Department acknowledges that public participation and public outreach has taken place through the PVSC Supplemental CSO Team as well as through the local group Paterson SMART. Provide a brief summary

of public participation activities to date subsequent to the submission of the June 2018 Public Participation Process Report. This may also include any town council or municipality government meetings where CSO alternatives were discussed.

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.

Comment 6: Section D.1, Introduction states the following:

“...However, it shall be noted that this report includes information pertinent to Kearny only and does not consider CSO mitigation solutions on a regional basis. This plan has been designed such that the Town of Kearny achieves the 85% capture metric on an individual basis.

**Table D-1: Summary of Selected Alternative**

| Alternative                   | Volume Captured (MG) | CSO Events | Cost (\$M)  |
|-------------------------------|----------------------|------------|-------------|
| Sewer Separation within KE006 | 156.1                | 45         | 59.7        |
| Sewer Separation within KE010 |                      |            | 10.2        |
| <b>Total Program Cost</b>     |                      |            | <b>69.9</b> |

”

Since the Presumption Approach has been selected the derivation of percent capture is central to a review of this report. Supplement this report with the specific percent capture equation utilized as well as the numerical values utilized within the equation that was used to derive these results in the tables presented in this section as well as the baseline percent capture value. The Department notes that volume and frequency values are provided later for each outfall in “Table D-3: Alternative No. 1 – Existing and Proposed Volume and Frequency Model Results”. However, while Section D.1 states that these alternatives achieve the 85% capture metric, the projected numerical percent capture value is not included within the report where Section D.2 simply states that 85% capture will be attained. Approval of this report hinges in part on the inputs and results of this equation being clearly demonstrated and reproducible.

Comment 7: Section D.2, Development and Evaluation of Alternatives, the following is stated:

“Following submission of the approved DEAR, costs associated with the above were refined by way of a memorandum provided by PVSC and its consultant group (Updated Guidance on Costing for LTCP CSO Planning, dated April 10, 2020). Furthermore, it was determined that the 85% capture target would be the selected performance metric (this is discussed in further detail in Section D below). As such, the above alternative scenarios have been eliminated as potential alternatives.

...

Ultimately, it was determined that either tank storage, sewer separation, or a combination thereof would be best suited to meet the 85% capture target within the Town of Kearny. It is noted here and elsewhere in this report, that the Town of Kearny has committed to separation within the watershed area associated with KE010A. As such, volume reductions required to meet 85% capture, as well as the cost, include the cost of sewer separation within KE010A.

The table below summarizes Alternatives No. 1 through No. 3, all of which have been designed to meet the minimum volume capture targets to achieve 85% capture.

| No.                                     | Alternative Description <sup>(1)</sup> | Cost (\$M)          |
|---|--|---------------------|
| 1                                       | Sewer Separation within KE006A         | 59.7                |
|   | Sewer Separation within KE010A         | 10.2                |
| <b>Total Cost for Alternative No. 1</b> |  | <b>69.9</b>         |
| 2                                       | Sewer Separation within KE007A         | 150.0               |
|   | Sewer Separation within KE010A         | 10.2                |
| <b>Total Cost for Alternative No. 2</b> |  | <b>160.2</b>        |
| 3                                       | 3.6 MG Tank in the Vicinity of KE006A  | 65.0 <sup>(2)</sup> |
|   | Sewer Separation within KE010A         | 10.2                |
| <b>Total Cost for Alternative No. 3</b> |  | <b>75.2</b>         |

- (1). It shall be noted that the Town of Kearny is currently committed to separation of the existing combined sewer system within the KE010A area. As such, each of the above alternative scenarios includes separation within KE010A.
- (2). The above cost for tank storage includes a 20% contingency in addition to the value, as calculated using the cost guidance provided within the memorandum distributed by PVSC and its consultant group (Updated Guidance on Costing for LTCP CSO Planning, dated April 10, 2020). This contingency accounts for a multitude of unknown factors associated with tank storage construction. Most notably, it shall be noted that construction of a tank as sized above would require acquisition of 1.0-1.5 acres of land, the cost of which is not included within the cost guidance. Additionally, the area near KE006A has historically experienced high groundwater levels and flooding, which would make construction of any subsurface tank difficult.

Based upon the above costs, as well as the considerations outlined above regarding tanks, Alternatives No. 2 and No. 3 are eliminated from any further consideration. It shall be noted that each of the above alternatives meets the 85% capture target.”

This excerpt is included here to aid ease of understanding of the selected alternatives since Alternatives 1 through 3 are newly presented in this LTCP and were not proposed in the DEAR as approved by the Department on January 17, 2020. While this section states that Alternatives No. 2 and 3 were eliminated from consideration, note that there is language elsewhere in the report that references Alternatives 1 and 2 whereas it is the Department’s understanding that Alternative 2 was eliminated from consideration. See Comment 11. Please provide additional justification for the elimination of these two alternatives.

Comment 8: Section D.3.1, Description states that the final alternatives are summarized in Table D-2:

**Table D-2: Description of Final Alternative**

| No. | Alternative                             | Description   |
|-----|---|---|
| 1   | Sewer Separation within KE006 and KE010 | Separation of the remaining combined sewer system portion of the watershed area associated with outfall KE006, which totals approximately 259 acres. Total area of required separation is 199 acres. Approximately 60 acres of this watershed area were separated in the early 2000s as part of an initial effort to reduce CSOs. Moreover, this alternative includes further separation within the watershed area associated with outfall KE010, which totals approximately 158 acres. The total area of required separation is 34 acres. Approximately 124 acres of this watershed area were previously separated in the early to mid 2000s as part of an initial effort to reduce CSOs. This project represents a continuation of this effort. |

Section D.4.1, Alternative No. 1 to Achieve 85% Capture Requirement further states the following:

“During the late 1990s and through to the mid-2000s, the Town of Kearny began separating portions of existing combined sewer systems located throughout the Town. This initial effort was undertaken as a means of eliminating and/or reducing CSOs within the Town of Kearny. As a result of this effort, two (2) previously existing CSO discharge outfalls were eliminated...The goal of Alternative No. 1 is to capitalize and tie into existing separated systems, while also achieving the minimum capture volume required to comply with the 85% capture metric. As is noted above, the Town of Kearny utilized comprehensive flow modeling to ensure that complete separation of KE006 and KE010 would meeting the minimum capture requirements to comply with the 85% capture metric. Moreover, it shall be noted that KE006 and KE010 both contain areas that were previously separated. Alternative No. 1 will capitalize on these previously completed projects by connecting the previously separated areas into proposed separated systems and routing the same to new and/or existing outfalls by way of new stormwater conveyance pipes...It shall be noted that design for separation of KE006 has been completed.”

Based on the above it appears that portions of KE006 and KE010 are separately sewered; however, the pipes lead back to the combined sewer system and continue to contribute a CSO. Confirm if this is correct. If this is the case, please describe if this is accounted for in the calculation of percent capture.

In addition, provide additional detail regarding any Manufactured Treatment Devices or other stormwater treatment that will be utilized to ensure compliance with the Stormwater Management Rules at N.J.A.C. 7:8 as part of this sewer separation project. Finally, confirm that a land use permit will be required for the construction of any stormwater outfall for eventual discharge to surface water from the separately sewered system.

Comment 9: Section D.3.3, Ability to Meet Water Quality Standards states the following:

“Furthermore, it is noted that for the pollutant of concern pathogens, the criteria for fecal coliform is that said levels shall not exceed a geometric mean of 1500/100 ml.

It shall be noted that as it relates to the above, water quality modeling was conducted by PVSC and its consultants. Said modeling indicates that under the existing conditions, receiving waterbodies associated with the Town of Kearny’s CSO outfalls currently meet water quality standards. Furthermore, this modeling effort indicates that CSO outfalls within the Town of Kearny do not preclude the attainment of water quality standards within associated receiving waterbodies. Refer to the Water Quality Modeling Report submitted by PVSC through its consultants for additional information regarding the completed water quality modeling.”

The Department maintains that it is premature to assert that water quality modeling conducted by PVSC demonstrates that receiving waterbodies associated with the Town of Kearny's CSO outfalls currently meet water quality standards and that CSO outfalls do not preclude the attainment of water quality standards. While the Department is in receipt of the "Calibration and Validation of the Pathogen Water Quality Model," dated September 2020 as submitted by the NJ CSO Group it is still pending review; therefore it is premature to conclude that water quality is meeting standards. Based on the above, delete or revise the statement regarding CSO discharges and the attainment against water quality standards.

Comment 10: Section D.3.5, Cost Opinion states the following:

"Table D-6 below provides a summary of costs for both Alternative No. 1 and Alternative No. 2, both of which achieve the minimum volume capture to achieve the required 85% capture."

Table D-6 is then entitled "Table D-5: Costs Summaries – Alternatives No. 1 and No. 2". It appears that alternatives 2 and 3 were eliminated from discussion so his reference Alternative No. 2 appears to be erroneous. Revise accordingly.

Comment 11: Section D.4.1, Alternative No. 1 to Achieve 85% Capture Requirement also states the following:

"In addition to the above, it shall be noted that areas within both KE006 and KE010 experience flooding conditions during significant rainfall events. As it relates to sewer separation within CSO area KE010, the overall intent of this project, in addition to reducing CSOs, is to eliminate flooding conditions. The design of sewer separation within KE006 includes a pumping station to eliminate flooding and the proposed stormwater conveyance system has been designed to provide for additional stormwater storage. The same design principals will be applied for sewer separation within CSO area KE010. However, at this time, it is not expected that a pumping station will be incorporated into this design.

Based on the above it appears that a pumping station is needed to address flooding. Justify why a pumping station is not being incorporated within the proposed alternative. Part IV.F.1.j.vii of the NJPDES CSO permit requires that operations and maintenance procedures be incorporated to address flooding within the system. Please clarify.

Comment 12: Section D.4.2, Green Infrastructure Program states the following:

"The recommended LTCP includes a green infrastructure program which is intended to supplement Alternative No 1. Section B above references green infrastructure measures that were considered within the DEAR and recommended for evaluation and implementation within the final LTCP. To reiterate, these measures included:

- Rain gardens;
- Right-of-way bioswales
- Tree Pits
- Porous Paving Systems
- Rainwater Harvesting / Barrels; and
- Planter Boxes.

The recommended LTCP includes green infrastructure measures which are to be implemented by way of ordinance revisions. Specifically, the Town will evaluate and provide guidance and/or requirements

through new and revised ordinances that will be written to encourage utilization of green infrastructure, specifically the items listed above, to minimize stormwater runoff from private properties. In addition, such measures can be provided within streetscape areas and by way of future redevelopment plans. As it relates to encouraging green infrastructure through ordinance revisions and future redevelopment plans, the Town will evaluate measures implemented at the Hugo Neu property located at Kearny Point in South Kearny.

In addition, the Town of Kearny is actively engaged and intends to participate in the Hudson-Essex Greenway Project, which aims to convert railroad rights-of-way within the Town of Kearny, amongst other communities in Hudson and Essex Counties, to usable passive recreation open space. This...project will provide green areas which will effectively collect and reduce the volume of stormwater runoff that flows to the existing combined sewer systems.

Lastly, should green infrastructure be a viable method of reducing localized flooding issues, the Town is committed to evaluating the same as a potential solution for addressing such issues.

Expand on any green infrastructure projects on the Hugo Neu property as identified above. In addition, provide additional detail on the Hudson-Essex Greenway Project and its location within Kearny. Finally, provide input on the viability of public input on the locations of green infrastructure as a future public participation requirement.

Comment 13: Section E.2, Baseline Conditions (Without CSO Controls) states the following:

“A regional alternative is under consideration and would result in lowered overall costs for the control of CSOs within the PVSC Treatment District. Under this approach both the costs of the regional facilities such as a relief interceptor and the resultant savings would be allocated amongst the PVSC municipalities with combined sewer systems. As the basis of this allocation remains under discussion as of the writing of this SIAR, the FCA focuses on implementation of the Municipal Control Alternative. Should the permittees come to agreement on the cost allocation for the Regional Control Plan, the FCA will be revisited to reassess the affordability and schedule for implementation of the LTCP.”

The Department understands that the Town of Kearny has selected the Municipal Alternative as per Table ES-1 of the Regional Report where the Town of Kearny will target 85% wet weather capture within its municipal boundary. Once all technical comments have been resolved, it is the Department’s intent to issue draft NJPDES permits with the selected projects based on the selected alternatives included in the LTCPs as certified by the individual permittees. The NJPDES CSO permit at Part IV.D.3.b.vi requires submission of an approvable LTCP that is certified by the permittees. Those municipalities that have selected the Regional Alternative must resolve any implementation issues relating to a cost-sharing plan in order to ensure that the plan is viable. While this comment does not necessitate a response at this time, the Department hereby notes this information for the Administrative Record.

## **Section E, Financial Capability**

Comment 14: Section E.1, Introduction includes the following excerpt:

“The Financial Capability assessment is a two-step process including Affordability which evaluates the impact of the CSO control program on the residential ratepayers and Financial Capability which examines a permittee’s ability to finance the program. Affordability is measured in terms of the Residential Indicator (RI) which is the percentage of median household income spent on wastewater services. Total wastewater services exceeding 2.0% of the median household income are considered

to impose a high burden by USEPA. The financial capability analysis uses metrics similar to the municipal bond rating agencies.”

To supplement this section the Department requests to see in table format in an Excel spreadsheet showing calculations, a year-by-year listing of (1) existing O&M costs and debt service; (2) CSO control program additional O&M costs, capital outlay and loan amounts, additional debt service and other additional costs; (3) current and projected wastewater treatment and CSO costs including residential share, number of households, cost per household; and (4) median household income and resulting residential indicator. A review of the financial capability analysis can not be conducted until this information has been provided.

Comment 15: Section E.3.4, Potential Impacts of the COVID-19 Pandemic on Affordability states the following:

“Given the current and likely continuing uncertainties as to the New Jersey and national economic conditions, Kearny will be reticent to commit to long term capital expenditures for CSO controls without the incorporation of adaptive management provisions, including provisions to revise and reschedule the long term CSO controls proposed in this SIAR based on emergent economic conditions beyond the permittees’ control. These provisions could include scheduling the implementation of specific CSO control measures to occur during the five-year NJPDES permit cycles. A revised affordability assessment should be performed during review of the next NJPDES permit to identify controls that are financially feasible during that next permit period.”

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 agrees that an Adaptive Management approach 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. The Department agrees that 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 F, Recommended Long-Term Control Plan**

Comment 16: Section F.4, Implementation Schedule states the following:

“Overall, the Town of Kearny intends to implement the recommended LTCP over a thirty (30) year period. The goal of this proposed implementation period is to accommodate the fact that the proposed improvements will be a financial burden on Kearny’s rate and tax payers, as is indicated in Section E above.

A summary of the proposed implementation schedule is provided below in Table F-2. It shall be noted that design for sewer separation within CSO watershed area KE010 has been completed.

**Table F-2: Summary of Implementation Schedule**

| Project                                      | Priority | Estimate Design Start | Estimated Construction Start | Estimated Project Completion | Total Project Cost (\$M) <sup>(1)</sup> |
|--|----------|-----------------------|------------------------------|------------------------------|---|
| Sewer Separation within KE010                | 1        | Design Complete       | 2021                         | 2024                         | 10.2                                    |
| Sewer Separation within KE006 <sup>(2)</sup> | 2        | 2035 <sup>(2)</sup>   | 2041 <sup>(2)</sup>          | 2050 <sup>(2)</sup>          | 59.7                                    |

- (1). It is noted here and stated elsewhere in this report that the total project costs included herein include both design and implementation of the same. It is assumed that 5% of the project costs are attributed to engineering design, while the remaining 95% are attributed to implementation and construction.
- (2). Construction of sewer separation within CSO watershed area KE006 represents an enormous cost to the Town of Kearny. As such, the Town is seeking to complete this project over the course of 25 years with design commencing in 2025, construction commencing in 2030, and project completion in 2050. Overall, the Town intends to construct sewer separation within the KE006 area in phases spanning 2-year periods. For the purposes of this implementation schedule, design will be completed initially over a 5-year period beginning in 2025 with a completion date toward the end of 2029 / beginning of 2030. The intent is for initial phased construction for sewer separation within the KE006 area to commence toward the end of 2030. A detailed 30-year schedule is included within Table F-3. This schedule includes a yearly breakdown for the proposed implementation schedule.

The Department concurs with the schedule for KE-010 which shows completion of design and construction of the sewer separation project in three years.

However, it is unclear why sewer separation is so delayed in the schedule for KE-006 given a proposed design start date of 2035; a construction start date of 2041 and a nine year project timeline. Sewer separation will result in a reduction of the continued discharge of pathogen loadings to the waterway via the discharge of combined sewage and will also result in a reduction in flooding. Revisit the schedule as the proposed schedule is not justified. In addition, provide additional detail for the iterative steps of the project in Table F-3 as entitled “Town of Kearny CSO LTCP Implementation Schedule.”

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

Sincerely,



Dwayne Kobesky  
 CSO Team Leader  
 Bureau of Surface Water & Pretreatment Permitting

C: Marzooq Alebus, Bureau of Surface Water and Pretreatment Permitting  
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