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Via email to Dwayne.Kobesky@dep.nj.gov

Dwayne Kobesky
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RE: Passaic River Coalition Comments on Paterson LTCP Selected Alternatives and NJDEP comments of 6.11.21

Dear Dwayne Kobesky,

Thank you for this opportunity to comment on the Selection and Implementation of Alternatives Report for City of Paterson, Appendix N of the PVSC Treatment District Regional Long Term Control Plan submitted by the Passaic Valley Sewerage Commission in October 2020. The Passaic River Coalition (PRC) has been engaged in CSO issues in the Passaic River Basin since the 1980s at least, and we are very pleased that truly serious effort is underway to mitigate this problem. We remain concerned that even this enormous effort will result in continued degradation of our urban waters, but we support the actions to date while we continue to promote more complete restoration of water quality

The PRC supports and is a co-signer of comments from the Sewage Free Streets and Rivers partnership, and PRC members also were involved in the review and submittal of comments by members of the Jersey Water Works CSO Committee, which the PRC supports. In this letter, the PRC focuses especially on the Paterson part of the PVSC LTCP, as CSOs in Paterson affect the greatest number of river miles in the Passaic River.

We acknowledge and support the points raised by NJDEP in its comments to the City of Paterson, dated 11 June 2021. We agree with NJDEP comments regarding calculation of the percent capture, as we find that the SIAR in Appendix N is not clear regarding the denominator (the total wet weather flow) used for calculation of the stated 85.3% capture rate. The need for climate change resilience is also important, but we would have preferred seeing a more detailed explanation in the letter of what information Paterson should provide.

Finally, the PRC conceptually supports efforts to increase the amount of sewage that the PVSC treatment plant is able to receive and treat to NJPDES requirements. It can be argued that the PVSC system was never sized to address the full needs of its service area, and that the shifts in

customer base and environmental standards have brought this issue to the fore. It needs to be addressed.

The following constitute our more detailed comments regarding Paterson (Appendix N) in addition to those referenced above:

1. **Past Actions**: We applaud Paterson's ongoing efforts to reduce its overflow discharge points and the severity of street and basement flooding over time, through the use of CSO consolidation, relief sewers, and internal control facilities. We acknowledge Paterson's statements that the purpose of these actions was not to reduce CSO volumes, but rather was to better protect its residents and businesses. Those are valid reasons for action, which we support.

2. **Redevelopment**: Urban areas are experiencing redevelopment, and Paterson has useful ordinances to ensure that the redevelopment includes infiltration-based practices and no-net increase in the runoff rate. However, the SIAR states: "we have not accounted for such projects to be implemented until 2050, as a conservative assumption in Paterson's model." While exact estimates are impossible, it is inevitable that redevelopment will have benefits in addition to the planned green infrastructure projects on public properties. A rough estimate should be included. Conversely, redevelopment agreements can side-step existing ordinances, which could reduce the potential for combined sewer flow reductions. Paterson should commit to incorporating the ordinance provisions in each redevelopment agreement.

3. **Green Infrastructure (GI)**: Paterson focused its GI analysis primarily on public rights-of-way and properties, which resulted in a relatively low target (2.5% of impervious area). While we acknowledge the value of "realistic targets," the existing target does not reflect sufficient innovation and drive behind this program. In addition, we note that two-thirds of the GI projects are scheduled for completion at and beyond the year 2045, and as late as 2060. This schedule speaks to a lack of focus on GI; GI should be <u>front-loaded</u> so that residents and businesses benefit sooner, rather than later, from CSO reductions and co-benefits of GI. Paterson should strongly consider outsourcing GI projects through a "pay for volume" approach that could unleash innovation by both profit and non-profit entities regarding both public and private properties. Paterson should also provide additional information on how it will achieve the greatest volume reductions per dollar, especially as projected GI costs are roughly one quarter of the total for Alternative 9. GI technology is developing rapidly, and the project implementation and financing processes are evolving even more rapidly. The SIAR should include a mechanism for routinely updating methods and estimates to achieve larger and more cost-effective results as GI becomes a more established (and valued) practice.

4. **Upstream Flow Contributions**: An important point raised by Paterson is that upstream (up-sewer) communities contribute significant I/I contributions that Paterson can't control. The PRC strongly urges the NJDEP and PVSC to provide means by which these upstream contributions to Paterson's combined sewer flows can be reduced. It is patently unfair that

Paterson is forced to pay for CSO controls that are caused by flows generated outside of Paterson.

5. **Selected Alternative 9**: From our perspective, the limited change in the number of CSO episodes (from 53 to 36 in Table D-1) associated with Alternative 9 may be entirely legal, but it shows a major problem with the 85% wet weather capture option. The Passaic River will continue to receive CSO discharges frequently and indefinitely. Unfortunately, Table D-2 is not clear regarding the CSO volume reduction being achieved, and the text does not provide clarity. The Baseline flow is 353.2 MG/year, which apparently is the total CSO volumes from the various outfalls prior to implementation. Alternative 9 shows 283.2 MG/year, which apparently is the total CSO volumes from the various outfalls after implementation; this volume is 80.1% of the Baseline flows. The analysis does not indicate how these volumes related to 85% wet weather capture. Table D-3 indicates a captured volume of nearly 70 MG (whether this is per year is not specified), which again is not 85% of the Baseline flow of 353.2 MG/year. More clarity is needed in this discussion.

6. **Affordability and Financial Capability**: The USEPA threshold of 2.0% of Median Household Income is not a bright line and should not be used as such. In addition, the national practice is moving away from this approach, though we cannot know when a replacement approach will be adopted by USEPA. However, the affordability and financial capability analyses should at the very least be updated to reflect the latest USEPA guidance (2021 Financial Capability Assessment for Clean Water Act Obligations) and to address the NJDEP's comments.
    a. One major problem with the analysis is that it projects sewer rates using an inflation factor, but it does not mention the projected median household income and the basis for projecting the MHI to the year 2060. Frankly, projecting rates and MHI nearly 40 years into the future is inappropriate. Such forecasts are bound to be wrong, but there is nobody who has sufficient knowledge to determine the direction and severity of the error.
    b. In addition, the analysis does not appear to incorporate the financial benefits of using the NJ Water Bank program, but it should.
    c. While Paterson certainly should be a focus of financial assistance and reasonable scheduling, the 40-year schedule appears excessive. As Section E.3.3. says: "**In extreme cases**, the [USEPA] guidance suggested a 20-year compliance schedule might be negotiated." (emphasis added) Based on the SIAR's finding that the affordability analysis was almost precisely at the "High" threshold of 2.0% MHI and that the financial capability analysis yielded a result of "Midrange", we question how Paterson would be seen by USEPA as an "extreme" case meriting a schedule of 40 years. We assume that Paterson is posing this scheduled as a negotiating tactic, but it does not appear to comport with national practice. Revision of this analysis to reflect the 2021 FCA guidance will help clarify this issue.
    d. A more detailed point is that the wastewater volume for a typical single-family residential user is stated as 54,000 gallons per year (4,500 gallons per month), which

should be checked against aggregate residential customer data from Passaic Valley Water Commission. That annual volume may be high, which would then bias the affordability results toward a higher percentage of MHI.

We extend our congratulations to Paterson and the NJDEP for having reached this point in the process, and we look forward to continued collaboration with all stakeholders toward better water quality.

Sincerely,

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cc: Fred Margron, Town Engineer, City of Paterson; Thomas Laustsen, Chief Operating Officer, Passaic Valley Sewerage Commission; CSO Committee LTCP Implementation Subcommittee and Sewage Free Streets & Rivers
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