

Name: Jill Scipione

Organization: Morris Park Neighborhood Association, Bayonne, NJ

Email: jbscipione@gmail.com

### **Public EngagementPublic Engagement**

DWQ has received feedback over the development and roll-out of the 2015 CSO permit concerning public engagement. Advocates have expressed strong support for continuing some form of public engagement in the next permit cycle.

For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue.

Goals and Purpose: The 2015 permit had conditions for public engagement (see language appendaged to the end of this questionnaire) mainly aimed at informing the public about the development of long term control plans and seeking input from the public throughout all phases of the development of the long term control plans.

Given this information, what should be the purpose and goals for public engagement in this upcoming permit cycle?

#### **1. Suggested Permit Requirement and Why:**

An assessment needs to be done on the results and public satisfaction (or lack thereof), with the first permit regarding public input.

Why: A simple rubric on public engagement and participation would show that Bayonne did not even meet the most minimal definition of public input. There was literally *nothing* in their LTCP on public input. The process in Bayonne was a failure and was seemingly designed to ensure public input was either shelved or buried. Not one word of public comments was included in Bayonne's LTCP. If there is no acknowledgement of this fact by the NJDEP and no assessment, there will be no trust or confidence in this process going forward, nor with Bayonne or the NJDEP . Bayonne did not act in good faith. Bayonne was openly non-compliant with public input requirements and the department has neither truly acknowledged nor redressed this blatant non-compliance.

#### **2. Suggested Permit Requirement and Why:**

I am a partner of the Sewage Free Streets and Rivers campaign and I agree with all their recommendations. I participated in the writing of the recommendations therefore I would refer you to those for specifics and I will not repeat them all here. I specifically want to address the "why" of these recommendations as a resident of Bayonne who participated in multiple meetings at the municipal and

regional levels and attended the State's workshop. Our group also submitted lengthy comments for The Evaluation of Alternatives Report and the LTCP.

From SFSR recommendation : *"One of the lessons learned from the 2015 permit is that requirements for public participation needed to include reporting, benchmarks, metrics and funding to ensure that the public and specifically impacted communities are engaged in the CSO plans and not a box to be checked off."*

Why: As the department knows, Bayonne did not document public statements or concerns. Bayonne did not determine public goals and certainly did nothing to implement them. When concerns were expressed at the lack of public input in the SIAR report, the department's tepid response to Bayonne's failure there only emboldened them to do even worse with the LTCP and to include nothing at all. Instead of improving their efforts, Bayonne doubled down on silencing public input. The LTCP was *literally* silent on public engagement. Required benchmarks and metrics would allow ongoing assessment of the process and corrections. If these are not required, a permittee, acting in bad faith, like Bayonne, will simply not do them.

### **3. Suggested Permit Requirement and Why:**

From the SFSR recommendations:

- 1.) *Before a project is implemented as part of the CSO Long Term Control Plan 100% of the impacted community should be informed about the project and public feedback should be gathered on the project.*
- 2.) *A second meeting or round of outreach should be conducted on 30% of the design of the project to present the design and gather community feedback.*
- 3.) *A third meeting or round of outreach should be conducted on 60% of the design that would show how community feedback was incorporated into the design.*

Why: In Bayonne only a small fraction of the public even knows what a CSO is. This is a failure on the city's part. They often blame the residents for this shortcoming, chastising the residents for being uninformed. They were no comprehensive surveys, and little to no information on the city's website especially in the first half of this permit. They did not have a dedicated interactive platform for comments. There was no canvassing of neighborhoods to identify problems or concerns. There were certainly no public hearings on the project they are now implementing (Fitzpatrick Park cistern) or the proposed cistern in Cottage Park. There was a brief ill attended (because of inadequate notification) meeting when the Fitzpatrick Park plans were already finalized to inform the public what they had already decided. The public was not provided the plans in advance so could not prepare. The city does not even post plans on the website and the public had to obtain the plans from Green Acres. The result of this method designed to exclude the public, is a plan imposed on the community without consulting the community and without community input. This can be said of the entire LTCP and bodes ill for compliance with the EJ law going forward unless public input is required and robustly enforced. This

plan resulted in the conversion of a park into essentially a storm drain. The park lost the majority of its trees and will now be well over 75% paved. Bayonne has plans to do the same with other parks and will follow the same procedure of doing everything behind closed doors unless forced to do otherwise. This IS part of the LTCP even though I was repeatedly told by PVSC representatives and representatives of the DEP at the regional supplemental team meeting that it was not. There has been no acknowledgement of this asserted misinformation.

#### **4. Suggested Permit Requirement and Why:**

From SFSR recommendations:

*Educating should be two-way and involve working directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.*

Why: This process has by no means been two way. Two way needs to apply to public concerns and goals as well. This must be required going forward otherwise public participation is simply a sham. Too often the residents, especially in Bayonne, were met with angry rebuffs in response to concerns or hyperbolic straw men when speaking of ("educating" the public on)green infrastructure implementation (Bayonne: "it will cost a billion dollars", Regional PVSC Supplemental team meeting: " if you use 100% green infrastructure you will have rip up the entire city and move everyone out", etc.)or repeated unsupported claims and talking points ("Bayonne cannot use green infrastructure because of its geology"-when the geology of Bayonne was never studied). This one way, often hostile execution of public education effectively discouraged and suppressed public input. People often did not return after one meeting or encounter with this environment.

#### **Engagement Activities**

When, how, and at what frequency should the public be informed or updated about the CSO LTCP or associated projects? What topics should be discussed in a public engagement forum? What public notification principles or practices should be considered for inclusion in the permit? Should they differ based on the individual project(s)?

#### **1. Suggested Permit Requirement and Why:**

Again I agree with all the recommendations of the SFSR campaign but would like to add that the methods used to inform the public should be consistent .There should be an interactive place for comments and questions that would be addressed in a timely manner on a public platform (perhaps a dedicated website linked in the Municipality's website). Proposed plans for projects need to be posted ahead of meetings.

Why: Bayonne often discourages public participation or even attendance by changing means of notification and forums for public “hearings” (I use the term loosely, they were no such thing in practice). Sometimes notification was on the city’s calendar, sometimes it was not. Sometimes the issue of the parks was part of the council’s agenda under ordinances, sometimes buried in resolutions. The council’s agenda can, of course, change on the spot. Sometimes it was a separate meeting not listed on the calendar. It is also of note that Tim Boyle, the city’s representative and public face/liaison specifically told us that going to a council meeting and getting up to the mic to speak would be “combative” on our part so advised against it. Finally, Bayonne consistently uses the very low criteria of the Sunshine Law, i.e. legal notices in papers and posting on the city’s bulletin board in the lobby of city hall. Beyond that they will not go. Most people miss these notices.

## **2. Suggested Permit Requirement and Why:**

The city’s website should consistently reflect updates and the status of the process on an ongoing basis, starting with day one.

Why: Public education should be incremental and ongoing. It is too much to take in at the end. Bayonne could have started with “What is a CSO?” five years ago and added to the information regularly. Instead several years into the process a button appeared on the website that you clicked if you wanted comment on “LTCP” with little explanation. It is doubtful the average user of the website knew what LTCP stood for.

## **3. Suggested Permit Requirement and Why:**

Proposed or even possible plans should be discussed at public meetings. Proposed plans for projects need to be posted ahead of meetings, with pertinent details such as tank dimensions, locations, possible duration of project construction/disruption to use of parks, roads, noise levels/ limitations (will they follow noise ordinances or be exempted?)

Why: In all this time I could not even get anyone at any level to clarify the dimensions of say, a 5 MG tank. We were consistently put off when asking about the size of excavations, siting etc. with the response that that could be discussed in the design phase. That never happens in Bayonne. Never. Again the destruction of Fitzpatrick Park was done without showing the public the plans or informing them much less including them in the design phase. I keep returning to this as this is the first

implemented plan and indicative of everything that is wrong with the process in Bayonne. It is also indicative of how Bayonne plans to move forward .

**How should Supplemental CSO teams continue? What specific task(s) should the teams be given? What other changes should be made to the Supplemental Team, including suggestions for representatives? Other ideas for engaging with the public?**

**1. Suggested Permit Requirement and Why:**

From SFSR comments:

Develop a process for the selection of the supplemental team members that is transparent and goes through a public nomination process. The selection should be made by a third party rather than the municipality.

Why:

In Bayonne the city chose leadership for the supplemental team. This created a situation in which the leadership was reluctant or disinclined to criticize the city. We were told we were not to speak outside the meetings in a public way (presumably in contacting NJDEP, writing letters, speaking to the press, etc.) without a consensus by leadership in what was to be said. This constraint led me to leave the city's supplemental team, yet the department kept directing us back to the supplemental when we voiced concerns. They seem to be the only group the department considers for public input yet they did not seem to see themselves as a voice for the public. It unfortunately became a roadblock. Tim Boyle had an outsized presence in the meetings I attended and indeed, dominated much of the meeting and other community meetings. I was invited to a supplemental team meeting by a member as I was advocating for preserving trees in the parks (Bayonne is clear cutting its parks) and the member thought it might dovetail in to the CSO plan, green infrastructure and the capturing of rain water. This was my first introduction into the CSO process and the city's supplemental team. Tim Boyle pointedly lectured me and became increasingly angry about my objecting to trees in the city's parks being destroyed (impediment to "progress" or something). I was embarrassed and the attending members all fell silent. This was *typical* of the response from Tim Boyle to any dissent. Mr. Boyle has since resigned due, it seems, to a police investigation into possible criminal conduct. He was the center of a gender discrimination complaint against the city and the mayor is also the subject of at least two more sexual harassment complaints. The environment is hostile to interactions with the public and the NJDEP needs to advocate for the residents instead of just sending us back to the city to advocate for ourselves. One way to help this situation is to not let the city be in charge of the supplemental team.

### **3. Suggested Permit Requirement and Why:**

From SFSR:

*Require permittees to submit documentation verifying that they are following the agency's requirements to use Supplemental CSO Teams for "feedback on community reaction, effective ways to share information, and input on the permittees' public participation strategy," and that they are taking this feedback into consideration in the implementation of LTCPs.*

Why:

None of the above was done in Bayonne. It was evident that the city did not document public input therefore it was easy to infer by anyone attending that nothing they said would be used or considered. You ask for other ideas for engaging with the public. The public must be treated with some minimal level of respect for their time, for their input and for their effort. Stop wasting people's scarce free time with requests for complex comments if they will just be discarded. It was quite apparent, for example, that the city held the public's desire for significant green infrastructure in contempt and as something to be continuously discouraged. No one will continue to participate in meetings where they feel insulted, embarrassed or ignored.

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### **Climate Change**

Since permits were issued and permittees have developed and submitted LTCPs, Governor Murphy and DEP have announced renewed focus on climate change-related initiatives. It is widely accepted that critical infrastructure should be designed, located, and/or sufficiently protected to remain operational during an emergency, including floods, storm surges and power outages, and for long-term viability (see [https://www.nj.gov/dep/watersupply/pdf/guidance\[1\]ifp.pdf](https://www.nj.gov/dep/watersupply/pdf/guidance[1]ifp.pdf) and <https://www.nj.gov/dep/watersupply/pdf/guidance-ap.pdf> for more information on current funding requirements).

While permittees were not required to consider climate change as part of LTCP submissions, moving forward DEP will be working with stakeholders across all regulatory programs to include climate change considerations.

Guided by the 2020 New Jersey Scientific Report on Climate Change (<https://nj.gov/dep/climatechange/data.html>); New Jersey's Global Warming Response Act 80X50 Report (<https://nj.gov/dep/climatechange/docs/nj-gwra-80x50-report-2020.pdf>); and regulatory reform through NJ PACT (NJ Protecting Against Climate Threats, <https://nj.gov/dep/njpact/>) the DEP is working to mitigate against the impacts of climate change. The next permit cycle may include provisions

designed to ensure previously submitted LTCPs and permittees' work is reflective of climate change impacts. For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue. How should DWQ evaluate whether permittees' projects are inclusive of changing environmental conditions, like precipitation, in long-term strategies?

**1. Suggested Permit Requirement and Why:**

Climate change should be addressed more vigorously. The climate change considerations should not be limited to placement of tanks and sea level rise and mitigating ever worsening conditions without working on the causes of climate change. The cause of climate change can and should be addressed by requiring all infrastructure going forward to include green infrastructure at the maximum amounts possible.

Why:

The LTCP projects in Bayonne will actually worsen climate change. They will also diminish quality of life in Bayonne. By destroying trees and reducing green spaces and increasing paving we will worsen Co2, increase water runoff and increase heat. Our parks are being taken for grey infrastructure and the green infrastructure plan includes possibly no natural elements at all. (Bayonne leaves themselves 20 years to plant a handful of trees "if possible.") This doesn't have to be done this way and the fact that that is how Bayonne is proceeding is a betrayal of the people now and in the future.

**With the signing of Executive Order No. 23, the Governor directed the DEP and other State agencies to incorporate environmental justice into their programs, policies and activities as well as directed the DEP to write guidance on how to accomplish this. Developed through both interagency coordination and a public stakeholder process, the DEP issued "Furthering the Promise" (<https://nj.gov/dep/ej/docs/furthering-the-promise.pdf>) in September 2020. In addition, Governor Murphy signed the New Jersey Environmental Justice Law (<https://nj.gov/dep/ej/docs/ej-law.pdf>) on September 18, 2020 that identifies most of our CSO municipalities as overburdened communities and applies to sewerage treatment plants with a capacity of more than 50 million gallons per day. Therefore, it is important to incorporate EJ principles and practices into the next CSO permits.**

**For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue. EJ Principles and Practices What EJ principles and practices should be considered as part of the CSO LTCP review and how? What EJ principles and practices should be required as part of the public engagement conditions?**

**1. Suggested Permit Requirement and Why:**

*Cumulative impacts of sewage in the streets and what that means - benefits of GI to mitigate the benefits of GI. What are the full parameters - how are these issues impacting the community.*

Why: Overburdened neighborhoods are, at least in Bayonne, often the most paved and least green. They are greatly impacted by the heat island effect. City trees in these neighborhoods are not maintained. When they inevitably die they are not replaced. The parks in these neighborhoods are also neglected and also devoid of trees and green space. Instead they consist of aging playground equipment on artificial surfaces.

**2. Suggested Permit Requirement and Why:**

*Affordability should be included in the permit. Reported on and considered as a permit condition. Nearly 40% of runoff is created from private property. I.e. all of the permittees should conduct feasibility studies.*

In addition I would say the primary polluters, the large businesses with vast asphalt parking lots need to be included in cost sharing proportional to their runoff.

Why: The configuration of the costs burdens already overburdened communities with paying to mitigate the runoff of rich developers and businesses who are also privileged with decades of tax exemptions or outright abatements. This is just not sustainable. Requiring economic consequences to massive amounts of run off and paving could be used to incentivize tree islands, rain gardens, pervious paving, setbacks and open spaces at ground level. Otherwise this whole process is a green light to developers to build and pave without restraint and let the community pay for and suffer the consequences.

**3. Suggested Permit Requirement and Why:**

Require technical assistance and legal representation to overburdened communities independent of the permittees. The communities need some representation/advocacy/assistance from someone who can interpret the law for them and see that it is being followed. This person or persons should represent the people and their interests and be independent from the administrations of the municipalities, who are too often more dedicated to developers and whose counsel is often dedicated to represent their interests over all others.

Why:

In the EJ document it states:

**g. In addition to any other fee authorized by law, rule, or regulation, the department shall assess each permit applicant a reasonable fee in order to cover the department's costs associated with the**



**implementation of this act, including costs to provide technical assistance to permit applicants and overburdened communities as needed to comply with this act.**

It sounds like the DEP would assess the permit applicant for technical assistance for the residents of the overburdened communities.

This seems like it might act as a disincentive for the permit applicants to provide technical assistance to the communities.

Too often when the municipalities are non-compliant the state's recommended solution for residents is "get a lawyer" which, of course, no one can afford.

Overburdened communities are unlikely free or able to afford legal and technical assistance and I can't imagine the municipalities or permit applicants would provide help that they would then be charged for unless they are required to.

Leaving the residents to their own devices while the state and municipalities have lawyers is just another impossible burden on the community.

### **Overburdened Communities**

#### **Should notification or other project planning activities be different in overburdened communities as defined in the EJ Law?**

##### **1. Suggested Permit Requirement and Why**

To the recommendations of SFSR on impact statements I would add the suggestion that the psychological stress of noise and the day to day impact on mental well-being of major projects be included.

Why: Noise ordinances in Bayonne are very minimal. They are often ignored and flouted and inconsistently enforced. We are being subjected to, as are other communities, endless redevelopment projects that can cause continuous and significant noise for years if not decades. Parks and green space can improve mood and reduce stress and provide a small haven in these environments. The loss of these spaces can be traumatic and yet they are casually bulldozed especially in overburdened communities.

## Other

**If there are additional conditions you would like for DEP to consider, please describe them below. For each suggestion, please identify the issue of concern within the context of the suggested permit condition and why this suggestion will help address that issue.**

### **1. Suggested Permit Requirement and Why:**

*From SFSR: Provisions for assessing and implementing green infrastructure should be included in all of the forthcoming permits.*

*The engineers who developed the CSO LTCPs were not green infrastructure experts and inconsistent practices were used to evaluate green infrastructure projects in the development of the CSO LTCPs. Furthermore, municipal and utility permit holders and their staff are not experts in GI. The NJDEP needs to set standard requirements that are stronger than guidance to ensure that communities are getting the benefits of GI projects implemented within their communities.*

Why: Green infrastructure is one of the main goals of the communities and it is telling that Green Infrastructure was included nowhere in this survey. This speaks to public input as well as the importance of green infrastructure to the community being ignored and/or minimized by not only Bayonne but by NJDEP as well.

### **2. Suggested Permit Requirement and Why:**

*Require the permit holders to work with their various departments, including Planning, Zoning, Landscape Architect, Public Works, and Sustainability, to report on planning and implementation of GI projects, including how the Master Plan and Stormwater Ordinance reference GI and require a GI-certified professional be consulted or hired to work on projects and training for public works staff on how to maintain GI.*

Why: Including more departments would avoid the impasse of having one hostile representative of the city being the public's only liaison as happened in Bayonne.

### **3. Suggested Permit Requirement and Why:**

***Require that at least fifty-percent of GI entail nature-based solutions, such as trees and rain gardens. Require engineered GI solutions, such as cisterns and porous pavements, to be prioritized for areas where there is already paving (as opposed to in parks and scarce urban green spaces, which would result in a loss of trees and vegetation).***

***Nature based solutions such as trees and rain gardens provide additional needed benefits to communities who are suffering from the impacts of climate change. Plans with majority underground***

***cisterns or pervious pavement will not yield the same benefits to communities and may further other issues like the heat island and increased greenhouse gas emissions that the department is also looking to address.***

Why: This is of paramount importance to our group and community. In Bayonne we are going to experience a net *loss* of scant and precious green space *because of* this process. We will have fewer trees, less vegetation and more impervious surfaces. The people have a right to a better quality of life than this. Children need nature and deserve to grow up around trees. There is NO reason paved areas cannot be considered for cisterns yet Bayonne WILL NOT do it. Instead they are decimating our parks,

#### **4. Suggested Permit Requirement and Why:**

More Green Infrastructure needs to be ***required***.

Why: It is a primary goal of virtually every community in this process. We are at the point where climate change is now Climate Emergency. Every project, every decision made by government needs to prioritize climate change with more than just engineered containment that will inevitably be overwhelmed if we do nothing about climate change itself. When these projects are narrowly considered and sensitivity to the environment in its entirety is dismissed it can and does cause more problems.