

## Participating Organizations

*Alliance for a Living Ocean*

American Littoral Society

Arthur Kill Coalition

Asbury Park Fishing Club

Bayberry Garden Club

Bayshore Saltwater Flyrodders

Belford Seafood Co-op

Belmar Fishing Club

Beneath The Sea

Bergen Save the Watershed Action Network

Berkeley Shores Homeowners Civic Association

Cape May Environmental Commission

Central Jersey Anglers

Citizens Conservation Council of Ocean County

Clean Air Campaign

Coalition Against Toxics

Coalition for Peace & Justice

Coastal Jersey Parrot Head Club

Coast Alliance

Communication Workers of America, Local 1034

Concerned Businesses of COA

Concerned Citizens of Bensonhurst

Concerned Citizens of COA

Concerned Citizens of Montauk

Dosil's Sea Roamers

Eastern Monmouth Chamber of Commerce

Environmental Response Network

Explorers Dive Club

Fisheries Defense Fund

Fishermen's Dock Cooperative

Fisher's Island Conservancy

Friends of Island Beach State Park

Friends of Liberty State Park

Friends of Long Island Sound

Friends of the Boardwalk

Garden Club of Englewood

Garden Club of Fair Haven

Garden Club of Long Beach Island

Garden Club of Morristown

Garden Club of Navesink

Garden Club of New Jersey

Garden Club of New Vernon

Garden Club of Oceanport

Garden Club of Princeton

Garden Club of Ridgewood

Garden Club of Rumson

Garden Club of Short Hills

Garden Club of Shrewsbury

Garden Club of Spring Lake

Garden Club of Washington Valley

Great Egg Harbor Watershed Association

Highlands Business Partnership

Highlands Chamber of Commerce

Hudson River Fishermen's Association/NJ

Interact Clubs of Rotary International

Jersey Coast Shark Anglers

Jersey Shore Audubon Society

Jersey Shore Captains Association

Jersey Shore Running Club

Junior League of Monmouth County

Junior League of Summit

Kiwanis Club of Manasquan

Kiwanis Club of Shadow Lake Village

Leonardo Party & Pleasure Boat Association

Leonardo Tax Payers Association

Main Street Wildwood

Marine Trades Association of NJ

Monmouth Conservation Foundation

Monmouth County Association of Realtors

Monmouth County Audubon Society

Monmouth County Friends of Clearwater

Montauk Fisherman's Emergency Fund

National Coalition for Marine Conservation

Natural Resources Protective Association

Navesink River Municipalities Committee

Newcomers Club of Monmouth County

NJ Beach Buggy Association

NJ Commercial Fishermen's Association

NJ Council of Dive Clubs

NJ Environmental Federation

NJ Environmental Lobby

NJ Educators Association

NJ Marine Citizen Lobby

NJ PIRG Citizen Lobby

NJ Sierra Club

NJ Windsurfing Association

Nottingham Hunting & Fishing Club

NYC Sea Gypsies

NY/NJ Baykeeper

NY Marine Educators Association

Ocean Advocates

Ocean Conservancy

Ocean County Citizens for Clean Water

Ocean Divas

Ocean Wreck Divers

Outreach/First Presbyterian Church of Rumson

Pecatiny Saltwater Sportsmen Club

Raritan Riverkeeper

Riverside Drive Association

Rotary Club of Long Branch

Saint George's by the River Church, Rumson

Saltwater Anglers of Bergen County

Sandy Hook Bay Catamaran Club

Save Barnegat Bay

Save the Bay

SEAS Monmouth

Seaweeders Garden Club

Shark River Cleanup Coalition

Shark River Surf Anglers

Sheepshead Bay Fishing Fleet Association

Shore Adventure Club

Shore Surf Club

Sicera Club, Shore Chapter

Soroptimist Club of Cape May County

South Monmouth Board of Realtors

Staten Island Friends of Clearwater

Strathmore Fishing & Environmental Club

Surfers' Environmental Alliance

Surfrider Foundation, Jersey Shore Chapter

TACK I

Terra Nova Garden Club

Unitarian Universalist Congregation of Mon. County

United Boatmen of NY/NJ

United Bowhunters of NJ

Volunteer Friends of Boaters

Waterspirit

Women's Club of Brick Township

Women's Club of Keyport

Women's Club of Long Branch

Women's Club of Merchantville

Zen Society

# Clean Ocean Action



*Ocean Advocacy  
Since 1984*

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Pilar Patterson  
Chief, Bureau of Point Source Permitting Region 2  
P.O. Box 029  
Trenton, NJ 08625

October 20, 2005

**RE: NJPDES Renewal Permit for the Cape May County Municipal Utilities Authority, #NJ0020371**

Dear Ms. Patterson:

Clean Ocean Action (COA) has reviewed the above referenced project and submits the following comments. These comments, on behalf of Clean Ocean Action and its supporting organizations, are in response to the draft New Jersey Pollutant Discharge Elimination System (NJPDES) permit # NJ0020371 for Cape May County Municipal Utilities Authority to discharge to surface water. This facility treats at the secondary level and discharges to the Atlantic Ocean after passing through the Cape May County Municipal Utilities Authority Wildwood/Lower Regional Outfall. In addition, the facility requests that beneficial reuse be authorized for on-site irrigation purposes.

While COA is not opposed to this permit renewal, we strongly urge the permit to require additional monitoring of effluent and due to lack of program requirements, we object to the authorization of beneficial reuse at this time. These comments only pertain to the treated wastewater discharge sections of the permit renewal applications.

## In summary, COA finds that:

- The notification deadline for public comment is unclear and jeopardizes public participation.
- The request for authorization for beneficial re-use (in a restricted access site) is premature. Furthermore, not enough specific information has been provided to allow critical and meaningful review of the re-use plans by this facility.
- Monitoring requirements are insufficient, particularly when related to toxins that are measured in detectable quantities.

- Permit does not require the adoption of any updated/revised Recommended Quantitation Level (RQL) by the NJ DEP that occurs during the 5-year permit cycle.

These points are explained in the following comments.

**The deadline for public comment was not adequately provided.**

The public notice for the 2000 permit renewal of this permit stated “the public comment period will close thirty days after its appearance in **either** the newspaper or bulletin, whichever is later”(emphasis added). In contrast, the public notice for the 2005 permit renewal states “the public comment period will close thirty days after its appearance in the newspaper.” However, the 2005 draft permit only provided the date the draft permit was submitted (September 20, 2005) and the date the notice appeared in the NJ DEP Bulletin (September 21, 2005). The relevant date – the date that determined the end of the public comment period (i.e. the date of newspaper publication in the *The Press*) - was not provided. Attempts made by COA to find the Public Notice in the newspaper were not successful. Nor was the deadline available on the DEP website. Only after contacting the permit manager did COA obtain the correct comment deadline date.

The language regarding the timing of the public comment period undermines the ability of the public to adequately participate in the permit renewal process since the deadline for comment is unclear. Interested parties are easily misled as to the true due date and thus could miss their opportunity to comment. Should the relevant date remain the date of newspaper publication, such date must be included in the Draft Permit. If such date cannot be included in the draft permit, COA strongly suggests that the Department revert to the old language which closes the comment period thirty days after appearance in either the newspaper or bulletin, whichever is later.

**The request for authorization for beneficial re-use is premature. Furthermore, not enough specific information has been provided to allow critical and meaningful review of the re-use plans by this facility.**

While COA supports the concept of beneficial re-use of wastewater in New Jersey, COA opposes re-use authorization in this permit until the Reclaimed Water for Beneficial Reuse (RWBR) Manual has been peer reviewed and finalized, the Department develops a regulatory framework for beneficial reuse, establishes a Vision Statement for beneficial reuse, and hires a Program Director.

The RWBR Manual was initially developed in the early 1990s and was updated in January 2005. It has remained in a working draft form since its release, although many facilities use the document to implement their water reuse programs.<sup>1</sup> It is open for constant public review and is

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<sup>1</sup> Tompkins, Howard, Bureau Chief: Point Source Permitting Region 1, New Jersey Department of Environmental Protection, Interview, 15 July 2004.

scheduled for updating every six months.<sup>2</sup> The Manual is only a guideline for reuse programs and is not binding. While the RWBR Manual is a good start, **New Jersey needs to move forward and adopt a regulatory program that efficiently and effectively encourages conservation, recharges the ground water supply, and maintains a healthy supply of potable water while protecting the public health and environment.**

COA offers the following basic recommendations to NJDEP for its RWBR program. By implementing these basic recommendations, New Jersey can begin to establish a comprehensive program for water reuse.

1. Establish a **Vision Statement** for the Water Reuse Program that establishes a goal to restore and enhance New Jersey's watersheds and to protect the aquatic integrity of New Jersey's groundwater, surface water, and wetland habitats for future generations. The Vision must not provide a rationale to increase development. In doing so, the Program should seek ways to eliminate salt-water intrusions, sustain adequate levels of drinking water, and maintain historic levels of water in bays, creeks, and wetlands. Only if the Vision Statement and its applicable goals are fully accomplished should the reused water be used to expand development.
2. Appoint a **Water Reuse Program Director** to work on water reuse and spearhead the program. Even though NJDEP resources are limited, it is imperative for the Department to appoint a Program Director because coordination among agencies and NJDEP divisions is essential to a successful program. The Water Reuse Program Director would facilitate coordination among various agencies and divisions within NJDEP. Current part-time staff and regional employees working with water reuse issues must be properly educated on the subject, made aware of the program's goals, and encouraged to exchange information.
3. Promulgate **RWBR Regulations** that are protective of sensitive aquatic life and sensitive life stages and that support and enforce water reuse policies in a consistent and effective manner.

As written, the draft permit is vague concerning reuse plans and specifications on how the plant will meet RWBR requirements. Plans other than infrastructure for beneficial re-use are not detailed. For example, what volume of water is intended to be re-used?

In addition, no information is provided in the Notice for toxic parameters and it is not clear why it can be assumed that the treated effluent can be considered safe for the environment.

Once the RWBR Manual has been finalized by peer review, the Department develops a regulatory framework for beneficial reuse, establishes a Vision Statement for beneficial reuse, and hires a Program Director, a new permit should be applied to the re-use discharge. In addition, a Public Notice specific to the re-use portion of the effluent must be announced. This Public Notice must include the latest toxin scan results of the effluent and specific estimations of volumes to be used in the re-use program. However, should the re-authorization for reuse proceed without a scientific review of the Manual or the development of a regulatory

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<sup>2</sup> New Jersey Department of Environmental Protection, Conference Call with COA staff and Division of Water Quality staff Howard Tompkins, 29 July 2004.

framework, Vision, or Program Director, the permit should at least mandate that the Permittee comply, at all times, with the most recent version of the RWBR Manual.

**Monitoring requirements are insufficient, particularly when related to toxins that are measured in detectable quantities. Six different toxins were found to be discharged in quantifiable amounts, yet the semi-annual (two times per year) toxin monitoring frequency has not increased. Toxin scans must be made publicly available on-line at the NJDEP website and must be sent to all interested parties.**

The draft permit requires that toxins and acute toxicity be monitored two times per year. COA strongly urges the Department to require toxin scans and acute tests monthly in order to detect and assess variations in toxin levels between and within years, especially considering that six toxins were found to be discharged in quantifiable amounts in the effluent.

Data available on five of the toxins in the draft permit indicate all five toxins were detected in a majority of the toxin scan conducted from 5/2001 through 11/2004<sup>3</sup>. These data were not available for Phenols. The semi-annual monitoring frequency was still maintained regardless of whether a toxin is above or below the detection limit. Monitoring should be increased to a monthly schedule following the detection of any toxin in the effluent, in order to adequately protect the water body into which the effluent is being discharged.

Moreover, toxin scan reports should be included in all permit renewal public notices and made available on-line.

**Upon adoption of any updated/revised Recommended Quantitation Level (RQL) by the NJ DEP that occurs during the 5-year permit cycle, the new RQLs must be incorporated into the permit immediately.**

Stuart Nagourney, NJ DEP Research Scientist informed COA that the final draft of an amendment to NJAC 7:18, that pertains to adoption of new RQL's, is complete, but still needs to be reviewed by the yet unnamed/unassigned Attorney General<sup>4</sup>. He anticipated the review process could take up to one year. Any new or revised RQL's must be incorporated into permits immediately upon adoption, not at the next permit cycle.

#### **In conclusion,**

COA finds that there is much work to be done by the permittee, the Department, and the public in order to ensure that effluent discharges do not degrade marine ecosystems and steps must be taken to protect and conserve resources.

To achieve full acceptance of re-use by citizens and organizations, a public process must be initiated by the Department to review, discuss, and finalize guidance for re-use. Without this process, the environmental soundness of re-use in New Jersey will be compromised. Thus, COA

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<sup>3</sup> Table A: Page 14 of the facilities Fact Sheet included in this draft permit # NJ0020371

<sup>4</sup> Meeting on August 10, 2005 with Assistant Commissioner Sam Wolfe and relevant staff from the Department of Environmental Protection, Division of Water Quality.

opposes re-use in this permit until final, public and peer reviewed guidance has been adopted by the State.

Other steps to be taken to ensure environmental safety is additional monitoring. These data must also be made available to the public. Currently, the data is difficult to obtain, as it is not accessible to citizens, organizations, and environmental planners. COA urges the Department to require additional monitoring for the points reviewed in these comments and for the requested materials to be made available to the public. The Department should immediately pursue a system for making this information available and accessible.

We thank you in advance and look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read 'CZipf', with a stylized flourish at the end.

Cindy Zipf  
Executive Director

Jennifer Samson, Ph.D  
Principal Scientist

Nicole Simmons, J.D.  
Water Policy Analyst