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American Littoral Society
Arthur Kill Coalition
Asbury Park Fishing Club
Bayberry Garden Club
Bayshore Regional Watershed Council
Bayshore Saltwater Flyfishers
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, NY
Coalition Against Toxics
Coalition for Peace & Justice/Unplug Salem
Coast Alliance



*Ocean Advocacy
Since 1984*

Clean Ocean Action

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Howard B. Tompkins
Chief, Bureau of Point Source Permitting Region 1
P.O. Box 029
Trenton, NJ 08625

May 24, 2006

RE: Draft NJPDES Renewal Permit for the Township of Neptune Sewerage Authority's Sewage Treatment Plant, Permit # NJ0024872.

Dear Mr. Tompkins:

Clean Ocean Action is a regional, broad-based coalition of over 150 conservation, environmental, fishing, boating, diving, student, surfing, women's, business, service, and community groups with a mission to improve the degraded water quality of the marine waters of the New Jersey/New York coast. These comments are in response to the draft New Jersey Pollutant Discharge Elimination System (NJPDES) permit # NJ0024872 for the Township of Neptune Sewerage Authority to discharge to surface water. The average design flow for this facility is 8.5 MGD and the draft permit renewal notice states that the average flow is 6.5 MGD. This facility discharges to the Atlantic Ocean at Latitude 40° 11' 41.2" Longitude 73° 59' 25.1" and located approximately 5800 feet offshore.

In general, COA is encouraged by several proposed additions to the permit requirements that are meant to improve the Department's ability to assess the impacts of the wastewater discharge on aquatic organisms. We look forward to following the progress of both the Rutgers University study and the EPA funded Benthic Index study. We are pleased by the increased monitoring requirements that have been included in this draft permit, and the addition of effluent limitations for Chlorine Producing Oxidants (CPOs). These improvements are certainly a step in the right direction. However, there are still some significant issues that must be addressed and some of the newly proposed requirements are not adequate to address water quality issues during this five-year permit cycle. COA's issues and comments are detailed below.

More information must be provided on the emergency overflow outlet to Jumping Brook.

- A. The lack of effluent limitations on the emergency overflow is unacceptable considering the wastewater is being discharged into a wetland and public waterway.
- B. The draft permit must provide information on all emergency discharges that have taken place during the last permit cycle, not just the most recent. This information is necessary for the public to fully understand the

Coastal Jersey Parrot Head Club
Communication Workers of America, Local 1034
Concerned Businesses of COA
Concerned Citizens of Bensenville
Concerned Citizens of COA
Concerned Citizens of Montauk
Eastern Monmouth Chamber of Commerce
Fisher's Island Conservancy
Fisheries Defense Fund
Fishermen's Dock Cooperative, Pt. Pleasant
Friends of Island Beach State Park
Friends of Liberty State Park, NJ
Friends of the Boardwalk, NY
Garden Club of Englewood
Garden Club of Fair Haven
Garden Club of Long Beach Island
Garden Club of Middletown
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
Jersey Coast Shark Anglers
Jersey Shore Captains Association
Jersey Shore Running Club
Junior League of Monmouth County
Keypoint Environmental Commission
Kivanas Club of Manasquan
Kivanas 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, NY
NJ Beach Buggy Association
NJ Commercial Fishermen's Association
NJ Environmental Federation
NJ Environmental Lobby
NJ Main Ship Owners Group
NJ Marine Educators Association
NJ PIRG Citizen Lobby
Nottingham Hunting & Fishing Club, NJ
NYC Sea Gypsies
NY Marine Educators Association
NY/NJ Baykeeper
Ocean Wreck Divers, NJ
PaddleOut.org
Piscataway Saltwater Sportsmen Club
Raritan Riverkeeper
Religious On Water
Riverside Drive Association
Rotary Club of Long Branch
Rotary District #7510 - Interact
Saint George's by the River Church, NJ
Saltwater Anglers of Bergen County
Sandy Hook Bay Anglers
Save Barnegat Bay
Save the Bay, NJ
SEAS Monmouth
Seaweeders Garden Club
Shark Research Institute
Shark River Cleanup Coalition
Shark River Surf Anglers
Shore Adventure Club
Shore Surf Club
Sierra Club, Shore Chapter
Soroptimist Club of Cape May County
South Jersey Dive Club
South Monmouth Board of Realtors
Staten Island Friends of Clearwater
Staten Island Tuna Club
Strathmere Fishing & Environmental Club
Surfers' Environmental Alliance
Surfrider Foundation, Jersey Shore Chapter
TACK I, MA
Terra Nova Garden Club
Unitarian Universalist Congregation / Monm. Cnty.
United Boatmen of NY/NJ
United Bowhunters of NJ
Volunteer Friends of Boaters, NJ
WATERSPIRIT
Women's Club of Brick Township
Women's Club of Keypoint
Women's Club of Long Branch
Women's Club of Merchantville
Zen Society, NJ

frequency of such events and the potential impacts to Jumping Brook and the surrounding wetlands.

- C. The draft permit states “The permittee shall only use their emergency overflow outlet as a means of last resort for discharge...” This language is unacceptably ambiguous and the Department must establish a clear set of required conditions to be met before any emergency overflow can occur.
- D. The public must be noticed whenever an emergency discharge occurs and all of the information on the discharge must be made available for public review.
- E. Following an emergency discharge event, swimming downstream of the discharge point and extending to the Shark River basin must be prohibited pending the outcome of water quality monitoring tests.
- F. If this is a frequent occurrence, allowing the Neptune Township Sewage Treatment Plant to discharge treated wastewater into surrounding wetlands and waterways during certain weather conditions is not a solution for infrastructure or capacity deficiencies. The Department must require the permittee to develop and implement plans and/or practices that will eliminate the need to discharge treated wastewater into local waterways for any reason.

The Department should provide a clear timeline for the completion of the fecal coliform/enterococci comparison study and enterococci spike evaluation.

The Department has been requiring wastewater treatment operators to conduct monthly split sample monitoring for fecal coliforms and enterococci for a number of years without releasing any updates or results on the status of the evaluation. COA supports the Department’s need for a comprehensive analysis, but it seems there should be sufficient data for the Department to draw some conclusions about the correlation between fecal coliforms and enterococci and to quantify the frequency and magnitude of enterococci spikes. COA requests an update on the status of these investigations including:

- 1. How many facilities have already submitted sampling results?
- 2. How many data points have been submitted by each facility?
- 3. How many more facilities and data points are needed to complete the analysis?
- 4. What is the anticipated completion date for these analyses?
- 5. What is the frequency and magnitude of unexplained enterococci spikes?

COA looks forward to reviewing the results of the Department’s study, as they will be applicable to many other programs including the Cooperative Coastal Monitoring Program and the Shellfish Monitoring Program.

The increased use of Water Quality Based Effluent Limits (WQBELs) is promising.

New requirements in this draft permit represent significant progress towards the development and subsequent adoption of WQBELs for toxins that protect humans and sensitive aquatic life. We urge the Department to reject the concept of a mixing zone when developing WQBELs.

- A. Chlorine Producing Oxidants (CPOs) WQBELs:
 - i. Clean Ocean Action commends the Department for requiring CPO effluent limits in this draft permit, as COA has requested this requirement be added to ocean discharge NJPDES permits for many years. The compliance schedule of 36 months from effective date of permit (EDP) is an improvement from some previous NJPDES permits for ocean dischargers, but COA feels strongly that

- sufficient data exists to allow the Department to set an interim CPO limit for the permittee at the EDP.
- ii. Information listed on Table A on the final page of the Fact Sheet describes the effluent limitation analysis used for CPOs. Information provided in this table raises significant concerns about the appropriateness of utilizing this data set to calculate the WQBEL for CPOs, as effluent conditions during this time period (12/01/05 and 12/31/05) are not representative of normal or average effluent conditions for this facility, including:
 - a) The effluent flow of 0.85 MGD is substantially lower than the stated average flow of 6.2 MGD.
 - b) The maximum reported value for CPOs during this time period was only 0.64 mg/L, while the monthly average over 5 years was 0.83 mg/L¹ with a daily maximum of 10.95 mg/L².
 - iii. We remain disappointed at the incorporation of dilution factors (mixing zones) in the development of these WQBELs.
- B. Ammonia Monitoring and Reporting Requirement and Toxicity Study:
COA is frustrated by the fact that WQBELs will be delayed for another entire permit cycle due to the lack of facility-specific ammonia data, as we have been urging the Department to include this parameter in NJPDES permits for ocean dischargers for some time.
- i. We are encouraged by their addition in this draft permit and look forward to reviewing the results of the permittee's Ammonia Toxicity study.
 - ii. We request that all data and results from this study be made available for public review.
- C. Heavy Metals, Base/Acids, Pesticides and Volatiles Monitoring and Reporting:
- i. COA commends to Department for taking the necessary steps towards developing WQBELs for the following pollutants: Antimony, Arsenic, Cadmium, Chromium, Chromium (+6), Copper, Lead, Mercury, Nickel, Selenium, Silver, Thallium, Zinc, Cyanide, Sulfide-Hydrogen Sulfide, Acids, Base/Neutrals, Pesticides, and Volatiles.
 - ii. In the previous permit, monitoring/reporting requirements for these pollutants was limited to once during the entire permit cycle. COA repeated urged the Department to increase the frequency of monitoring to monthly intervals. The Department now recognizes that as a result of allowing such infrequent monitoring, they are unable to calculate WQBELs for any of these important pollutants. The lack of data has prompted the Department to increase the monitoring requirement for most of these pollutants to either annually or semi-annually.
 - iii. Although COA is encouraged to see the increase in monitoring frequency, the new requirements **will still not be sufficient** to adequately detect and assess variations in toxin levels between and within years.

¹ Draft NJPDES Renewal Permit for the Township of Neptune Sewerage Authority's Sewage Treatment Plant, Permit # NJ0024872, April 19, 2006; Table A in the Fact Sheet.

² Id

- iv. Moreover, the annual monitoring for Pesticides, Base Neutral and Acid Compounds will also not provide the 10 data points considered by the Department to be the absolute minimum required to calculate a WQBEL³.
- v. COA reiterates our request for the Department to require monthly toxin scans. Not only will this schedule allow the Department to adequately calculate the WQBEL for these important pollutants in a timely manner, this safe-guard of increased monitoring is necessary to protect against discharges that have the potential to cause further degradation to receiving waters.

The Department is taking positive steps toward a better understanding of baseline conditions off the New Jersey coastline. Clean Ocean Action congratulates the Department on receiving the EPA grant to develop indicators of ecosystem health for the benthic community in the estuarine and nearshore ocean waters of New Jersey. The cooperative investigation with Rutgers University and other partners in the Mid-Atlantic Coastal Ocean Observing Regional Association (MACOORA) to develop a regional ocean observing system to enable the Department to conduct detailed measurements of dissolved oxygen conditions in New Jersey's ocean waters is also very encouraging.

Data collected during the course of these studies is an important step in adequately assessing the impact of ocean discharges on aquatic organisms and should provide the foundation for making a finding of "no unreasonable degradation" as is required in the Ocean Discharge Criteria regulations at 40 CFR 125. By compiling existing data on benthic communities in nearshore ocean waters of New Jersey, the Department should find that the wealth and depth of the decades of data collected by state, federal and local agencies, academia and private interests will expedite the study's conclusion.

To ensure that the ocean ecosystem is not degraded by this discharge the Department will still need to take additional actions to compliment these two studies. These actions include: (1) monitoring of sediment contamination, (2) more frequent monitoring of priority pollutants, (3) publication of monitoring reports and priority pollutant scans in a form that is easy to access by the public, and (4) a phase-out of mixing/impact zones for existing discharges.

Finally, COA applauds the inclusion of a "reopener clause", as it ensures that any relevant findings will be incorporated into the permit in a timely manner.

In conclusion,

COA finds that the Department has made significant progress towards being able to assess whether an effluent discharges will not degrade the aquatic ecosystems. The pace of these changes is still not satisfactory and there are still some serious concerns that need to be addressed. The state must: (1) submit requested information to COA, (2) increase monitoring as recommended and provide easy access of information to the public, and (3) rescind the finding of "no unreasonable degradation" until the Rutgers and Benthic Indices studies are complete, along

³ Draft NJPDES Renewal Permit for the Township of Neptune Sewerage Authority's Sewage Treatment Plant, Permit # NJ0024872, April 19, 2006; Section 6. Summary of Permit Conditions, B. Basis and Derivation for Effluent Limitations and Monitoring Requirements – Specific, # 13, page 9 of the Fact Sheet.

with the collection of additional information necessary to adequately assess impacts to aquatic organisms.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'CZipf'.

Cindy Zipf
Executive Director

A handwritten signature in black ink, appearing to read 'Jennifer C. Samson'.

Jennifer Samson, Ph.D.
Principal Scientist