

## 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 Marine Educators Association

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

Picatinny 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

Strathmere 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 5, 2005

## RE: NJPDES Renewal Permit for the Lower Township Municipal Utilities Authority, #NJ0023809

Dear Ms. Patterson:

Clean Ocean Action (COA) has reviewed the above referenced project and submits the following comments. These comments are being submitted within 15 days of the expiration date for public comment, as per an allowance by Robert Hall from the New Jersey Department of Environmental Protection.

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 # NJ0023809 for Lower Township 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 in public access areas be re-authorized.

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

## In summary, COA finds that:

- The deadline for public comment was not adequately provided.
- Information provided in the Public Notice is insufficient.
- The request for re-authorization for beneficial re-use in a publicly accessible site is premature given that the current state guidance document for re-use is still in draft form and has not been peer reviewed. 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.

- 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.

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 provided the date the draft permit was submitted (September 1, 2005) and the date the notice appeared in the NJ DEP Bulletin (September 7, 2005) but 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 date.

The new language regarding the tolling 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 rule which closes the comment period thirty days after appearance in either the newspaper or bulletin, whichever is later.

**Information provided in the Public Notice and supporting documents is insufficient.**

The purpose of public comment is to fully inform citizens of applications and to receive comment from concerned citizens on the proposals. The information provided to the public for this permit renewal application is inadequate.

For example, information is not provided on the following issues:

- The draft permit indicates an industrial contribution of approximately 0.1 MGD. What industries and Significant Indirect Users (SIUs) currently discharge to this facility? This information should be made available to the public in permit renewal notices. If this information is not currently available, the permit renewal must not be granted until the facility submits to the NJDEP current and anticipated SIUs and their contributions. This report should be forwarded to all recipients of the Public Notice for additional comments.

- The Fact Sheet and Public Notice should include the NJPDES permit number for all other facilities referenced e.g. Wildwood/Lower Regional Wastewater Treatment Facility.
- Toxin scan reports are not included and should be included in all permit renewal public notices.

**The request for authorization for beneficial re-use in a publicly accessible site is premature given that the current NJDEP guidance document for re-use has not been peer reviewed, and the Department lacks a Vision for Reclaimed Water for Beneficial Reuse (RWBR), a RWBR Program Director, and a regulatory framework.**

The permit refers to the Department’s “Technical Manual for Reclaimed Water for Beneficial Reuse” (Reuse Guidance Manual). This document is a draft document and can be updated at any time. While COA supports the concept of beneficial re-use of fresh water in New Jersey, COA opposes re-use authorization in this permit until the Reuse Guidance 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.

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? Does the facility currently meet requirements for RWBR established by the NJDEP (e.g. of Nitrogen, fecal coliform, and TSS)? The information provided does not clearly show how the facility plans to achieve RWBR requirements for parameters such as TSS and fecal coliform, given that the facility’s current average discharge (from 2004-2005<sup>1</sup>) significantly exceeds the Department’s re-use criteria. For example, the Permittee reported (for January 2004 through March 2005) a weekly average for fecal coliform of 600 colonies per 100mL.<sup>2</sup> Yet, the RWBR requirements, and consequently the draft permit for reuse, require a 7-day median maximum of 2.2 colonies per 100mL. To require that the Permittee decrease fecal coliform concentrations from 600 to 2.2 colonies per 100mL seems unrealistic. The significant disconnect between the limits established in Part III of this permit<sup>3</sup> and the RWBR requirements<sup>4</sup> undermines the intention of the re-use program by requiring limits that appear unattainable. As a result, the permittee will either be unable to divert the effluent for a public-access beneficial re-use or will violate the reuse requirements and thus jeopardize public health at the re-use location.

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 and the public.

. Once the Reuse Guidance Manual has been finalized by peer review, the Department develops a regulatory framework for beneficial reuse, establishes a Vision Statement for beneficial reuse,

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<sup>1</sup> Permit Summary Table. Page 11 of facility Fact Sheet included in this draft permit # NJ0023809

<sup>2</sup> Permit Summary Table. Page 11 of facility Fact Sheet included in this draft permit # NJ0023809

<sup>3</sup> Part III, Pages 1-2

<sup>4</sup> Part IV, Section 7: d-g , Page 5

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

The RWBR manual was initially developed in the early 1990s by DEP 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>5</sup> It is open for constant public review and is scheduled for updating every six months.<sup>6</sup> The manual provides recommended system design and water quality limits for four main water reuse applications: public access; restricted access and non-edible crops; agricultural edible crops; and industrial, maintenance, and construction.<sup>7</sup> However, the manual is only a guideline for reuse programs. While the Technical Manual is a good start, **New Jersey should 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.

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<sup>5</sup> Tompkins, Howard, Bureau Chief: Point Source Permitting Region 1, New Jersey Department of Environmental Protection, Interview, 15 July 2004.

<sup>6</sup> New Jersey Department of Environmental Protection, Conference Call with COA staff and Division of Water Quality staff Howard Tompkins, 29 July 2004.

<sup>7</sup> New Jersey Department of Environmental Protection, Division of Water Quality, *Technical Manual for Reclaimed Water for Beneficial Reuse*, January 2003, p. 7-11.

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.

**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 four of the toxins in the draft permit indicate all four toxins were detected in every toxin scan conducted from 12/2000 through 6/2004<sup>8</sup>. These data were not available for the other two toxins. The semi-annual monitoring frequency was still maintained for Total Recoverable Manganese, even when a cause analysis showed discharge of this toxin had “Reasonable Potential” to cause an exceedance of the applicable New Jersey Surface Water Quality Standards (SWQS). The result is that toxin monitoring frequency is the same regardless of whether a toxin is discharged at levels at/above the SWQS or below detection limit. Not only is this not logical, it does not provide adequate protection to the water body into which the effluent is being discharged.

**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 the aquatic and terrestrial ecosystems. A goal to work towards is improvement of the ecosystems. In order to reach these objectives, 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 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, not less. These data must also be made available to the public. Currently, the data is difficult to obtain-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.

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<sup>8</sup> Table A: Page 15 of the facilities Fact Sheet included in this draft permit # NJ0023809

Sincerely,

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

Cindy Zipf  
Executive Director

Jennifer Samson, PhD  
Principal Scientist

Nicole Simmons, JD  
Water Policy Analyst