

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
Dossil'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
Kwanis Club of Manasquan
Kwanis 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
NYG 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
Piscatinny 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
Sierra 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
Surfider Foundation, Jersey Shore Chapter
TACK 1
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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October 17, 2008

Debra Hammond
Bureau Chief
Water Quality Standards and Assessment
NJ Department of Environmental Protection
P.O. Box 409
401 East State Street
Trenton, NJ 08625-0402

RE: DRAFT New Jersey's 2008 303(d) List of Impaired Waters

VIA: MAIL AND EMAIL

Dear Ms. Hammond,

Clean Ocean Action (herein "COA") is a broad-based coalition of 125 conservation, environmental, fishing, boating, diving, student, surfing, women's, business, service, and community groups. Our goal is to improve the degraded water quality of the marine waters off the New Jersey/New York coast. We have following concerns.

1) After reviewing the 303(d) list with the integrated report, we noticed that the Atlantic Coast (Sandy Hook to Navesink River) Inshore and Offshore regions were designated as sublist 5 on the Integrated list for shellfish, but did not have a corresponding impairment on the 303(d) list. These Atlantic Coast regions are also delisted for pathogens on App. C Delisting Document and are shown as "not attained" on the shellfish map on p. 58 in the Integrated Report. Even though these areas may no longer be impaired for recreation uses based on enterococci, the delisting for all pathogens is inconsistent with the shellfish sublist 5 designation. Therefore, the Atlantic Coast (Sandy Hook to Navesink River) Inshore and Offshore must be listed as impaired for total coliforms (or fecal coliforms as appropriate based on the shellfish data) or the Integrated shellfish sublisting must be corrected.

2) The pathogens delisting, which we assume is enterococci for recreation use, for the Atlantic Coast (Sandy Hook to Navesink River) is inappropriate and should remain on the 303(d) list. COA requests the enterococci data from the five year period that was reviewed, as it probably would indicate an impairment even though the beach closure data does not. Due to the transient and intermittent nature of fecal pollution and its sources, the NJDEP should revise the method used to assess impairments of recreational waters. The percentage of samples tested that exceed the USEPA single standard criteria would provide a more accurate means of assessing impairment than the currently used 2-day exceedance that lead to beach closures. While the later method does indicate more persistent sources or poorly flushed areas, it minimizes the public health risk present at many beaches and prevents identification of areas affected by pollution but have more

transitory sources and/or greater flushing rates. Clearly, the Atlantic Coast (Sandy Hook to Navesink River) is an area with high flushing rates due to ocean tides and currents.

3) The 303(d) list should also include the northern Atlantic Coast from Sandy Hook to Metedeconk River based on shellfish growing water classifications maps from 2002, 2004, 2006-2008 that show this region as Prohibited Area. The Assessment Units that fall in this range include Atlantic Coast (Navesink to Whale Pond, Whale Pond to Shark River, Shark River to Manasquan, and Manasquan to Herring Island) Inshore and Offshore. We would like to see the data that supports NJDEP's sublisting as 2 for these regions on the Integrated List. While these prohibited regions do not fully extend to 3 miles, these regions do cover the inshore/nearshore, and significant portions of the offshore assessment units.

4) The 303(d) list indicates only inshore and offshore assessment units. However, according to the method document: "The offshore HUCs are divided into a near shore assessment unit extending perpendicular to the shore 1500 feet out and an offshore area extending from 1500 feet to the three nautical mile boundary. The inshore assessment unit represents the outward extent of the designated bathing beaches along the Atlantic Coast." So is the nearshore and inshore assessment units the same with 1500 feet marking the end of the beach bathing area? Or is there a) an inshore unit that is from the shore to the extent of the bathing area, b) a nearshore unit that is from the bathing area to 1500 feet, and c) an offshore term that is from 1500 feet to the 3 nmi state boundary?

5) Just a small clarification, in the 303(d) list, Arthur Kill is spelled incorrectly as "Arhter Kill."

6) While the NJDEP states eutrophication is a water quality problem in the Integrated report (p. 12), the only related aquatic life use impairment in marine waters that the NJDEP currently recognizes is dissolved oxygen conditions. Indeed, NJDEP is aware of this limitation and has stated in the Integrated Report that it is developing benthic estuarine and marine indicators to identify aquatic life impairments. At the Barnegat Bay State of the Bay conference, NJDEP again mentioned this development and said that it will be based on both the EPA's National Coastal Assessment and NOAA's National Estuarine Eutrophication Assessment (NEEA) tools and results from ongoing research efforts. In addition to a benthic index of biota integrity, COA supports a multifaceted assessment method that draws on several symptoms of eutrophication to determine the overall eutrophic condition of an estuary for both state estuaries and coastal waters.^{1,2} We plan to address these concerns again next spring, when comments are requested on the Review Draft 2010 Methods Document.

Given the severe impacts of eutrophication on the marine life in New Jersey's waters, its important to address the issue now as well. Waters impaired by eutrophication should be recognized on the 303(d) list, so that TMDLs are required to reduce nutrient pollution. For instance, previous studies have assessed Barnegat Bay as "highly eutrophic," with even more

¹ (Bricker et al. 2007).

² Bricker, S.B., J.G. Ferreira, and T. Simas, 2003. An integrated methodology for assessment of estuarine trophic status *Ecological Modelling* 169: 39–60

severe symptoms in 2007 report compared to 1999 assessment.^{3,4,5} This is a devastating trend that is leading to ecology-system dominated primarily by phytoplankton, bacteria, and sea nettles. This tragedy is also likely to be repeated in other coastal areas of the state.

Its critical that the NJDEP move new assessment methods forward expeditiously and **take actions now** that lead to reduce nutrient loadings to coastal waters, especially to Barnegat Bay. The following list is not comprehensive, but is meant as starting place. NJDEP should not wait for the completion of a TMDL to take action to address the problems in Barnegat Bay. NJDEP should support the nitrogen fertilizer ordinance proposed for Ocean County by Save Barnegat Bay. NJDEP must implement and enforce more effective regional and municipal stormwater management plan that actually reduce pollution. For example, the state should provide incentives for reducing impervious surface areas in the watershed. NJDEP should also continue actions that support the Clean Air Act's requirement to reduce nitrogen air pollution. Based on discussions at recent ANJEC and Barnegat Bay Conferences, the state needs to have better communication, coordination, and consistency among its departments for municipal and county for pollution reduction requirements. NJDEP must ensure the protection of water quality within these plans. Restoration of natural fresh water flows must also be a priority.

COA requests a meeting with the NJDEP to further discuss the serious concerns raised in these comments.

Sincerely,



Cindy Zipf
Executive Director



Heather Saffert, Ph.D.
Staff Scientist

³ Bricker S. B., C. G. Clement, D. E. Pirhalla, S. P. Orlando, and D. R. G. Farrow. 1999. National Estuarine Eutrophication Assessment: effects of nutrient enrichment in the nation's estuaries. NOAA, National Ocean Service, Special Projects Office and National Centers for Coastal Ocean Science, Silver Spring, Maryland, USA.

⁴ Bricker, S., B. Longstaff, W. Dennison, A. Jones, K. Boicourt, C. Wicks, and J. Woerner. 2007. Effects of Nutrient Enrichment In the Nation's Estuaries: A Decade of Change. NOAA Coastal Ocean Program Decision Analysis Series No. 26. National Centers for Coastal Ocean Science, Silver Spring, MD. 328 pp. USA.
http://ccma.nos.noaa.gov/publications/eutrouupdate/mid_atlantic.pdf (last visited Oct. 14, 2008).

⁵ Kennish, M. J., S. B. Bricker, W. C. Dennison, P. M. Glibert, R. J. Livingston, K. A. Moore, R. T. Noble, H. W. Paerl, J. M. Ramstack, S. Seitzinger, D. A. Tomasko, and I. Valiela. 2007. Barnegat Bay-Little Egg Harbor Estuary: case study of a highly eutrophic coastal bay system. *Ecological Applications*, Volume 17, No. 5. July 2007.