



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER RESOURCE MANAGEMENT
OFFICE OF THE ASSISTANT COMMISSIONER

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Stephanie Cuthbert, P.E., C.M.E.
REMINGTON & VERNICK ENGINEERS, INC.
232 Kings Highway East
Haddonfield, NJ 08033
Via Email Only: Stephanie.Cuthbert@rve.com

January 22, 2021

Subject: Water Infrastructure Protection Act – The City of Salem
Emergent Condition(s) Certification and Supporting Information
New Jersey Department of Environmental Protection - Determination

Dear Ms. Cuthbert:

The purpose of this letter is to provide the Department's determination regarding the City of Salem's (City) Emergent Condition Certification, in accordance with the Water Infrastructure Protection Act (WIPA), N.J.S.A. 58:30-1 et seq. In furtherance of its certification and consistent with WIPA's requirements, the City submitted certified Resolution No. 2020-225, dated December 21, 2020, as to WIPA's Emergent Condition No. 4 (historical investment, repair, and maintenance) and Emergent Condition No. 5 (financial capacity). The City also provided, and the Department reviewed, additional supporting information and documents, including but not limited to, reports prepared by Remington and Vernick Engineers entitled, "Water & Sanitary Utility Rate Study" and the "Description of Existing Water & Sanitary Municipal Utility Facilities," both dated October 2020.

Based upon our review of the information provided, and after consultation with the New Jersey Department of Community Affairs (DCA) the New Jersey Infrastructure Bank (I-Bank), New Jersey Board of Public Utilities (BPU) staff members, the Department approves the City's Emergent Condition Certification as to Emergent Conditions No. 4 and No. 5. The basis for this determination is below.

Regarding Emergent Condition No. 4, the Department has determined that the City's certification and supporting information demonstrates a lack of historical investment, repair, or sustainable maintenance as required by N.J.S.A. 58:30-5(b)(4). While the City has continued to operate the water and wastewater systems and make some needed repairs, parts of the systems are not operational, and many additional repairs are needed. For example, at the time of Remington and Vernick's inspection, much of the infrastructure at the wastewater treatment plant was not operating and the surface water treatment plant was not operational. Additionally, while the City has made minimal improvements to the below grade water and sanitary infrastructure, much of the City's above and below ground infrastructure dates

back to the late 1800's and early 1900's, exceeding their expected service lives. Additionally, information from the Department's Division of Water and Land Use Enforcement noted that, while the City's Wastewater Treatment plant is in compliance with effluent limitations in their NJPDES permit, they have several whole effluent toxicity reporting violations that will be addressed in a pending civil administrative enforcement action. The City has also noted that they currently only allocate \$20,000 per year for capital investments, while the supporting report, "Description of Existing Water & Sanitary Municipal Utility Facilities," projects capital needs as requiring approximately \$944,665 per year. Such a difference in investment and need (in terms of order of magnitude) demonstrates a lack of investment.

With respect to Emergent Condition No. 5, based on the information submitted, and supporting information provided by DCA and I-Bank, the Department has determined that the City lacks the financial capacity required to adequately address investment, repair, and sustainable maintenance of its water and wastewater system on a sustainable basis. See N.J.S.A. 58:30-5(b)(5). The financial metrics provided by the City for their water and wastewater systems clearly show the systems are operating at negative cash flow and net income and, as such, are a drain on the City's General Fund. Historic underinvestment has resulted in substantial capital needs (\$14.46 million over the next five years pursuant to the R&V Report) with limited capacity to leverage further. The low medium household income (MHI) of the system's rate base limits the ability to increase rates to offset the cost of investment. Therefore, City has demonstrated that it lacks the financial capacity to adequately address the needs of its water systems and operate them on a sustainable basis. As such, pursuant to its submission and based on the information provided in such submission, the City satisfies the requirements of the WIPA Act Emergent Condition No. 5.

In summation, in accordance with N.J.S.A. 58: 30-5(b) and (e), the Department approves the City of Salem's certification as to the existence of Emergent Conditions No. 4 and No. 5.

If you have any questions, please feel free to contact Chelsea Brook of my staff at chelsea.brook@dep.nj.gov.

Sincerely,

Patricia Gardner
Assistant Commissioner
Water Resource Management

cc: [Ben Angeli](#), City of Salem Administrator / Clerk,
[Andrea Rhea](#), City of Salem Attorney
[Michael Kammer](#), Director, Division of Water, Board of Public Utilities
[Richard Paull](#), Director, Division of Water and Land Use Enforcement
[Patricia Ingelido](#), Acting Director, Division of Water Supply & Geoscience
[Janice Brogle](#), Director, Division of Water Quality
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[Patrick S. Woolford](#), Deputy Attorney General, Division of Law