



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATER RESOURCE MANAGEMENT

OFFICE OF THE ASSISTANT COMMISSIONER

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Ryan McGowan, PE, PP, CME
Project Manager
Remington & Vernick Engineers, Inc.
845 N. Main Street
Pleasantville, NJ 08232

April 25, 2019

Subject: Water Infrastructure Protection Act – Egg Harbor City
Emergent Condition(s) Certification and Supporting Information
NJDEP - Determination

Dear Mr. McGowan:

The purpose of this letter is to provide the Department's determination regarding Egg Harbor City's Emergent Condition Certification under the Water Infrastructure Protection Act, N.J.S.A. 58:30-1 et seq. (WIPA). In furtherance of its certification and consistent with WIPA's requirements, Egg Harbor City submitted certified Resolution No. 55A-2019, dated February 28, 2019, as to WIPA's Emergent Condition 4 (historical investment, repair, and maintenance) and Emergent Condition 5 (financial capacity). The City also provided, and the Department reviewed, additional supporting information and procedural documents including, but not limited to, an independent financial advisor report prepared by Remington and Vernick Engineers entitled "Emergent Conditions Evaluation Report – Egg Harbor City – WIPA Submission" and dated December 6, 2018.

Based upon our review of the information provided, and after consultation with the New Jersey Department of Community Affairs (DCA) and the New Jersey Infrastructure Bank (I-Bank), the Department approves Egg Harbor City's Emergent Condition Certification as to Emergent Condition No. 5 (financial capacity) only. The basis for this determination is detailed below.

Regarding Emergent Condition No. 4, the Department has determined that Egg Harbor City's certification and supporting information does not demonstrate a lack of historical investment, repair, or sustainable maintenance as required by N.J.S.A. 58:30-5(b)(4). Based on our review, the Department has found that Egg Harbor City has not failed to operate and maintain the system in conformity with applicable regulations, N.J.A.C. 7:10, N.J.A.C. 7:10A, N.J.A.C. 7:19 and N.J.A.C. 7:14A. Regarding drinking water utility services, although Egg Harbor City has incurred minor violations of applicable regulations, these violations have either been resolved or are being addressed, as required.

For example, Egg Harbor City incurred minor monitoring and reporting violations under the Safe Drinking Water Act regulations involving insufficient coliform and chlorine residual samples; violations related to the failure to submit updates of the required Water Conservation plan under the Water Allocation regulations; and violations related to new activities/requirements under the Water Quality Accountability Act, such as submission of the required Cyber Security Plan. However, there are no current violations involving the wastewater collection and pumping system. Moreover, there have been no formal enforcement actions involving an Administrative Order, Administrative Consent Order, Settlement Agreement in the past 15 years. Lastly, there exists no documented material (physical) damage to the system that prevents the system from complying with drinking water and wastewater standards/requirements, or that presents an imminent threat due to compromise or failure of an infrastructure asset(s). Neither the supporting information provided by Egg Harbor City, nor Departmental records indicate chronic occurrences of water main breaks or sewer overflows, areas of low or significantly reduced water pressures, water quality violations, evidence of physical damage, deterioration or disrepair of such magnitude that Egg Harbor City is unable to comply with drinking water or wastewater standards and requirements. Therefore, the Department rejects Egg Harbor City's emergent conditions certification regarding Emergent Condition No. 4.

However, based on Egg Harbor City's supporting information and information provided by DCA and I-Bank, the Department has determined that Egg Harbor City lacks the financial capacity required to adequately address investment, repair, and sustainable maintenance of its water systems on a sustainable basis. See N.J.S.A. 58:30-5(b)(5). The City has shown it has significant problems regarding its financial capacity to adequately operate and maintain its drinking water and wastewater systems moving forward. The water utilities borrowing capacity is significantly less than the needed projected capital improvement projects. It is estimated that the City must expend \$14 million in estimated costs to repair critical water infrastructure, and upwards of \$38 million for a fully implemented capital improvement plan, but only has a borrowing capacity of approximately \$5 million. The City's financial capacity is unlikely to improve in the future due to inadequate revenue sufficiency, limited credit worthiness, and considerable burden on the tax base due to recent tax rate increases. Therefore, the Department approves Egg Harbor City's certification of Emergent Condition No. 5. N.J.S.A. 58:30-5(b)(5).

In summation, in accordance with N.J.S.A. 58:30-5(b)(5) and (e), the Department approves Egg Harbor City's certification as to the existence of Emergent Condition No. 5 (financial capacity). The Department rejects Egg Harbor City's certification as to Emergent Condition No. 4. N.J.S.A. 58:30-5(b)(4).

Should Egg Harbor City reconsider its intent to sell or enter a long-term lease, the Department is available to support its efforts to establish/maintain adequate technical, managerial, and financial capacity and remain viable in providing drinking water and wastewater utility services. In addition, the Department is available to assist Egg Harbor City with a review and refinement in identifying priority projects and creating a funding strategy that is responsive to critical projects and rate payer concerns.

If you have any questions, please contact me by phone (609-292-9968) or email (matt.maffei@dep.nj.gov).

Sincerely,



Matthew J. Maffei, Program Coordinator
Office of the Assistant Commissioner
NJDEP, Water Resource Management

C: Mayor & Council, Egg Harbor City
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