



Response to Exhibits Presented During Public Comment Period

Below is a list of all comments received at the Public Hearing on April 10, 2012 and during the Public Comment Period from April 10, 2012 to May 10, 2012 on the Rehoboth Beach Wastewater Treatment Plant Draft EIS. Additional information can be found in the Hearing Officer Report and List of Amendments to Draft EIS if applicable. Comment summaries were taken from the Hearing Officer Report.

Exhibit Number: 40

Commenter: None

Hearing Office Report Page: 5

Amendment Number: n/a

Summary of Comment: Public Hearing Sign-in sheet.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 41-A

Commenter: Gregg Rosner

Hearing Office Report Page: n/a

Amendment Number: n/a

Summary of Comment: See Exhibit 63.

Response to Comment: See Response to Exhibit 63.

Exhibit Number: 41-B

Commenter: Suzanne Thurman, MERR

Hearing Office Report Page: n/a

Amendment Number: n/a

Summary of Comment: See Exhibit 71.

Response to Comment: See Response to Exhibit 71.

Exhibit Number: 41-C

Commenter: John Thaeber, Artesian Water Company

Hearing Office Report Page: n/a

Amendment Number: n/a

Summary of Comment: See Exhibit 57.



Response to Comment: See response to Exhibit 57 for a response to all Artesian comments.

Exhibit Number: 41-D

Commenter: Gary Warren, Delaware Farm Bureau

Hearing Office Report Page: 20

Amendment Number: n/a

Summary of Comment: Delaware Farm Bureau contends land application via spray irrigation is the best option for the City, disputing the DEIS conclusions.

Response to Comment: As stated on pages 24 to 25 of the Hearing Officer Report, the Hearing Officer finds "although land application is certainly a feasible alternative, there remains no firm project upon which the City could reasonably act, and therefore, based on the Record, do[es] not recommend any change to the DEIS conclusion that the ocean outfall is preferred. Note this conclusion is supported by the two Professional Engineers responsible for operating WWTP's in Delaware who commented for the Record (Exhibits 51 & 80)." No revision to the DEIS is necessary.

Exhibit Number: 41-E

Commenter: H. Jack Musser

Hearing Office Report Page: 16

Amendment Number: n/a

Summary of Comment: Jack Musser believes using the ocean is short-sighted, will cause cumulative problems if everyone does it, and that there must be a more cost-effective way to recycle the water.

Response to Comment: As stated on page 16 of the Hearing Officer Report, "No revisions to the DEIS are recommended."

Exhibit Number: 41-F

Commenter: Terry O'Brien

Hearing Office Report Page: 17

Amendment Number: n/a

Summary of Comment: Terry O'Brien questioned the potential for accumulation of contaminants in the soils spray irrigated with water from the WWTP.

Response to Comment: As stated on page 17 of the Hearing Officer Report, "At 9.7.2.2 the DEIS discusses this issue, finding pathogenic problems are negligible, soils can retain metals for hundreds of years (DNREC), and with a limit on public access and proper application, the risk from residual pharmaceuticals can be minimized." No revision to the DEIS is necessary.



Exhibit Number: 42

Commenter: Judy Adams

Hearing Office Report Page: 14

Amendment Number: 2

Summary of Comment: Judy Adams advocated requiring all WWTP users obtain an incinerator toilet which uses no water and would have a minimal amount of ash as the waste product.

Response to Comment: Additional information added to Section 3.1 explaining why incinerating toilets were not investigated. See amendment document.

Exhibit Number: 43-A

Commenter: John G. Kleitz, Jr.

Hearing Office Report Page: 28

Amendment Number: n/a

Summary of Comment: John G. Kleitz, Jr. was concerned with impacts to beach recreational use and tourism.

Response to Comment: As stated on page 28 of the Hearing Officer Report, "as the City endeavored to demonstrate through dilution modeling, there is no anticipated impact to beach use and swimming from a water quality perspective. This DEIS conclusion was confirmed by DNREC's Division of Parks & Recreation, who stated: '... due to mixing and water volume, there will be little or no significant impacts on water based recreation opportunities (swimming, fishing, etc) (Exhibit 78).' DNREC also strongly recommends beach construction occur in the off season months, which is also the stated goal of the City. There are no recommended changes to the DEIS as a result of these comments."

Exhibit Number: 43-B

Commenter: John G. Kleitz, Jr.

Hearing Office Report Page: 41

Amendment Number: n/a

Summary of Comment: John G. Kleitz, Jr. asks if the preferred alternative will have any adverse impact on the quality of sand available for future beach replenishment.

Response to Comment: As stated on page 42 of the Hearing Officer Report "in Section 10.1.1.1 of the DEIS, the location of past borrow areas is depicted. [The Hearing Officer finds] the preferred alternative will not adversely impact the ability to locate a borrow area to replenish the beach in the future. If Mr. Kleitz, Jr. meant the chemical quality of the benthic substrate in a future borrow area, Sections 5 and 6 of the DEIS demonstrate minimal potential for benthic chemical quality impact." No revision to the DEIS is necessary.



Exhibit Number: 44

Commenter: Christina Wirtz, Div of Waste and Hazardous Substance

Hearing Office Report Page: 42

Amendment Number: n/a

Summary of Comment: DNREC's Division of Waste & Hazardous Substances (WHS) strongly recommends, but does not require, the City perform a Phase I Environmental Site Assessment (ESA). This Exhibit also contains regulatory information regarding the discovery or release of hazardous substances during the construction process.

Response to Comment: As stated on page 42 of the Hearing Officer Report, the Hearing Officer finds "it is not necessary to revise the DEIS, unless a Phase I ESA is performed (results should then be included). The regulatory requirements and suggestions can be incorporated into construction bid documents." No revision to the DEIS is necessary.

Exhibit Number: 45

Commenter: Andy Lorenz, Delaware State Housing Authority

Hearing Office Report Page: 10

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 46

Commenter: Stewart Lovell, Water Supply Section

Hearing Office Report Page: 10

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 47

Commenter: Mark and Karen Mikatavage

Hearing Office Report Page: 26

Amendment Number: n/a

Summary of Comment: Mark and Karen Mikatavage submitted an email, which asks if the force main will be in front or behind the condominiums.

Response to Comment: As stated on page 26 of the Hearing Officer Report, the Hearing Officer finds "the DEIS clearly states the Alternative A force main corridor will be located between the condominiums and the canal (behind the condominiums), and do[es] not recommend a response to this Exhibit." No revision to the DEIS is necessary.



Exhibit Number: 48

Commenter: Diane Shields NRCS

Hearing Office Report Page: 31

Amendment Number: 11

Summary of Comment: The Natural Resource Conservation Service (NRCS) noted the listing of prime farm land is incorrect (Tables 7-6 & 7-7) in the DEIS, opining outdated information was used.

Response to Comment: Section 7.6 was updated with correct information. See amendment document.

Exhibit Number: 49

Commenter: Mario Rocha

Hearing Office Report Page: 26

Amendment Number: 3

Summary of Comment: Mario Roche is concerned with impact to the tree canopy along Henlopen Avenue.

Response to Comment: As stated on page 26 of the Hearing Officer Report, "The DEIS indicates every effort will be made to minimize tree impact during the force main construction. While burying utilities is an excellent idea, [the Hearing Officer finds] it is beyond the scope and requirements of the DEIS." Text has been added to Section 4.4.1 clarifying this. See amendment document.

Exhibit Number: 50

Commenter: Peter Havens

Hearing Office Report Page: 11

Amendment Number: n/a

Summary of Comment: Peter Havens requested he be kept informed of any further published action on the DEIS and the Final EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 51

Commenter: Rich Baccino

Hearing Office Report Page: 11, 18, 19

Amendment Number: n/a

Summary of Comment: Rich Baccino goes on record strongly supporting the ocean outfall alternative as the most environmentally sound and economical method to meet the present and future wastewater disposal needs in the City. He submits several comments regarding spray irrigation to address common misconceptions, including the fact the volume of effluent is negligible compared to precipitation, runoff, and infiltration volumes.

Response to Comment: No revision to the DEIS is necessary.



Exhibit Number: 52

Commenter: Nettie Green

Hearing Office Report Page: 16

Amendment Number: n/a

Summary of Comment: Nettie Green feels it is better to apply to the land rather than the ocean because it will fertilize the land, it is cheaper than an ocean outfall, the land will purify the effluent, and marine impacts will be avoided.

Response to Comment: As stated on pages 24 to 25 of the Hearing Officer Report, the Hearing Officer finds "although land application is certainly a feasible alternative, there remains no firm project upon which the City could reasonably act, and therefore, based on the Record, do[es] not recommend any change to the DEIS conclusion that the ocean outfall is preferred. Note this conclusion is supported by the two Professional Engineers responsible for operating WWTP's in Delaware who commented for the Record (Exhibits 51 & 80)." No revision to the DEIS is necessary.

Exhibit Number: 53-A

Commenter: Samie Dozor

Hearing Office Report Page: 15

Amendment Number: 2

Summary of Comment: Samie Dozor advocated consideration of using constructed wetlands as an alternative to the ocean outfall or land application.

Response to Comment: Additional information added to Section 3.1 explaining why constructed wetlands were not investigated. See amendment document.

Exhibit Number: 53-B

Commenter: Samie Dozor

Hearing Office Report Page: 16

Amendment Number: n/a

Summary of Comment: Samie Dozor thinks spray irrigation is possibly a good idea, considering the water will be recycled.

Response to Comment: As stated on pages 24 to 25 of the Hearing Officer Report, the Hearing Officer finds "although land application is certainly a feasible alternative, there remains no firm project upon which the City could reasonably act, and therefore, based on the Record, do[es] not recommend any change to the DEIS conclusion that the ocean outfall is preferred. Note this conclusion is supported by the two Professional Engineers responsible for operating WWTP's in Delaware who commented for the Record (Exhibits 51 & 80)." No revision to the DEIS is necessary.



Exhibit Number: 53-C

Commenter: Samie Dozor

Hearing Office Report Page: 28

Amendment Number: n/a

Summary of Comment: Samie Dozor was concerned with impacts to beach recreational use and tourism.

Response to Comment: As stated on page 28 of the Hearing Officer Report, "as the City endeavored to demonstrate through dilution modeling, there is no anticipated impact to beach use and swimming from a water quality perspective. This DEIS conclusion was confirmed by DNREC's Division of Parks & Recreation, who stated: '... due to mixing and water volume, there will be little or no significant impacts on water based recreation opportunities (swimming, fishing, etc) (Exhibit 78).' DNREC also strongly recommends beach construction occur in the off season months, which is also the stated goal of the City. There are no recommended changes to the DEIS as a result of these comments."

Exhibit Number: 53-D

Commenter: Samie Dozor

Hearing Office Report Page: 42

Amendment Number: n/a

Summary of Comment: Samie Dozor opined that no one had mentioned a potential earthquake and impact on the pipeline.

Response to Comment: As stated on pages 41 to 42 of the Hearing Officer Report, the Hearing Officer finds that "Exhibit 36, the EIS content requirements, does not contain a provision to include consideration of natural disasters, and therefore [he] find[s] the DEIS need not be modified and recommend[s] no changes as a result of this comment."

Exhibit Number: 54

Commenter: Cherie Clark, DNREC Cultural Heritage Section

Hearing Office Report Page: n/a

Amendment Number: n/a

Summary of Comment: DNREC Cultural Heritage Section has reviewed the EIS and has no further comments.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 55-A

Commenter: William Paton

Hearing Office Report Page: 11

Amendment Number: n/a



Summary of Comment: William K. Patton did not object to the proposed ocean outfall, believing “there is virtually no danger of polluting the beaches...” He questioned what the anticipated discharge would be and what dilution will occur.

Response to Comment: As stated on page 11 of the Hearing Officer Report, the Hearing Officer finds "these questions are answered by information contained within the DEIS." No revision to the DEIS is necessary.

Exhibit Number: 55-B

Commenter: William Paton

Hearing Office Report Page: 17

Amendment Number: n/a

Summary of Comment: William K. Paton opined because the water table is relatively shallow in Delaware, percolation may be inhibited and may cause mounding effects on the surface.

Response to Comment: As stated on pages 24 to 25 of the Hearing Officer Report, the Hearing Officer finds "although land application is certainly a feasible alternative, there remains no firm project upon which the City could reasonably act, and therefore, based on the Record, do[es] not recommend any change to the DEIS conclusion that the ocean outfall is preferred. Note this conclusion is supported by the two Professional Engineers responsible for operating WWTP's in Delaware who commented for the Record (Exhibits 51 & 80)." No revision to the DEIS is necessary.

Exhibit Number: 56

Commenter: Jere Stephano

Hearing Office Report Page: 13

Amendment Number: n/a

Summary of Comment: Jere Stephano is concerned that the “minimal” amount of contaminants in the City discharge will add to a cumulative problem, in which a myriad of sources contribute minimal pollutants to the ocean, with uncertain future impacts.

Response to Comment: As stated on page 14 of the Hearing Officer Report, the Hearing Officer finds that this comment does not "require modification of the document, and recommend[s] no changes as a result of these comments."

Exhibit Number: 57

Commenter: John Thaeber, Artesian Water Company

Hearing Office Report Page: 22

Amendment Number: n/a



Summary of Comment: Artesian land application cost estimate. Artesian Resources (Exhibits 41, 57, 58, 79, 84, & 89) contend land application via spray irrigation is the best option for the City, disputing the DEIS conclusions.

Response to Comment: As stated on page 21 of the Hearing Officer Report "Artesian also contends in Exhibit 89 that the cost estimates in the DEIS for spray irrigation are '... inconsistent with, and unexplainable based upon, our experience.' However, Artesian supplies no specifics to support this allegation."

As stated on page 23 of the Hearing Officer Report, "when the plant upgrade cost is added to the 2012 Artesian bid, the total becomes about \$27.2 million, which will result in the quoted cost per user charge going up about 13% (3.33/23.98). The resulting comparison then becomes \$630 for the ocean outfall and well over \$750 for spray irrigation. Therefore, based on the Record, [the Hearing Officer does] not recommend any changes to the DEIS conclusion that the ocean outfall is the most cost-effective alternative (Table 3-16)."

As stated on pages 24 to 25 of the Hearing Officer Report "many of the properties contacted during the search for land application sites (DEIS, Figure 3-3) are the same properties contained in the submitted Artesian proposal map (Exhibit 58), demonstrating much of the farmland previously considered remains in agriculture. The Artesian map can only be considered to show potential use areas as there is no evidence in the Record (acknowledging one Artesian Letter of Intent Purchase Agreement for unlocated lands – Exhibit 79) the depicted lands are available for spray irrigation.... [the Hearing Officer] find[s] although land application is certainly a feasible alternative, there remains no firm project upon which the City could reasonably act, and therefore, based on the Record, [he does] not recommend any change to the DEIS conclusion that the ocean outfall is preferred. Note this conclusion is supported by the two Professional Engineers responsible for operating WWTP's in Delaware who commented for the Record (Exhibits 51 & 80)."

No revision to the DEIS is necessary.

Exhibit Number: 58

Commenter: Adam Gould, Artesian Water Company

Hearing Office Report Page: 23

Amendment Number: n/a

Summary of Comment: Artesian land application map.

Response to Comment: See response to Exhibit 57 for a response to all Artesian comments.

Exhibit Number: 59-A

Commenter: Emily Van Alyne

Hearing Office Report Page: 15

Amendment Number: 2

Summary of Comment: Emily Van Alyne advocated consideration of using constructed wetlands as an alternative to the ocean outfall or land application.



Response to Comment: Additional information added to Section 3.1 explaining why constructed wetlands were not investigated. See amendment document.

Exhibit Number: 59-B

Commenter: Emily Van Alyne

Hearing Office Report Page: 13, 28

Amendment Number: n/a

Summary of Comment: Emily Van Alyne feels the project will adversely affect tourism in the area, stating even the bad publicity regarding consideration of an ocean outfall may engender a 10-20% cost to the local economy.

Response to Comment: As stated on page 28 of the Hearing Officer Report, "as the City endeavored to demonstrate through dilution modeling, there is no anticipated impact to beach use and swimming from a water quality perspective. This DEIS conclusion was confirmed by DNREC's Division of Parks & Recreation, who stated: '... due to mixing and water volume, there will be little or no significant impacts on water based recreation opportunities (swimming, fishing, etc) (Exhibit 78).' DNREC also strongly recommends beach construction occur in the off season months, which is also the stated goal of the City. There are no recommended changes to the DEIS as a result of these comments."

Exhibit Number: 59-C

Commenter: Emily Van Alyne

Hearing Office Report Page: 36

Amendment Number: 16, 26

Summary of Comment: Emily Van Alyne provided a list of endangered species and had a general concern regarding the potential impact of the proposed ocean outfall on all of them.

Response to Comment: Section 8.3.5.1.9 added detailing information on the right whale. Section 8.3.4.6A added detailing information on the Atlantic sturgeon. See amendment document.

Exhibit Number: 59-D

Commenter: Emily Van Alyne

Hearing Office Report Page: 40

Amendment Number: n/a

Summary of Comment: Emily Van Alyne submitted concerns regarding ocean microlayer impacts.

Response to Comment: As stated on pages 40 to 41 of the Hearing Officer Report, "Although there is no specific discussion of contaminant accumulation in either the benthic substrate or the microlayer, the DEIS does conclude that dispersion and dilution in the near-field immediate area of the diffuser (Figure 9-9) will result in nutrient concentrations below ambient seawater levels (9.7.2.3.1), pathogen concentrations meeting



DNREC Surface Water Quality Standards even in the event of a catastrophic WWTP failure (9.7.2.3.2.3), metals and volatiles also meeting water quality standards (9.7.2.3.3), pharmaceuticals 'too low to affect the environment or human health' (9.7.2.3.4), and a conclusion dolphin bioaccumulation is unlikely (DEIS, Appendix N). Therefore, although the comments assert detrimental impacts to the benthos and ocean surface, evidence within the DEIS suggests otherwise. Note none of the agency Record comments refer to either the microlayer or concerns regarding bioaccumulation of contaminants as a result of the proposed effluent outfall. Therefore, although it may be prudent to insert a discussion of the microlayer and potential impacts thereto, it does not appear necessary given the dilution modeling and resultant findings."

No revision to the DEIS is necessary.

Exhibit Number: 60-A

Commenter: K. C. Burgwin

Hearing Office Report Page: 13

Amendment Number: n/a

Summary of Comment: K. C. Burgwin commented the proposal is a very bad idea for the area, stating there must be another way to solve the problem.

Response to Comment: As stated on page 14 of the Hearing Officer Report, the Hearing Officer finds that this comment does not "require modification of the document, and recommend[s] no changes as a result of these comments."

Exhibit Number: 60-B

Commenter: K. C. Burgwin

Hearing Office Report Page: 15

Amendment Number: 2

Summary of Comment: K. C. Burgwin advocated consideration of using constructed wetlands as an alternative to the ocean outfall or land application.

Response to Comment: Additional information added to Section 3.1 explaining why constructed wetlands were not investigated. See amendment document.

Exhibit Number: 61

Commenter: Elisabeth Stoner

Hearing Office Report Page: 13

Amendment Number: n/a

Summary of Comment: Elisabeth Stone is concerned with possible adverse impacts and asks the City to find another, safer method to dispose of the wastewater.



Response to Comment: As stated on page 14 of the Hearing Officer Report, the Hearing Officer finds that this comment does not "require modification of the document, and recommend[s] no changes as a result of these comments."

Exhibit Number: 62

Commenter: Melissa Dombrowski, Delaware Surfriders

Hearing Office Report Page: 16

Amendment Number: n/a

Summary of Comment: The Delaware Chapter of the Surfrider Foundation (representing over 130 members) "enthusiastically supports land based application as the better option..." because it will recharge groundwater, provide a weather independent irrigation supply, protect water quality via soil filtration and biological uptake, and protect against saltwater intrusion into the groundwater.

Response to Comment: As stated on pages 24 to 25 of the Hearing Officer Report, the Hearing Officer finds "although land application is certainly a feasible alternative, there remains no firm project upon which the City could reasonably act, and therefore, based on the Record, do[es] not recommend any change to the DEIS conclusion that the ocean outfall is preferred. Note this conclusion is supported by the two Professional Engineers responsible for operating WWTP's in Delaware who commented for the Record (Exhibits 51 & 80)." No revision to the DEIS is necessary.

Exhibit Number: 63-A

Commenter: Gregg Rosner

Hearing Office Report Page: 15

Amendment Number: n/a

Summary of Comment: Gregg Rosner inquired how much the annual municipal water supply costs, the source of funds, and how much it would cost to construct and operate a closed loop wastewater system.

Response to Comment: As stated on page 15 of the Hearing Officer Report, "Mr. Rosner did not advocate consideration of a closed-loop system alternative and questions relating to municipal water supply are not pertinent, therefore, DEIS revisions are unnecessary."

Exhibit Number: 63-B

Commenter: Gregg Rosner

Hearing Office Report Page: 25

Amendment Number: n/a

Summary of Comment: Mr. Rosner asserts the DEIS cites an outdated study (1994) in section 4.2 and the discussion does not address the basis for Florida banning ocean outfalls in 2008 (DEIS, 4.2.5). Mr. Rosner asks the Final EIS comment on the economic impact of lost tourism, the science behind long-term impacts at Florida outfalls and the costs of "mitigating this matter in legislation and courts of law."



Response to Comment: As stated on page 25 of the Hearing Officer Report, "the DEIS does cite later studies (Tichenor, 2004) which were, in part, the basis for the Florida legislative moratorium on constructing ocean outfalls. The DEIS further notes Florida has enacted subsequent legislation to extend compliance deadlines."

Mr. Rosner's request that the Final EIS comment on the economic impact of lost tourism, the science behind long-term impacts at Florida outfalls and the costs of "mitigating this matter in legislation and courts of law." appears, as stated on page 25 of the Hearing Officer Report, "to be outside the scope of the DEIS. Since impacts to coral reefs were the catalyst for Florida action, and Delaware has no coral reefs, such a discussion would not be applicable. Further, commenting on costs of mitigation, or litigation, is premature and unwarranted. No mitigation is proposed by the DEIS and it is up to DNREC and the US Army Corps of Engineers to determine whether mitigation is appropriate once the EIS is finalized, the requested loan is approved, and application for permits made to the regulatory agencies." No revision to the DEIS is necessary.

Exhibit Number: 63-C

Commenter: Gregg Rosner

Hearing Office Report Page: 29

Amendment Number: n/a

Summary of Comment: Gregg Rosner inquires whether testing for enterococcus will be conducted along the beach and the results made public. He further asks if the City will regularly test the beach for viruses, pathogens and oocysts, and make the results public. Mr. Rosner further requests more updated marine pathogen survival studies be cited.

Response to Comment: As stated on page 29 of the Hearing Officer Report, the Hearing Officer finds "at 7.4.2 of the DEIS it states [enterococcus] testing occurs at four (4) sites in Rehoboth Beach, therefore no modification is recommended." The Hearing Officer also finds that "the DEIS at 9.7 adequately addresses pathogens and the outfall result should a worst-case scenario treatment failure occur. At the Public Hearing, GHD presented graphic information indicating the 100 to 1 dilution required to meet water quality standards for pathogens would occur within a few meters of the diffuser (Exhibit 41)." No revision to the DEIS is necessary.

Exhibit Number: 63-D

Commenter: Gregg Rosner

Hearing Office Report Page: 29

Amendment Number: n/a

Summary of Comment: Mr. Rosner asks that the final EIS calculate, in pounds, the annual total for each metal which will be discharged by the proposed ocean outfall. Mr. Rosner asks the same for nitrogen and phosphorus.

Response to Comment: As stated on page 29 of the Hearing Officer Report, the Hearing Officer finds "metal concentrations in the effluent are discussed in the DEIS at 5.4.3.1 and laboratory tests are contained



in Appendix F, therefore the requested information can be derived from data contained within the DEIS (using annual discharge volume) ... [the totals for nitrogen and phosphorus] can be derived from the DEIS (5.2), and anticipated annual total nitrogen (47,470 lbs.) and total phosphorus (2,650 lbs.) is found in Table 2-3." No revision to the DEIS is necessary.

Exhibit Number: 63-E

Commenter: Gregg Rosner

Hearing Office Report Page: 29 to 30

Amendment Number: n/a

Summary of Comment: Mr. Rosner requests more up-to-date PCB studies be cited, given the DEIS citation is twenty-two (22) years old. He requests PCB studies of all organisms in the food web, including all biological effects; total annual PCB discharge in pounds; and specifically potential for PCB physical adherence to fish larvae in the microlayer (ocean surface layer).

Response to Comment: As stated on page 30 of the Hearing Officer Report, "The DEIS addresses PCB's at 5.4.3.5, and DNREC (Greene, 2011) found the discharge will be at a lower concentration than ambient seawater, is lower than similar WWTP's throughout the Delaware River Basin, and human health water quality criteria will be met by near-field dilution. Greene (DNREC) further concluded due to anticipated volatilization, even less PCB's will be available for bioaccumulation, and Rehoboth Beach effluent PCB concentration should be considered de Minimus. [The Hearing Officer finds] the DEIS adequately address[es] the PCB concern and do[es] not recommend any modifications."

Exhibit Number: 63-F

Commenter: Gregg Rosner

Hearing Office Report Page: 30

Amendment Number: n/a

Summary of Comment: Mr. Rosner asks if the City is "in compliance with their storm water outfalls?"

Response to Comment: As stated on page 30 of the Hearing Officer Report, "The City has five (5) storm water outfalls which are identified in the DEIS as a source of poor water quality (7.4.3.1, Figure 7-7). However, the question does not appear relevant to the DEIS focus, and since dilution modeling reveals no near shore impact, the cumulative question is appropriately not addressed in Section 10. [The Hearing Officer finds] the existing storm water discharges do not have a relation to the DEIS study and recommend[s] no changes."

Exhibit Number: 63-G

Commenter: Gregg Rosner

Hearing Office Report Page: 30 to 31

Amendment Number: 8, 10, 28



Summary of Comment: Mr. Rosner inquires about potential salinity impacts to all EFH (Essential Fish Habitat) fish species and larvae in the vicinity of the diffuser. He advocates updating the DEIS with a recent NOAA study linking dolphin disease and lower salinity, and creating an anticipated salinity gradient representation around the diffuser. The DEIS does not address salinity impacts from the diffuser, not having identified it as a primary concern.

Response to Comment: Section 5.6 added detailing potential salinity concerns, including rationale why near-field salinity impacts were not a concern. Information pertaining to the potential impact to dolphins of lower salinity added to Section 8.3.5.3.3. See amendment document.

Exhibit Number: 63-H

Commenter: Gregg Rosner

Hearing Office Report Page: 33 to 34

Amendment Number: 16

Summary of Comment: Gregg Rosner requests a detailed focus on the genetically distinct Atlantic sturgeon population utilizing Delaware waters and further requests comments on related potential liability under the Endangered Species Act (16 U.S.C. 1531 et seq.).

Response to Comment: Section 8.3.4.6A added detailing information on the Atlantic sturgeon. See amendment document. As stated on page 33 of the Hearing Officer Report, "Commenting on potential liability is outside the scope of the DEIS and [the Hearing Officer does] not recommend a response."

Exhibit Number: 63-I

Commenter: Gregg Rosner

Hearing Office Report Page: 34 to 35

Amendment Number: n/a

Summary of Comment: Gregg Rosner asks the DEIS clarify the coastal morphotype of the Atlantic Bottlenose Dolphin in Delaware waters (Appendix N states Northern Migratory Stock). He further requests citations on loss of initial births and the toxicology of mammary milk. In addition, Mr. Rosner wants a breakdown of infant mortality from regional stranding organizations over the past five (5) years.

Response to Comment: As stated on page 34 to 35 of the Hearing Officer Report, "Noting the DEIS confirms the Bottlenose Dolphin is not an endangered or protected species, the information requested does not augment the viability or voracity of the DEIS. While research could be conducted to respond to these questions, and the DEIS modified with the information gleaned, such efforts are beyond the scope of the DEIS, and will not alter the conclusion ... Appendix N of the DEIS also addresses [effect of various environmental toxins and antibiotics on the dolphin], concluding since the dolphins will not be feeding continuously at the diffuser, bioaccumulation is unlikely." No revision to the DEIS is necessary.



Exhibit Number: 63-J

Commenter: Gregg Rosner

Hearing Office Report Page: 37

Amendment Number: 17 to 26

Summary of Comment: Gregg Rosner observed the DEIS data on marine mammal and sea turtle occurrences did not include any information in this century, and MERR provided the data from 2000 to 2011.

Response to Comment: Information from MERR added to Section 8.3.5.1 and Section 8.4.2.1 and all sub-sections. See amendment document.

Exhibit Number: 63-K

Commenter: Gregg Rosner

Hearing Office Report Page: 37 to 38

Amendment Number: n/a

Summary of Comment: Gregg Rosner asks several questions relating to the benthic habitat and potential impacts resulting from the proposed pipe and diffuser installation. First, he inquires what benthic organisms will be impacted by dredging for the outfall pipe placement. He then questions whether the Corps of Engineers is an academy with credentials, insinuating the Scott study is flawed as it only found a limited number of organisms.

Response to Comment: As stated on page 37 to 38 of the Hearing Officer Report, the Hearing Officer notes "this information is included in the DEIS at 8.3.1.1.2 (USACE, Scott, 2001), and therefore no revisions are necessary." and states that "the Corps of Engineers conducts biological studies nationwide, and [the Hearing Officer finds] there is no basis to question the veracity of the referenced report." No revision to the DEIS is necessary.

Exhibit Number: 63-L

Commenter: Gregg Rosner

Hearing Office Report Page: 38

Amendment Number: n/a

Summary of Comment: Mr. Rosner inquires whether there are any more recent studies on the benthic habitat of Rehoboth Bay, as the cited study is from 1972 (at 8.3.1.1.1) and how the potential loss of benthic diversity would impact fish species, in particular the Atlantic sturgeon.

Response to Comment: As stated on page 37 to 38 of the Hearing Officer Report, the Hearing Officer finds the question pertaining to more recent studies on the benthic habitat of Rehoboth Bay "to be immaterial to the DEIS, as further benthic characterization of the Bay substrate communities has no bearing on, or applicability to, the proposed ocean outfall ... Both the Scott and Diener studies answer [how the potential loss of benthic diversity would impact fish species]. Scott found although there were immediate impacts resulting from disturbance, recolonization and resettling occur rapidly (8.3.1.2.3), while Diener found the benthic community around an existing ocean outfall was not a degraded community and diversity remained



high (8.3.1.3.3). Given the limited disturbance corridor proposed by the ocean outfall construction, any benthic organism disturbance will be minimal, with negligible impacts to local benthic populations. Therefore, [the Hearing Officer finds] it is not necessary to revise the EIS in this regard."

Exhibit Number: 63-M

Commenter: Gregg Rosner

Hearing Office Report Page: 38

Amendment Number: 15

Summary of Comment: Mr. Rosner further asks where the Diener, et al, study was located (at 8.3.1.3.3)

Response to Comment: Location of study added to Section 8.3.1.3.3. See amendment document.

Exhibit Number: 63-N

Commenter: Gregg Rosner

Hearing Office Report Page: 38 to 39

Amendment Number: n/a

Summary of Comment: Mr. Rosner asks whether updated fisheries studies could be included in the Final EIS, as the two studies (USACE & NOAA) are from 2001 (8.3.4.1 & 8.3.4.2). Mr. Rosner goes on to ask whether fish liver toxicology studies would be available as a baseline for comparison to potential long-term effects of the outfall.

Response to Comment: As stated on page 37 to 38 of the Hearing Officer Report, the Hearing Officer finds "it is not necessary to revise the DEIS as the [fisheries] studies simply provide a listing of those species and essential habitat known to occur in the area. These sections of the DEIS are not addressing impact to fish species, and the potential impact, particularly to species of concern, are addressed elsewhere in the DEIS. ... The DEIS is silent on fish liver toxicology, and none of the information provided suggests such a study is warranted. This question is better asked of the regulatory agencies evaluating and permitting the proposed project, and they may require such studies as a condition or requirement of any issued permit. Therefore, [the Hearing Officer does] not recommend any changes to the DEIS in this regard."

Exhibit Number: 63-O

Commenter: Gregg Rosner

Hearing Office Report Page: 39

Amendment Number: n/a

Summary of Comment: Mr. Rosner requests the DEIS revision include information on specific diversity and populations of plankton at the proposed diffuser location.

Response to Comment: As stated on page 38 of the Hearing Officer Report, the Hearing Officer finds "the referenced USACE study (1996) (at 8.3.2.1) adequate for purposes of the DEIS" in terms of information on



specific diversity and populations of plankton at the proposed diffuser location. No revision to the DEIS is necessary.

Exhibit Number: 63-P

Commenter: Gregg Rosner

Hearing Office Report Page: 39 to 40

Amendment Number: 36

Summary of Comment: Gregg Rosner requests the conclusion Southern California beaches have not been impacted by ocean outfalls (9.5.2.4) be revised. He cites two applicable studies. Mr. Rosner inquires whether there is any more recent data from the South Coastal WWTP, as the study cited is from 1992 (USEPA) (at 9.5.2.3).

Response to Comment: Findings of 2009 report by Maruya et. al and 2012 report by Yamahara et al. have been added to section 9.5.2.4. See amendment document.

Exhibit Number: 63-Q

Commenter: Gregg Rosner

Hearing Office Report Page: 40

Amendment Number: n/a

Summary of Comment: Rosner submitted concerns regarding ocean microlayer impacts.

Response to Comment: As stated on pages 40 to 41 of the Hearing Officer Report, "Although there is no specific discussion of contaminant accumulation in either the benthic substrate or the microlayer, the DEIS does conclude that dispersion and dilution in the near-field immediate area of the diffuser (Figure 9-9) will result in nutrient concentrations below ambient seawater levels (9.7.2.3.1), pathogen concentrations meeting DNREC Surface Water Quality Standards even in the event of a catastrophic WWTP failure (9.7.2.3.2.3), metals and volatiles also meeting water quality standards (9.7.2.3.3), pharmaceuticals 'too low to affect the environment or human health' (9.7.2.3.4), and a conclusion dolphin bioaccumulation is unlikely (DEIS, Appendix N). Therefore, although the comments assert detrimental impacts to the benthos and ocean surface, evidence within the DEIS suggests otherwise. Note none of the agency Record comments refer to either the microlayer or concerns regarding bioaccumulation of contaminants as a result of the proposed effluent outfall. Therefore, although it may be prudent to insert a discussion of the microlayer and potential impacts thereto, it does not appear necessary given the dilution modeling and resultant findings." No revision to the DEIS is necessary.

Exhibit Number: 64

Commenter: Stanley and Betser Heuisler

Hearing Office Report Page: 11 to 12

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.



Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 65

Commenter: Howard Meneker

Hearing Office Report Page: 12

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 66-A

Commenter: Richard Byrne, Park Place on the Canal HOA

Hearing Office Report Page: 26

Amendment Number: n/a

Summary of Comment: Exhibit 66 is a formal letter of concern from the Condominium Association President, Richard Byrne.

Response to Comment: As stated on page 26 of the Hearing Officer Report, the Hearing Officer finds "the DEIS clearly states the Alternative A force main corridor will be located between the condominiums and the canal (behind the condominiums), and do[es] not recommend a response to this Exhibit." No revision to the DEIS is necessary.

Exhibit Number: 66-B

Commenter: Richard Byrne, Park Place on the Canal HOA

Hearing Office Report Page: 27

Amendment Number: 4

Summary of Comment: The Association raises four (4) issues, which are all related to the close proximity of the home foundations to the proposed force main. The first three (3) points raised involve concerns regarding bank stabilization within the construction corridor adjacent to the Lewes-Rehoboth Canal, and the fourth point identifies a discrepancy within the DEIS. The incongruity between DEIS Section 4-4 and Appendix G lies in construction methodology. Section 4-4 indicates the corridor adjacent to the condominiums will be an open-cut trench (4.4.2 & Figure 4-3), while in Appendix G it states: "In an effort to reduce the construction impact to Park Place residents, HDD (horizontal directional drill) construction is anticipated in this section (p. 7)."

Response to Comment: Section 4.4.2 and Figure 4-3 modified to show HDD in the vicinity of Park Place on the Canal, as previously mentioned only in Appendix G.



Exhibit Number: 67

Commenter: Cindy and Paul Lovett

Hearing Office Report Page: 12

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 68

Commenter: Bill and Melonie Ettinger

Hearing Office Report Page: 13

Amendment Number: n/a

Summary of Comment: William and Melonie Ettinger believe the effluent should be land applied, and while acknowledging the ocean outfall may be less expensive, they state discharge of pollutants to the ocean is a more important consideration.

Response to Comment: As stated on page 14 of the Hearing Officer Report, the Hearing Officer finds that this comment does not "require modification of the document, and recommend[s] no changes as a result of these comments."

Exhibit Number: 69

Commenter: Carol Murphy, Tidewater Utilities

Hearing Office Report Page: 20, 21

Amendment Number: n/a

Summary of Comment: Tidewater Environmental Services, Inc. (TESI) contend land application via spray irrigation is the best option for the City, disputing the DEIS conclusions. TESI reiterates their previous offer to provide wastewater services to the City, stating significant progress has been made in permitting their proposed Wandendale Regional Wastewater Facility, which is a "permanent, cost-effective, and environmentally sound ... solution."

Response to Comment: As stated on page 21 of the Hearing Officer Report, "No details were provided ... but rather TESI stated if the City has formal interest, they will endeavor to gather details suitable to meet City needs. Lacking the detail, or even a demonstrable viability of another alternative, [it is the Hearing Officer's opinion that] this nebulous offer does not warrant DEIS revision. Also note Exhibit 16, the Tidewater response (2008) to the City RFP (Request For Proposal) for land application (Exhibit 12), which also contains no proposal."

Exhibit Number: 70

Commenter: Laura Herr, Wetlands and Subaqueous Lands Section

Hearing Office Report Page: 10

Amendment Number: n/a



Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 71-A

Commenter: Suzanne Thurman, MERR

Hearing Office Report Page: 15

Amendment Number: 2

Summary of Comment: The MERR Institute advocated consideration of using constructed wetlands as an alternative to the ocean outfall or land application.

Response to Comment: Additional information added to Section 3.1 explaining why constructed wetlands were not investigated. See amendment document.

Exhibit Number: 71-B

Commenter: Suzanne Thurman, MERR

Hearing Office Report Page: 37

Amendment Number: 17 to 26

Summary of Comment: MERR observed the DEIS data on marine mammal and sea turtle occurrences did not include any information in this century, and MERR provided the data from 2000 to 2011.

Response to Comment: Information from MERR added to Section 8.3.5.1 and Section 8.4.2.1 and all sub-sections. See amendment document.

Exhibit Number: 71-C

Commenter: Suzanne Thurman, MERR

Hearing Office Report Page: 37

Amendment Number: 26

Summary of Comment: MERR provides additional information on the North Atlantic right whale.

Response to Comment: Section 8.3.5.1.9 added detailing information on the right whale. See amendment document.

Exhibit Number: 71-D

Commenter: Suzanne Thurman, MERR

Hearing Office Report Page: 40

Amendment Number: n/a

Summary of Comment: MERR submitted concerns regarding ocean microlayer impacts.



Response to Comment: As stated on pages 40 to 41 of the Hearing Officer Report, "Although there is no specific discussion of contaminant accumulation in either the benthic substrate or the microlayer, the DEIS does conclude that dispersion and dilution in the near-field immediate area of the diffuser (Figure 9-9) will result in nutrient concentrations below ambient seawater levels (9.7.2.3.1), pathogen concentrations meeting DNREC Surface Water Quality Standards even in the event of a catastrophic WWTP failure (9.7.2.3.2.3), metals and volatiles also meeting water quality standards (9.7.2.3.3), pharmaceuticals 'too low to affect the environment or human health' (9.7.2.3.4), and a conclusion dolphin bioaccumulation is unlikely (DEIS, Appendix N). Therefore, although the comments assert detrimental impacts to the benthos and ocean surface, evidence within the DEIS suggests otherwise. Note none of the agency Record comments refer to either the microlayer or concerns regarding bioaccumulation of contaminants as a result of the proposed effluent outfall. Therefore, although it may be prudent to insert a discussion of the microlayer and potential impacts thereto, it does not appear necessary given the dilution modeling and resultant findings." No revision to the DEIS is necessary.

Exhibit Number: 71-E

Commenter: Suzanne Thurman, MERR

Hearing Office Report Page: 41

Amendment Number: n/a

Summary of Comment: MERR also asserts that since the 1970's, there is substantial information regarding detrimental impacts resulting from WWTP ocean outfalls on ocean, marine mammal, and human health.

Response to Comment: As stated on page 41 of the Hearing Officer Report, "there were no citations provided which attribute such impacts to existing WWTP ocean outfalls, and research contained within the DEIS suggests otherwise. Therefore, [the Hearing Officer does] not recommend revision of the DEIS in this regard."

Exhibit Number: 72

Commenter: Dr. Mark Mikatavage

Hearing Office Report Page: 26

Amendment Number: n/a

Summary of Comment: Exhibit 72 from Mark A. Mikatavage is a copy of the Association comment (Exhibit 66) with a slight introductory modification.

Response to Comment: As stated on page 26 of the Hearing Officer Report, the Hearing Officer finds "the DEIS clearly states the Alternative A force main corridor will be located between the condominiums and the canal (behind the condominiums), and do[es] not recommend a response to this Exhibit." No revision to the DEIS is necessary.



Exhibit Number: 73

Commenter: Jennifer Duncan

Hearing Office Report Page: 12

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 74

Commenter: Richard Byrne, Park Place on the Canal HOA

Hearing Office Report Page: 5

Amendment Number: n/a

Summary of Comment: Duplicate of Exhibit 66.

Response to Comment: See Response to Exhibit 66.

Exhibit Number: 75

Commenter: Jennifer Luoma, DNREC

Hearing Office Report Page: 10

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 76

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 5

Amendment Number: n/a

Summary of Comment: E-mail cover letter for Exhibit 77.

Response to Comment: See Response to Exhibit 77.

Exhibit Number: 77-A

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 32

Amendment Number: 12, 38

Summary of Comment: DNREC notes that a critique similar to exhibit 77 was submitted to GHD on June 22, 2011, yet is not included in Chapter 12 – References, and was only partially used in the DEIS.



Response to Comment: June 22, 2011 letter added to references and referenced correctly. See amendment document.

Exhibit Number: 77-B

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 33

Amendment Number: 13

Summary of Comment: DNREC had requested approval to visit the land application site (6/22/11 letter) to map vegetation communities and assess habitat, but received no response. Should land application be considered, they advocate upland buffers be left intact along forested and wetland margins. DNREC goes on to provide citations and narrative regarding potential land application impacts.

Response to Comment: Information added to Section 8.1.3.2. See amendment document.

Exhibit Number: 77-C

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 33

Amendment Number: 16

Summary of Comment: DNREC notes the Atlantic sturgeon was not included.

Response to Comment: Section 8.3.4.6A added detailing information on the Atlantic sturgeon. See amendment document.

Exhibit Number: 77-D

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 34 to 36

Amendment Number: 18 to 25, 27

Summary of Comment: DNREC notes Figures 8-24 and 8-25 are misleading, and the maps should be corrected to include Delaware waters from November to May. DNREC makes a similar comment in regard to Figure 8-26. DNREC comments Figure 8-28 is misleading, as it only depicts time of year (summer) when Harbor Porpoises are minimally present in Delaware waters and that Figure 8-29 does not reflect migratory routes from feeding to calving areas and back again. DNREC objects to Figure 8-30 only depicting the summer range of the Fin Whale.

Response to Comment: Figure showing species distribution were previously obtained from NOAA National Marine Fisheries Service Stock Assessment Report. Maps showing winter sightings of the mammal species were unable to be found. Additional text was added to sections 8.3.5.1.1 to 8.3.5.1.8 clarifying the limits of the maps shown and reiterating that the relevant species are even more likely to occur in Delaware waters during winter months, which isn't shown on the maps. Additional stranding data provided by MERR was also



added to clarifier that each species is well documented off the coast of Delaware, and thus could potentially be impacted by the project. Section 8.3.5.2.3 changed accordingly. See amendment document.

Exhibit Number: 77-E

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 35

Amendment Number: 25

Summary of Comment: DNREC provided narrative information about the Fin Whale.

Response to Comment: Provided information added to Section 8.3.5.1.8. See amendment document.

Exhibit Number: 77-F

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 36

Amendment Number: 26

Summary of Comment: DNREC observes the DEIS does not include discussion of the North Atlantic right whale.

Response to Comment: Section 8.3.5.1.9 added detailing information on the right whale. See amendment document.

Exhibit Number: 77-G

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 36

Amendment Number: 30

Summary of Comment: At 8.4.2.1, DNREC recommends adding that these turtle species are on the Delaware Endangered Species List.

Response to Comment: Information added to Section 8.4.2.1. See amendment document.

Exhibit Number: 77-H

Commenter: Edna Stetzar, National Heritage and Endangered Species program

Hearing Office Report Page: 36

Amendment Number: 31 to 35

Summary of Comment: DNREC recommends depicting a full year temporal occurrence of various sea turtles in Figures 8-32 through 8-35.

Response to Comment: Figure showing species distribution were previously obtained from NOAA aerial and shipboard surveys. Maps showing winter sightings of the mammal species were unable to be found. Additional text was added to sections 8.4.2.1.1 to 8.4.2.1.5 clarifying that figures 8-32 to 8-35 only document



summer observations. Additional stranding data provided by MERR was also added to clarify that each species is well documented off the coast of Delaware, and thus could potentially be impacted by the project. See amendment document.

Exhibit Number: 78

Commenter: Kendall Sommers, DNREC Parks and Recreation

Hearing Office Report Page: 28

Amendment Number: n/a

Summary of Comment: DNREC Parks and Recreation strongly recommends beach construction occur in the off season months.

Response to Comment: As stated on page 28 of the Hearing Officer Report, construction during the off season months "is also the stated goal of the City. There are no recommended changes to the DEIS as a result of these comments."

Exhibit Number: 79

Commenter: Rodney Wyatt, Artesian Water Company

Hearing Office Report Page: 20, 24

Amendment Number: n/a

Summary of Comment: Artesian Letter of Intent.

Response to Comment: See response to Exhibit 57 for a response to all Artesian comments.

Exhibit Number: 80

Commenter: Mike Izzo, Sussex County Engineer

Hearing Office Report Page: 10, 18

Amendment Number: n/a

Summary of Comment: Based upon the DEIS and his years of pertinent experience, Mr. Izzo supports the ocean outfall and listed clarification on spray irrigation and ocean outfalls for the Record.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 81

Commenter: Greg Pope

Hearing Office Report Page: 6

Amendment Number: n/a

Summary of Comment: Exhibit 81 is an email sent by DNREC confirming the receipt of any submitted comments.

Response to Comment: No revision to the DEIS is necessary.



Exhibit Number: 82

Commenter: Gerald Esposito

Hearing Office Report Page: 5

Amendment Number: n/a

Summary of Comment: Duplicate of Exhibit 69.

Response to Comment: See Response to Exhibit 69.

Exhibit Number: 83

Commenter: Barbara Rudnick, EPA region 3

Hearing Office Report Page: 10

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 84

Commenter: John Thaeder, Artesian Water Company

Hearing Office Report Page: 20

Amendment Number: n/a

Summary of Comment: Artesian Response to News Reports.

Response to Comment: See response to Exhibit 57 for a response to all Artesian comments.

Exhibit Number: 85

Commenter: Mark Mikatavage

Hearing Office Report Page: 5

Amendment Number: n/a

Summary of Comment: Duplicate of Exhibit 63.

Response to Comment: See Response to Exhibit 63.

Exhibit Number: 86

Commenter: Guy Martin

Hearing Office Report Page: 12

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.



Exhibit Number: 87

Commenter: Gregg Rosner

Hearing Office Report Page: 5

Amendment Number: n/a

Summary of Comment: Duplicate of Exhibit 72.

Response to Comment: See Response to Exhibit 72.

Exhibit Number: 88

Commenter: Mable Granke

Hearing Office Report Page: 17

Amendment Number: n/a

Summary of Comment: No comment on Draft EIS.

Response to Comment: No revision to the DEIS is necessary.

Exhibit Number: 89

Commenter: John Thaeher, Artesian Water Company

Hearing Office Report Page: 20, 21, 23

Amendment Number: n/a

Summary of Comment: Artesian Water Company letter and comments and map received at public hearing.

Response to Comment: See response to Exhibit 57 for a response to all Artesian comments.

Exhibit Number: 90-A

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 46

Amendment Number: n/a

Summary of Comment: Many of Exhibits 2-37 are not referenced in this Report. This progression of Exhibits documents various aspects of the process since 2002, including periodic status updates.

Response to Comment: As stated on pages 46 of the Hearing Officer Report, "Since these Exhibits were submitted by the City and are foundational to the DEIS, no comments or modifications are necessary."

Exhibit Number: 90-B

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 46

Amendment Number: 9



Summary of Comment: At the end of 5.4.3 (p. 5-10), there is no conclusion and a misprint. That section should be revised and completed, with DNREC's (Greene, 2011) PCB study included in the discussion.

Response to Comment: Section 5.4.3 and associated section numbers updated. See amendment document. Reference to DNREC's (Greene, 2011) PCB study included in Section 5.4.4.5 PCB (previously 5.4.3.5 PCB).

Exhibit Number: 90-C

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 46

Amendment Number: 6

Summary of Comment: The DEIS has not addressed potential impacts to the diffuser assembly by fishing and boat anchors.

Response to Comment: Information added to Section 4.5.3. See amendment document.

Exhibit Number: 90-D

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 46

Amendment Number: 7

Summary of Comment: The type of dredging is unspecified in the DEIS, stating use of a clamshell is likely. Recommend DEIS state dredging will be mechanical and not hydraulic (which necessitates other considerations).

Response to Comment: Information added to Section 4.5.4 clarifying that hydraulic dredging will not be used. See amendment document.

Exhibit Number: 90-E

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 46 to 47

Amendment Number: 5

Summary of Comment: There is a discrepancy between Figure 4-7, which depicts 4-feet of ballast rock and 2.5-feet of armor stone as excavated trench backfill, and 8.3.1.2.3, which states "All excavations will be backfilled with the excavated material, which minimized changes to sediment composition and thus reduces the impact on the benthic community (Scott 2001)." The Hearing Officer recommends resolving this dichotomy, as the DEIS conclusion of minimal benthic impact is based on the Chapter 8 statement. This could potentially be resolved by using stone for ballast/armoring, but the top 1-2 feet of the trench would be backfilled with the excavated substrate, thus the resulting substrate would be available for benthic organism recolonization.

Response to Comment: Section 4.5.2 and Figure 4-7 have been updated. See amendment document.



Exhibit Number: 90-F

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 47

Amendment Number: 14

Summary of Comment: In the third sentence from the end on page 8-10, there is a spelling error, as it should read “worms” rather than “works”.

Response to Comment: Corrected. See amendment document.

Exhibit Number: 90-G

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 47

Amendment Number: 37

Summary of Comment: In the first sentence at 9.7.2.3.3 it should read “metals” instead of “medals”.

Response to Comment: Corrected. See amendment document.

Exhibit Number: 90-H

Commenter: Tim Burau, Hearing Officer

Hearing Office Report Page: 47

Amendment Number: 39

Summary of Comment: Page 27 of Appendix C contains a non-applicable partially copied document.

Response to Comment: Corrected. See amendment document.