



March 9, 2012

Gary Kline
NYS DEC
Division of Water
625 Broadway, 4th Floor
Albany, NY 12233-3506

Re: Comments from Newtown Creek Alliance on the Newtown Creek Watershed/Waterbody Facility Plan (WWFP)

Dear Mr. Kline,

The Newtown Creek Alliance represents the interests of community residents and local businesses who are dedicated to restoring community health, water quality, habitat, access, and vibrant water-dependent commerce along Newtown Creek. Since 2002, the Alliance has served as a catalyst and channel for effective community action and our efforts have made a positive and enduring impact on the health and quality of life of Creek-side communities.

On behalf of the Newtown Creek Alliance, I would like to acknowledge the great efforts and renewed collaborative spirit that is represented by the recent historic effort to formally integrate Green Infrastructure in to the Long Term Control planning process for CSO control. As I have expressed to many of my colleagues at NYC DEP and NYS DEC, we have witnessed a profound shift in thinking that is technical as well as cultural. The concerns we raise in these comments are framed by this optimism and a commitment to roll up our sleeves and work with our membership alongside city, state and federal agencies toward comprehensive, long-term ecological restoration on Newtown Creek.

Newtown Creek stakeholders must be assured that short-term losses in CSO reduction will be recouped through solid commitments to comparable Green Infrastructure investment, or some combination of conventional and green elements.

In order to leverage funding for Green Infrastructure citywide, the proposed 2011 WWFP will drop a 9 million gallon tunnel planned for CSO detention on Newtown Creek, resulting in 136 million gallons per year more CSO in the creek than was expected under the 2005 Consent Order. This backsliding is unacceptable given existing uses of the creek and multiple large-scale cleanup efforts currently in play that could bring an improved water classification within reach.

Monitoring data from the Newtown Creek Demonstration Area, finalized performance metrics and modeling will eventually provide clarity on how much CSO volume reduction we can expect for Newtown Creek through Green Infrastructure. While we work in good faith that GI opportunities will be maximized and, if necessary, scaled-down grey infrastructure will be implemented to meet or exceed water quality goals, the 2011 WWFP should include clear assurances that this initial shortfall will be recouped, including clarification on a mechanism for adaptive management that integrates emerging information into goals-driven planning efforts.

We find it particularly troubling that the City would choose to soften its goals for CSO reductions on Newtown Creek when continued sewage discharges jeopardize the long-term effectiveness of the Superfund cleanup. While the creek is currently designated as an SD waterbody, the continued presence of recreational watercraft on the Creek (including people living in their boats at the mouth and in English Kills), the pending construction of a boathouse at the mouth of the Creek, the well-documented presence of subsistence fishing, and the planned investment of in excess of \$500 million in Superfund clean up money all indicate that more ambitious CSO control is both needed and possible.

While it is critical to reach certain baseline water quality parameters for fish survivorship, we urge the DEP and DEC to take a more robust, ecosystem-driven approach for improving dissolved oxygen levels in Newtown Creek.

Aeration is the ecological version of “teaching to the test”, with investment directed at providing a measurable result but little comprehensive ecological improvement. A common concern expressed by our members is the potential for aeration to create an aerosol spray that mobilizes pathogens and contamination present in the creek into the air. As an active working waterfront with increasing public access and recreational boating activity, there are significant opportunities for aspirated material to potentially impact human health. The 2011 WWFP should include a rigorous investigation of public health impacts *on the waterbody, not simply on upland streets* in advance of full-scale aeration.

Alternatives to aeration have not been adequately explored, nor has an adequate cost-benefit analysis been presented. Missing in the analysis presented to the public on February 22, 2012 was any examination of the impacts of displacing creek side business to locate the two facilities required for full-scale aeration. The two potential sites indicated during the meeting were on the footprints of Maspeth Recycling and Sims Metal, both on the Queens side of the creek. As indicated during a recent survey of businesses within the Newtown Creek Brownfield Opportunity Area (see Figure 1), Sims Metal uses marine transit to move bulk materials, and Maspeth Recycling has expressed interest in reestablishing a working bulkhead as well.

Moving essential bulk materials by barge is more efficient economically and environmentally. A single barge has the same capacity as 28 – 56 long haul trucks, depending on the industry. Compared to other transportation modes, barge transport of bulk materials is safer in terms of worker injuries and generates far fewer emissions of particulate matter, hydrocarbons, carbon monoxide, CO₂ and nitrous oxide on a per ton mile moved basis. Displacing what remains of our working waterfront will limit our ability to move material by barge, and increase the already disproportionate burden of trucks on communities surrounding the creek. The Newtown Creek Alliance and our members are committed to prioritizing such sites for waterborne transit-based businesses.

Moreover, there are two existing waterfront parks in Brooklyn as well as a boathouse planned for the GMDC building at Manhattan Ave, with additional waterfront open space planned for Queens as part of the reconstruction of the Kosciuszko Bridge and the Hunters Point South development (see Figure 2). Sailboats, kayaks and canoes have long had a presence on Newtown Creek, and these numbers will only increase. In addition, there are 14 sites throughout the creek at publicly owned street ends where informal access to the creek is common (See Figure 3). An adequate assessment of potential public health impacts of aeration will take into consideration this level of access as well as the tug and barge operators that navigate the creek daily.

We urge the DEP and DEC to follow the lead of the recently released Brownfield Opportunity

Area Step 2 Nomination Report and consider an ecologically-driven set of alternatives such as constructed wetlands and street-end rehabilitation that includes elements of stormwater management and bioremediation (See Figure 4). Investing in habitat within edge areas of the creek will serve community as well as environmental needs and incubate new economic opportunities in the field of “industrial ecology”.

We understand that Newtown Creek is a complex planning environment with local, state and federal layers. We face monumental environmental challenges, with historic and ongoing sources of contamination. Granted, the city has made deep investments at the Newtown Creek sewage treatment plant, finally bringing the facility up to Clean Water Act standards, and promises more investment to come in in the realm of Green Infrastructure. It is nonetheless bewildering that at the moment when all hands are on deck to clean up the creek, the city takes a step back from its commitments on CSO.

For the first time in the history of this waterway, we have the scale and scope of commitment in place to turn it around, but we will only succeed if everyone does their share. We are looking to the DEP and DEC to provide the creativity, leadership and collaboration needed to mitigate CSO impacts.

Sincerely,

Kate Zidar

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

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Cc:
USEPA Regional Administrator Judith Enck, USEPA Region 2
NYSDEC Regional Director, Venetia Lannon, NYS DEC Region 2
NYCDEP Commissioner, Carter Strickland