

March 21, 2016

US Army Corps of Engineers, New York District
Jacob K. Javits Federal Building
ATTN: Regulatory Branch
New York, N.Y. 10278-0090
naomi.j.handell@usace.army.mil

RE: Comments Regarding Public Notice Number: [NAN-2015-00913-EHA](#)

Dear Mr. Ryba,

We welcome the opportunity to provide comments on the New York City Department of Environmental Protection's (NYCDEP) application to extend the aeration system currently operating in the English Kills tributary of Newtown Creek into the Dutch Kills tributary of Newtown Creek and the main channel of Newtown Creek.

The Newtown Creek Alliance (NCA) is a non-profit community organization dedicating to restoring, revealing and revitalizing Newtown Creek. Since 2011, NCA and Riverkeeper - along with various academic researchers and community organizations - have identified serious problems with the aeration project as currently built and operated and are concerned that these problems will be exacerbated with the planned expansion of aeration into Dutch Kills and the main channel of Newtown Creek.

We have detailed the serious problems with the proposal below; problems that indicate a need to evaluate alternatives before advancing. The problems with NYCDEP's aeration project in Newtown Creek and its tributaries are directly relevant to those criteria that the United States Army Corp of Engineers (USACE) considers relevant when evaluating proposals, namely "aesthetics, general environmental concerns, recreation and energy needs". Additionally, we pose three straight-forward recommendations that would address community concern and still maintain the goals of the underlying consent order.

PROBLEMS WITH NYCDEP's NEWTOWN CREEK AERATION PROPOSAL

The potential health impacts caused by aerosolizing bacteria and chemical contaminants that lie within the sediments and water column of Newtown Creek, a federally designated superfund site. NYCDEP, New York State Department of Conservation (NYSDEC) and New York City Department of Health have all acknowledged the possibility of releasing pollutants into the air column but not taken action to properly assess the impact.

The disruption of heavily contaminated sediments is a problem that, despite being recognized by NYCDEP, is not being properly addressed. Plans for the East Branch aeration project (referred to as NC-3) were specifically altered to not aerate the area of Newtown Creek known as the Turning Basin (just east of the National Grid site and near the mouth of Maspeth

Creek). NYCDEP officials have stated that this section will not include aeration because of severe chemical contamination within the sediments. Such a decision clearly acknowledges the risk aeration poses for disrupting sediments and contaminating the water column, while also providing no rationale as to why NYCDEP might apply such a precaution to just one specific area when the entirety of Newtown Creek is a federally designated superfund site with known sediment contamination throughout.

A poor investment of \$115 million (estimated total cost of aeration throughout Newtown Creek) to treat symptoms of a problem and not the actual cause. The primary reason for low DO levels is the discharging of untreated sewage via Combined Sewer Outfalls, which release an estimated 3 billion gallons of untreated sewage and stormwater into the Creek each year. This excessive dumping of nutrients causes massive algal blooms and disrupts dissolved oxygen (DO) levels, in addition to releasing harmful pathogens into a public waterway. Every dollar spent to reduce CSO volumes entering the Creek is a smart long term investment towards reducing nutrient loading and improving DO.

The absence of a long-term plan for use of the aeration system. NCA has requested that expansion of the project be delayed until after 2017 when the Long Term Control Plan for Newtown Creek is due. Additionally, we have questioned the value of pursuing a project that only addresses DO levels, when it is very likely that the water quality standards on which the consent order is based will soon be upgraded to include bacteria levels. If this is the case, then aeration alone will not fulfill the consent order to raise water quality to SD standards.

Reliance on a mechanical solution that continuously consumes electricity thereby contributing to greenhouse gas emissions which the city and state are actively seeking to minimize. There are valid and effective alternative solutions that can improve DO levels while not creating additional environmental burdens. Natural strategies to stabilize DO exist and can have auxiliary environmental improvements.

Unclear evidence on the need for aeration and the effectiveness of the system currently in place. Despite repeated requests, NYCDEP has not provided community stakeholders with the data they are purportedly using to establish the effectiveness of the current aeration system and its health and environmental impacts. This includes presumed improvements in DO throughout Newtown Creek since the original 1992 consent order was established, DO levels in English Kills and adjacent areas pre and post NC-2 installation and current DO levels in the proposed areas, namely Dutch Kills, which is not sampled under the NYCDEP Harbor Survey.

Malfunctions and shut downs of the system have occurred on numerous occasions to date within the English Kills portion, a result of both collisions with large boats and equipment failure. We are greatly concerned that expanding the system, as currently designed, into other areas of the Creek which feature greater maritime traffic will create similar problems going forward.

RECOMMENDATIONS:

1. Based on an analysis of dissolved oxygen levels within the proposed expansion area of Newtown Creek (a segment between Whale Creek and Meeker Avenue) we believe aeration is unwarranted and a poor investment of agency funds. NYCDEP Harbor Survey data for the warmer months of 2014 and 2015 (May through September) shows DO levels above the mandated 3 mg/L level 86% of the time at Meeker Avenue (site NC2) and 97% of the time at the mouth of Whale Creek (site NC3). While we recognize that this does not constitute complete 100% compliance, it paints quite a different picture of the dire necessity for aeration and is much higher when compared to other sites within New York Harbor, as shown in the chart below. Most importantly, the aeration system is only intended to run during periods when DO levels are below 3mg/L, which for the main channel of Newtown Creek is only 10% of the time (from May to September). However, NYCDEP does not intend to run the system only when DO levels are low but rather on a continual basis. Such an operational model will generate a significant environmental burden, leading to the unnecessary use of electricity during peak summer months, resulting in greenhouse gas and toxic air emissions. The environmental assessment for the NC-3 aeration project at the East Branch of Newtown Creek states that the project will consume 1,800,000,000 annual BTU, or over 527 megawatts per year. Given that the Newtown Creek portion of NC-4 is much larger than the entire NC-3 system, one can presume a much larger environmental footprint will be created here. Given the lack of a timeline for aeration, this environmental burden will continue year after year after year until the agencies deem the project no longer necessary. Current DO levels indicate that expansion of the aeration project is unnecessary and permits to proceed should not be granted.

Location	Harbor Survey ID	Percent of Samples above 3 mg/L	
		2014 (May - Sept)	2015 (May - Sept)
Whale Creek (Newtown Creek)	NC3	97	97
Meeker Avenue (Newtown Creek)	NC2	84	88
Bronx River	BR3	41	47
Westchester Creek	WC2	65	38
Hendrix Creek	HC1	48	35

2. One of our main concerns with the existing aeration system located in the English Kills tributary of Newtown Creek is the severe disruption to the naturally calm characteristics of the waterway the system creates. The system, as it currently operates, sends large and forceful amounts of air to the surface creating a stream of violent turbulence running throughout most of

the English Kills. This significant alteration to the naturally still state of the surface waters creates multiple negative effects: it presents a hazard to the growing presence of recreational boaters (canoes and rowboats), repels bird populations commonly found in the middle of the Creek (such as gulls, geese, ducks and cormorants) and completely transforms the aesthetics of the water body. The combination of noise from the blower building and the sight of foot high bubbles emanating from under the surface, makes for a project that is disruptive and entirely impossible to avoid. Additionally, because there is limited signage to explain the presence of the aeration project, most people are perplexed by its overwhelming presence, including local workers who have noted the massive bubbles from hundreds of feet away and phoned 311 to report what they thought must be damage to a water main or gas pipe running under the Creek.

These issues are just as important, if not more so, when considering Dutch Kills. This tributary has become a focused area of study for environmental science students at LaGuardia Community College, is a frequent destination for environmental education canoe trips led by the North Brooklyn Boat Club and is only a few hundred feet from several high schools and community gardens who have expressed great interest in having public green space along the shore. We strongly urge the USACE to not grant the permit for aeration within Dutch Kills, without the applicant addressing these issues and developing an aeration system that does not significantly disrupt surface waters which would in turn repel critical bird populations and community members that are currently drawn to the otherwise calm nature of the waterway.

3. We ask that the USACE conduct a public hearing on the proposed action for community members to speak directly with all involved parties, including the permit applicant (NYCDEP) and overseeing body (NYSDEC). NCA, along with numerous other community members and organizations are frustrated with the lack of opportunity to discuss a project that so significantly impacts our local waterway. The most recent opportunity was a meeting held over four years ago - February 22, 2012 - during which NYCDEP presented on the English Kills aeration project (NC-2). The only aspects of NC-3 (East Branch section) and NC-4 (Dutch Kills section) that have been publically presented since then were to local community boards concerning upland issues such as placement and design of the blower buildings. Multiple requests to both NYCDEP and NYSDEC since 2012 to host a public meeting, give an update on the projects and most importantly address the growing community concerns have been refused. We trust that the USACE can understand these basic concerns, as stated above, and the need "that a public hearing be held to collect information necessary to consider this application."

In closing, we thank you for your time in considering these comments. We look forward to working with all involved agencies to find solutions so that a project seeking to improve environmental conditions is done so in a truly responsible and sustainable manner while not creating adverse impacts to the local communities.

Sincerely,
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