

May 31st, 2017

Vincent Sapienza, P.E.
Commissioner
NYC Department of Environmental Protection
59-17 Junction Boulevard
Flushing, NY 11373
Sent via email ltcp@dep.nyc.gov

Newtown Creek LTCP Comments

Dear Commissioner Sapienza,

As the New York City Department of Environmental Protection (NYCDEP) prepares a Long Term Control Plan (LTCP) for addressing Combined Sewer Overflow (CSO) and Clean Water Act standards in Newtown Creek, we offer the following comments. CSO is one of the most significant threats to the health of Newtown Creek. The estimated 1.2 billion gallons of untreated combined sewage per year brings excessive nutrients, pathogens, chemicals and plastic debris into the waterway posing harm to local wildlife and community members who seek to use the Creek for recreational and educational opportunities. We believe the following solutions are necessary steps forward in creating a healthier and more vibrant waterway for generations to come.

100% Capture for Largest 3 CSOs

We believe that large-scale capture of CSO is the most viable solution to improving water quality in Newtown Creek. We are in support of a storage tunnel that will capture 100% of CSO volume from the largest 3 outfalls on the Creek: NCQ-077 (Maspeth Creek), NCB-083 (East Branch) and NBC-015 (English Kills)¹. We feel strongly that complete capture is the only viable path forward to ensure compliance and protection of both the ecosystem and human health for generations to come. A partial reduction of CSO volume from these big three outfalls will ensure that ongoing water quality hazards present in these most stagnant areas of the Creek will persist. Allowing half a million gallons of CSO to continue to enter Newtown Creek is simply unacceptable. If a significant investment of time and resources are required to bring a storage tunnel online; we urge NYCDEP to ensure that the resulting benefits to the ecosystem and surrounding communities reflect such an investment. We look forward to learning more details about storage tunnel specifications.

Storage Tank in Dutch Kills

As with the other 3 largest CSOs, we believe that capture at the largest CSO in Dutch Kills (BB-026) is a necessity. As stated in NYCDEP's Alternative Presentation, a 2.3 acre site is

¹ We recognize that abnormally large storms may render 100% capture impossible in reality, but support a tunnel with capacity over 130 millions gallons, as outlined in [NYCDEP's Alternative Presentation from April 26, 2017](#).

required to achieve 75% capture at this outfall. The NYS Dormitory Authority parking lot, which lies in direct proximity to the outfall tide gate, covers 2.1 acres - essentially allowing for more than 70% capture. We urge NYCDEP to engage with LaGuardia Community College in an evaluation of feasibilities at this location. While we fully appreciate the value of parking space for an institution of this size in a crowded urban environment; we believe that solutions exist that can retain parking, allow for DEP infrastructure and possibly add extra benefits (such as a green roof on top of a parking garage). Given that a growing number of LaGuardia faculty and students are some of the most engaged and committed stakeholders in creating a cleaner and more accessible Dutch Kills, we feel there is great potential for a partnered project between a city agency and city college.

We are also in favor of CSO capture in Dutch Kills so as to not overburden adjacent waterways. The idea of increasing the volume of wet weather flow from BB-026 to the Newtown Creek Water Pollution Control Plant (WPCP) is of concern for us, given the likelihood of increasing CSO discharge to the East River. Although less stagnant, the East River is connected to Newtown Creek both via tidal flushing and by the communities that border both. Simply put, we seek solutions that prevent pollution - not redirect it.

Increase Green Infrastructure (GI) in Dutch Kills

In addition to the 25% to 30% of annual CSO volume that a 2.1 acre storage tank could not capture from outfall BB-026 (30 to 36 Million Gallons per Year (MGY)), there are additional CSOs that discharge into Dutch Kills, primarily from outfall BB-009, which discharges an estimated 43 MGY. To address this estimated 79 million gallons, we urge NYCDEP to expand Green Infrastructure in the Dutch Kills area, primarily the BB-026 and BB-009 sewersheds. We understand that scoping for GI in Dutch Kills is underway but feel that current commitments are inadequate and need to be increased. There are a number of GI opportunities in these areas, including large industrial rooftops, residential, commercial and industrial streets as well as runoff from the Long Island Expressway which currently drains directly to catch basins in CSO drainage areas. An expansive and innovative GI program in Dutch Kills could help capture CSO which will continue to create environmental and public health risk.

Opposed to Expansion of Aeration and Use of Chlorination

We are encouraged to know that NYCDEP is not considering expansion of aeration within Dutch Kills and the main channel of Newtown Creek (from Whale Creek to the Turning Basin), as originally planned in the 2011 Waterbody Watershed Facility Plan. NCA has challenged the effectiveness and necessity of aeration since 2012 and we are encouraged that recent evaluation and discussion of current data and community concerns will spare large sections of Newtown Creek from this narrowly focussed water quality improvement. We continue to urge NYCDEP and NYSDEC to implement improved protocols for operating existing aeration sections, based on real time dissolved oxygen levels, as well as explore alternative systems that don't pose disruption to surface waters and create potential hazards for human health.

As with aeration, we oppose the potential use of Chlorination as a CSO improvement measure - given that such a method only treats one symptom of a much larger issue and introduces additional impacts to the waterway and surrounding communities. We are discouraged to see this method being pursued at other waterbodies in New York City, given the potential negative impacts and strong opposition from our partner community and environmental organizations.

Wetlands and Ecological Services

Just ten years ago Newtown Creek was totally void of any native salt marsh grasses and populations of native filter feeder bivalves, like ribbed mussels and oysters, had not yet been identified or acknowledged². Thanks to community interest and investments from agencies like NYCDEP, we have made great strides in advancing the possibility for increased ecological services in Newtown Creek. Salt marshes can produce oxygen, uptake excess nutrients, sequester carbon, breakdown bacteria and even help mitigate impacts of coastal flooding. We believe that wetlands and softer shoreline edges, where physically feasible, should be considered part of a long term strategy in Newtown Creek in conjunction with reduction of CSO volume. The greater the reduction of CSO, the more potential for natural systems to survive and thrive.

Timeframes

We ask that the LTCP submitted to NYSDEC specifically outlines design and construction timelines with justification for any significant delays in beginning the process. While we appreciate the amount of time necessary to fulfill these desired solutions, we ask that NYCDEP proceed with urgency in completing these vital projects. Additionally, we ask that solutions are able to proceed independently of other clean-up and regulatory projects underway, namely the USEPA Superfund Record of Decision (ROD). As with the ROD at Gowanus Canal, we believe the USEPA will identify CSO as an ongoing source of chemical contamination. An LTCP that outlines a 100% reduction of CSOs will achieve benefits for both Superfund contaminants as well as meet the Clean Water Act. Limited reductions to CSO volume under the LTCP may create great complications, delays and additional costs as we await a final ROD in the years to come. We therefore urge NYCDEP to select thorough solutions to CSO now; in the interest of avoiding complications, advancing environmental improvements and benefiting the surrounding communities.

Solutions Beyond Standards

Lastly, we are deeply concerned that solutions being considered as part of the Long Term Control Plan are too narrowly focused on meeting individual standards through the use of predictive modeling. As earlier mentioned, CSO contribute numerous types of pollutants that directly impact the health of Newtown Creek; including pathogens, nutrient pollution, petrochemicals, plastics, pharmaceuticals and a number of emerging chemical compounds.

² A recent survey conducted by Newtown Creek Alliance counted over 200,000 ribbed mussels; present throughout Newtown Creek and its many tributaries.

Many of these pollutants are not currently addressed under Clean Water Act standards, but pose significant risk to ecological and human health. Seeking a solution which only address a few symptoms of this larger problem, such as fecal coliform and dissolved oxygen levels (during select months no less) is nearsighted and inadequate. We urge the NYCDEP to address water quality in a comprehensive fashion and invest directly in the reduction of CSO itself. By doing so, solutions outlined this year will not just address current Clean Water Act standards but help create a clean water body for decades to come - a true Long Term Control Plan.

Additionally, we are concerned about the use of modeling to prescribe a necessary level of reduction to CSO. Many of the alternatives presented at the April 26th meeting predict compliance to current standards with a 50% reduction from the largest CSO outfalls in Newtown Creek. A 50% capture of CSO, still leaves 600,000,000 gallons of untreated sewage flowing into our waterbody every year. Such a high volume is unacceptable in the long term (for numerous impacts listed above) and we question the validity of a model predicting attainment of water quality standards with over half a billion gallons of CSO discharging into Newtown Creek every year.

Continued Dialog

We thank NYCDEP for strong consideration of these comments and welcome ongoing dialog concerning potential solutions. We fully appreciate the complications in improving an impaired urban waterbody like Newtown Creek and hope that NYCDEP take necessary actions that repair ecological harm and provide justice for surrounding communities.

Sincerely,

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Newtown Creek Alliance

Sean Dixon
Staff Attorney
Riverkeeper

Julie A. Welch
Program Manager
on behalf of the SWIM Coalition Steering Committee