

February 13, 2016

NYS Department of Environmental Conservation
Division of Environmental Remediation
Attn. Benjamin Rung, P.E.
625 Broadway, 12th Floor
Albany, NY 12233-7017

Dear Mr. Rung;

After attending public presentation and reviewing available documents the Newtown Creek Alliance (NCA) would like to offer the following comments regarding proposed actions for Operable Unit One (OU-1) and adjacent sites of the Greenpoint Petroleum Remediation Project.

One of our main concerns regarding further actions at OU-1, as well as other portions of the remediation project, is NYS DEC's use of current zoning laws and land use to determine satisfactory levels of remediation. It is our firm belief that contamination of soil, water and air should be remediated to the fullest extent possible, regardless of what a site is currently used for. Such a guiding principle is, in fact, acknowledged as a Remediation Objective within the Proposed Decision Document for OU-1: "At a minimum, the remedy shall eliminate or mitigate all significant threats **to public health and the environment** presented by the contamination identified at the site through the proper application of scientific and engineering principles" (emphasis added). However, the proposed actions at OU-1 seem only to be considered because of the industrial nature of current operations on the site: "Under the operable unit's current use, as a materials handling facility and industrial warehouse, soil vapor intrusion is unlikely a concern, however, for any future on-site redevelopment or occupancy the potential exists for the inhalation of site-related contaminants from soil vapor intrusion and is to be evaluated at that time." We find this rational to be but shortsighted and narrow.

To begin, why should it not be a priority to protect the health of workers within industrial zones in the first place? Seeking employment within an industrially zoned area should not include increased risk of exposure to hazards which are unrelated to the actual work being performed. Setting a lower cleanup benchmark in this instance sacrifices the health of a specific population and could easily be constituted as environmental discrimination. It is not just the residents living near or on-top of the plume whose health has been jeopardized due to the presence of toxins, it is people who have and continued to work in these areas as well. We recommend that for OU-1, OU-2 and OU-6 a cleanup standard is imposed which matches those of residential areas.

Secondly, while we support the continued industrial use of the area we also acknowledge that zonings may change and new types of use and occupancy may exist on the site in the coming decades. More importantly, the actual nature of the OU-1 area is already beginning to change and will continue with the completion of two major projects: Phase 3 of the Newtown Creek

Nature Walk and transformation of 520 Kingsland from industrial warehouse to film stage, event space and educational green roof. Additionally, there has been much growing interest, from our organization and others, in revitalizing a section of shoreline adjacent to North Henry Street. In conjunction, all of these developments are beginning to bring significantly more persons (professional and recreational) to this area. This means a larger population potentially exposed to soil vapors than currently accounted for under present day use. We recommend that an evaluation for these evolving uses should be fully addressed now and not evaluated at a later date.

In reading through the environmental assessment of OU-1 it appears that a number of contaminants were found in excessive quantities. Below are a number of critical excerpts, with emphasis added:

“All SVOC detections exceeding NYSDEC criteria occurred in the samples collected from the shallow intervals that correspond to the subsurface soils from the shallow aquifer, above the shallow confining unit. For evaluation against current zoning, total PAH values were also calculated and compared with the industrial NYSDEC CP-51 soil clean-up guidance. This evaluation indicates data from two locations **exceeded the industrial NYSDEC CP-51 soil clean-up guidance for total PAHs.**”

“The analytical data indicate eleven metals were **detected above** the NYSDEC Part 375 unrestricted use criteria at varying depths and boring locations.”

“Analytical data for VOCs in groundwater indicate detections **above applicable NYSDEC Standards, Criteria & Guidance (SCGs)** for seven compounds.”

“Eight metals compounds were **detected above NYSDEC SCGs**, with the majority of exceedances from shallow monitoring wells.”

“Benzene was detected at a maximum concentration of 36,700 µg/m³ or 11,500 ppbv at one sampling location on January 9, 2014. **No site-specific screening criteria exists for Benzene.**”

It appears that justification for proposed limited action in remediating a number of toxins which exist above documented standards - or compared to no standard as is the case with Benzene - is that there is no exposure to buried sediments, no consumption of groundwater and minimal buffers in place to protect from soil vapors. However such logic completely ignores a basic stated remediation goal to “eliminate or mitigate all significant threats to public health **and the environment.**” Furthermore a true cleanup is one that will “Prevent impacts to biota from ingestion/direct contact with soil causing toxicity or impacts from bioaccumulation through the terrestrial food chain.” Thus we recommend the proposed actions to reflect these standards and take steps to not just protect human health but the health of the flora and fauna that are also suffering from exposure to high-levels of toxins present on the site.

Another point of concern relates to the boundary of the OU-1 site. While we understand that many of these boundaries were established over three decades ago as investigation began, we are very concerned that a potentially contaminated site is being left unaddressed - the westward extension beyond the Allocco building onto North Henry Street towards the 'No Name' Inlet of Newtown Creek (an approximate 80 foot extension of the current boundaries). We feel having no sampling on this site is of particular concern for a number of reasons: 1. The area is almost entirely composed of exposed sediment, allowing for easier contact with sediments and escape of soil vapors. 2. The street is city owned property and publically accessible. 3. The shoreline is totally degraded and features no safeguards in place to prevent potentially contaminated groundwater from entering Newtown Creek (currently being investigated under EPA superfund jurisdiction). Given that areas adjacent to former Mobil Oil Facilities (such as OU-6) have also been included in the investigation and remediation, we see no reason that this narrow extension should not also be considered.

One final point. As revealed in conversations with contractors the total amount of free product composing the Greenpoint Oil Spill is thought to be less than the 17 to 30 million gallon estimate that is widely cited. Many community members often wonder how a more narrow and accurate estimate does not exist given the extensive monitoring mechanisms in place. Having such a wide range (17 to 30) does not exactly instill confidence amongst local residents that the agencies and responsible parties involved have a firm grip on the remediation efforts. As such we urge the NYS DEC to release a more refined estimate for the size of the original plume (million gallons) as well as estimate for the amount of recoverable product still present within the site.

In regards to the proposed action, we appreciate an interest in using Monitored Natural Attenuation (MNA) to help remediate the site, however we would like to see further details on how this will be monitored, what a potential timeline might look like and how the community will be notified of its progress.

We thank you for your time and consideration of these comments.

Sincerely,
Willis Elkins
Program Manager
welkins@newtowncreekalliance.org