

January 13th, 2020

Michelle Tompkins  
NYS DEC - Division of Water  
625 Broadway  
4th Floor  
Albany, NY 12233-3500

Sent via email: [WQSRulemakings@dec.ny.gov](mailto:WQSRulemakings@dec.ny.gov)

**RE: [Proposed Amendments to 6 NYCRR 701.13 and 701.14, Clarification of Class I and Class SD Best Usages](#)**

Dear Ms. Tompkins,

The Newtown Creek Alliance is a community-based organization dedicated to Restoring, Revealing and Revitalizing Newtown Creek. Since 2002 we have worked to restore community health, water quality, habitat, access, and vibrant commerce in and along the waterway. Given how historic and ongoing water quality issues continue to threaten the health of those that live near, work along and recreate on Newtown Creek we feel very strongly that New York State needs to take steps to strengthen existing standards, not weaken them.

The current designation for Newtown Creek (SD) sets a minimum standard to protect ecological and human health. For years these standards have justified the slow and inadequate responses/solutions to reduce significant ongoing pollution sources, namely Combined Sewer Overflow and untreated municipal stormwater runoff. What was once a rich ecosystem, where residents of the City could safely interact with the calm waters of Newtown Creek has been treated as a dumping ground for the past 150+ years. Unfortunately, the dumping continues to this day as Newtown Creek receives over 1.2 billion gallons of untreated sewage discharges into its narrow and stagnant areas during an average rainfall year. The impacts of CSO are clear: In most areas of the Creek, the waters are unfit for primary contact the majority of the time. This means that the surrounding communities are unable to safely engage with the waterway, thus perpetuating a state of avoidance, neglect and ultimately abuse. This ongoing and unfortunate state occurs in one of the wealthiest cities in the world, nearly 50 years after the passing of the Clean Water Act. It is simply unacceptable.

The primary reason that the pollution and poor water quality conditions continue to exist is that the standards set forth by your agency do not require the appropriate actions that would lead to the needed improvements from the responsible parties (namely the City of New York) to achieve clean waters. To this day we have seen water quality improvement projects are not designed to make the waters truly fishable and swimmable and thus available to the community, they are designed to meet unique numerical standards alone, they do not reflect human behavior and existing water use. Such standards often fail to reduce actual threats to human health or even curtail the reduction of pollutions sources. This is true with projects like Aeration in Newtown Creek and proposed Chlorination in other similar tributaries in NYC. These approaches are shortsighted, narrow and not in line with goals or spirit of the Clean Water Act. We need to set the highest standards to drive real investments, real reductions to pollution sources and real improvements to Newtown Creek, the larger estuary, and the surrounding communities.

Thus we are staunchly opposed to proposed amendments that weaken the 'best usages' under current classifications for Newtown Creek and similar waterbodies.

Additionally, we would like to comment on the public outreach component of this proposed amendment. Given the consequences that this decision may have on water quality conditions, as well as ecological and human health risks associated with Newtown Creek for generations to come, we feel that much greater engagement with the impacted communities is imperative. A process that only includes a basic online posting, comment period during end of year holidays and single daytime hearing without any significant outreach to community organizations, community boards or elected representatives is unacceptable. As such we believe that NYS DEC has a responsibility to not make a decision at this point and to develop a separate and robust community engagement process to ensure greater public education and engagement with this technical yet highly important issue.

We look forward to continue dialog about this issue and working with NYS DEC to significantly improve water quality conditions within Newtown Creek.

Sincerely,



Willis Elkins  
Executive Director  
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CC:

Assembly Member Joseph Lentol  
Assembly Member Mariza Davila  
Assembly Member Cathy Nolan  
Senator Julia Salazar  
Senator Michael Gianaris  
Council Member Stephen T. Levin  
Council Member Antonio Reynoso  
Council Member Jimmy Van Bramer  
Council Member Robert Holden  
SWIM Coalition