

February 17, 2022

Janno Lieber  
Chair and CEO  
Metropolitan Transportation Authority (MTA)

Patrick Foster  
Director Region 2  
New York State Department of Environmental Conservation (NYS DEC)

Nicole Garcia  
Queens Borough Commissioner  
New York City Department of Transportation (NYC DOT)

Sent via email

**RE: 29th Street Bulkhead Collapse at the Dutch Kills Tributary**

Dear Chair Lieber, Director Foster, and Commissioner Garcia;

We are writing with urgency to inform you that as of February 2022, significant portions of the bulkhead shoreline on [29th street at the Dutch Kills tributary](#) have collapsed into the waterway. Given the ownership of the land by MTA (Block 115, Lot 86); the use of the property as a through street managed by NYC DOT (29th street); and NYS DEC's regulatory authority regarding waterway pollution and shoreline construction we firmly believe that all three agencies have an obligation to address this issue.

The most recent failure is in fact the third round of collapses on this shoreline in recent years, and has occurred after Members of the Newtown Creek Superfund Community Advisory Group have been warning agency representatives of this bulkhead's imminent collapse for the last few years. This collapse has dumped tires, concrete blocks, and other historic fill into Newtown Creek, and left the nearby, active, industrial roadway just three feet away from the unstable shoreline (see photos below). In addition to our now greatly elevated concerns over public safety regarding a potential street-collapse, there is also concern about liability, and the process for rebuilding this shoreline. Visible cracks on adjacent sections of the shore, that are worsened with every spring tide and rainstorm, make it evident that further collapse is inevitable.

This collapse, and the degradation of our existing shoreline in general, gives us an opportunity to consider something different and more effective. **It is time to act, and we're calling on you to lead us towards a revitalized, safe, and resilient Newtown Creek shoreline. We're asking that you:**

1. **Address the urgent unsafe condition of the bulkhead and adjacent roadway**
2. **Rebuild a shoreline that incorporates public access to the water and**
3. **Incorporate living shoreline and native habitat restoration in the redesign**
4. **Remove the abandoned barges at shoreline**

Shoreline reconstruction that benefits local marine ecology, human health, as well as the larger Dutch Kills community without impacting the needs of existing industrial uses of the area can be built in the former bulkhead's stead. Extending native tidal marsh grass within the upper Dutch Kills will not only remediate water quality via enhanced capture, and sedimentation of CSO particulate matter as water flow passes through native grasses; these grasses also provide habitat for filter feeders such as the native ribbed mussel, which removes fecal bacteria introduced by CSO discharges.<sup>1</sup> In recent years scientists have found that a number of key native species that rely on intertidal habitats have been returning to Dutch Kills. Rebuilding a soft shoreline would help us passively clean the Creek while expanding habitat ranges for these crucial, native species.



*Photos taken January 20, 2022. [See more here.](#)*

Since 2009, there have been numerous community-led visions for the site. Each iteration centered on creating public access to the water via this state-owned shoreline and incorporating ecologically beneficial Green Infrastructure improvements to assist in stormwater management and improve our water quality.

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<sup>1</sup> Durand, et. al. 2020 “[Ribbed mussel in an urban waterway filters bacteria introduced by sewage.](#)”

We want to center these community-led demands for a clean, accessible urban waterway in any redevelopment plan your agencies may propose to address this situation.<sup>23</sup>

### **How did we get here?**

Before industrial development, Newtown Creek was fed by streams that flowed between wooded elevations and lowland marshes. These native landscapes provided homes for co-evolved wildlife, and were replete with strong root-systems that filtered out particulates and cleaned the waters until they mingled with the saltwater of the East River. When the tides met, marshes had the capacity to retain excess water and the brackish waters of the creek abounded with fish and shellfish.

During the 1800s, the government led projects to fill formerly wet areas with imported soil, channelize Newtown Creek, and replace its natural banks with bulkheads (retaining walls) to support heavy industrial uses. At the same time, City agents were expanding our municipal sewer system, enclosing smaller waterways, and using existing larger water bodies as cost-cutting opportunities to divert untreated sewage. Since 1856 Newtown Creek has received New Yorkers' untreated sewage by way of Combined Sewer Overflow and direct-drainage gutters. These developments fundamentally changed Newtown Creek from a natural drainage waterway to one that is governed by outdated engineered systems, including poorly maintained and collapsing bulkheads like this section of 29th street.

The passage between 47th and 49th avenues, where this collapse is located, is not a street but rather a dangerous abandoned railroad right-of-way, with tracks still in place and without pedestrian space. In a neighborhood densely populated with school-age children, a community college and businesses that serve the local working community, absence of green space and safe pedestrian passage is particularly detrimental to community members' mental and physical well-being.

### **Hope for a New Shoreline**

In recent years the City has reintroduced local salt marsh habitat both at Hunter's Point Parks South as well as a NYC DEP Pilot Marsh in the Dutch Kills tributary installed in 2018<sup>4</sup>, just a few feet from this shoreline. These efforts are based on established research that demonstrates that intertidal marshes provide both ecological and flood-resiliency benefits. We firmly believe that any and all projects involving redesigned shorelines, especially those that are led by the City and State, include native habitat restoration. Reinstalling native creekside habitats would not only require less maintenance compared to our current system—thereby decreasing maintenance and replacement costs for the area's infrastructure significantly, but also allow for the passive filtration of the landscape to help clean up the water, and provide food and shelter to our native wetland wildlife.

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<sup>2</sup> We compiled information and public comment from visioning meetings we held and attended into the [Newtown Creek Vision Plan 2018](#), co-authored with Riverkeeper.

<sup>3</sup> [Brownfield Opportunity Area 2012 study](#) showcases a potential vision on page 126, and appendix page 86 reminds us that "in Dutch Kills, there is urgent need for erosion control, with exposed and eroded piling observed at several properties."

<sup>4</sup> See [NYCDEP July 11, 2018 press release](#).



Rebuilding Newtown Creek's shoreline will not only play a critical role in dampening the negative impacts climate change is bringing to our creekside neighborhoods, but also offers an opportunity to train the next generation of our City's environmental leaders. Faculty and students at LaGuardia do award winning research on the waters of Newtown Creek. Even though the Creek is just behind the college's C building, they must travel miles away from campus to access the water and collect samples. Additionally, students from the Laguardia Community College Presidents Society: Environment program have spent the last two and a half years advocating for pedestrianization of an adjacent street and greening and calming the traffic on the streets near the campus. Students have also advocated for improved access to the water - and have found that businesses and organizations in the area are supportive of such a change.

We need forward thinking investment at the City and State scale to create real and lasting stability along our waterways. This is becoming increasingly more urgent of a request as property owners adjoining the Creek are already reeling with the damages caused by rising water-tables and increased extreme-weather occurrences. A shoreline redesign that utilizes green infrastructure to absorb and slow storm surge would be much more beneficial in protecting the community than a hard edge that prevents the movement of water or displaces it directly into the neighboring properties.



### **Damages to Natural Resources**

The bulkhead and adjoining "street" are both property of MTA/LIRR, a named Potentially Responsible Party (PRP) in EPA's Superfund investigation. Given this potential liability that MTA/LIRR has in contributing to the historic contamination of Newtown Creek, we believe that the NYS DEC has an even stronger obligation to require a shoreline redesign that incorporates ecological benefits such as intertidal habitat, as well as public access to this historically damaged and inaccessible waterway. Such an approach is in-line with the goals of a Natural Resources Damages Assessment (NRDA), which is currently being undertaken on Newtown Creek by the Trustees group, which is made up of National Oceanic and Atmospheric Administration (NOAA), the US Fish and Wildlife Services (USFWS), and NYS DEC.

Per NYS DEC's website regarding a similar NRDA on the Hudson River: "Through the NRDA process, the public is compensated for the losses they suffer as a result of the contamination. Monies recovered as a result of an NRDA must be used to restore either the injured natural resources themselves or the services provided by the natural resources."<sup>5</sup> The Newtown Creek Alliance, Riverkeeper, and numerous members of the Superfund CAG have discussed the NRDA process with the Trustees and EPA in working to identify possible NRDA sites around Newtown Creek that are: (1) well suited for habitat restoration, (2) of high interest to the community, and (3) potentially owned by a PRP. For these reasons, this shoreline is perhaps the best suited location on the entire Creek for an NRDA investment.

In addition to addressing the environmental hazards posed by the eroded shoreline, there is also an opportunity to address a major long-standing concern resting just a few feet from the original shoreline edge: the long abandoned and sunken barges in Dutch Kills. Community members, local businesses, and environmental organizations have pushed the US EPA, NYS DEC, and NYC DEP for years to find a way to finally remove these rusting and slowly deteriorating pieces of marine debris which not only pose environmental harm, but contribute to the general state of neglect and intentional pollution that Dutch Kills continues to suffer from. Removal of the barges will not only provide much needed environmental and community benefit, but may in fact be a necessity for MTA/LIRR in addressing and rebuilding the collapsed shoreline.

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<sup>5</sup> <https://www.dec.ny.gov/lands/25962.html>

We thank you for your consideration of these issues and look forward to further conversation about ways to safely pursue restoration of this shoreline.

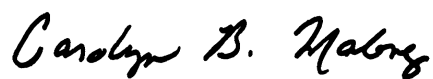
Sincerely,



Councilmember Julie Won  
District 26



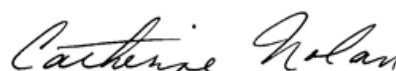
Donovan Richards  
Queens Borough President



Congressmember Carolyn Maloney  
NY District 12



State Senator Michael Gianaris  
District 12



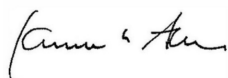
Assemblymember Catherine Nolan  
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Kenneth Adams  
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James Juliano  
President  
Hunters Point Recycling



Clayton Gentry  
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21st Century Storage



Warren J Davis  
President  
Blissville Civic Association





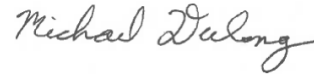
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