

September 13, 2023

US Army Corps of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

Comments on NAN-2023-00140-EMI

To Whom It May Concern;

We are writing to offer comments on the permit for Public Notice Number: NAN-2023-00140-EMI - the construction of a pier for Cipico Construction located at 58-08 48th Street Flushing, New York 11378.

The Newtown Creek Alliance is a community-based organization dedicated to restoring, revealing, and revitalizing Newtown Creek. We work to restore community health, water quality, habitat, access, and vibrant commerce along Newtown Creek. Since 2002, the Alliance has served as a catalyst for effective community action.

We are very familiar with the applicant facility and in general we are supportive of maritime uses on Newtown Creek when they do not cause significant ecological impacts, displace existing public access to or use of the waterway, or are cited in areas that we believe would be better served by ecological restoration. We appreciate that this application does not seek to replace a naturalized shoreline with a bulkheaded structure through the implementation of a pier system. However there are a few issues that we believe the agency needs to properly address and discuss with the applicant and appropriate agencies to ensure a successful project with minimal environmental impact.

Superfund Remediation Considerations

Newtown Creek is a federally designated Superfund Site, with high concentrations of hazardous chemicals located within the sediment beds of the Creek. The Creek was listed on the National Priorities List (NPL) in 2010, but a Record of Decision (ROD) will not be completed until 2028 (estimated)¹. While we know that the Turning Basin area of Newtown Creek, where the applicant facility is located, has some of the highest concentrations of Chemicals of Primary Concern (CoPCs), we do not yet know what a remediation strategy for this area will consist of. Our organization is supportive of a thorough and comprehensive cleanup that prioritizes removal of sediment contaminants and prevention of ongoing pollution sources.

The Superfund status and potential remediation are very important in the case of this proposed project as the pier structure will require numerous pilings embedded into the Creek's sediments.

¹ <https://newtowncreekcag.org/about-the-superfund-site/>

We ask that the US Army Corp of Engineers, US Environmental Protection Agency and NYS Department of Environmental Conservation collectively discuss the proposal to sufficiently answer how the project will impact/influence a superfund remedy. Our concern is that the new piling/pier structure will prevent the possibility of thorough sediment remediation/removal in the project's proposed footprint. If significant dredging is required in this area, how will it be achieved with pilings and a pier structure in place? Additionally, we request that the agencies also give clarity on how installation of the proposed pilings will not create significant disturbance within the contaminated sediments and impact water quality and contamination migration within the sediments.

Navigation Depths and Prop Wash

The most recent bathymetric surveys of Newtown Creek show very shallow areas within the nav channel adjacent to the proposed project.² While we are supporters of using tug/barge for the transportation of materials as an alternative to trucking for purposes of reducing fuel consumption, carbon emissions, and local street congestion, we want to ensure that maritime operations on Newtown Creek are not impacting contaminated sediments. With shallow waters there is a greater chance of increased prop wash - a recognized mechanism for the transport of contamination within the Creek. This concern is more pronounced given the high concentrations of CoPCs within the Turning Basin area of the Creek. We seek clarity on how this project will address shallow waters near the pier structure, if navigational dredging may be required as part of this project, and how that will be coordinated with a superfund remediation.

Keep Mitigation Local

There are a number of mature trees and plants along the existing shoreline that will need to be removed for this proposed project³. Because this is an area with significantly low tree canopy⁴, high heat index in the surrounding Industrial Business Zone⁵, and the largest concentrations of observed shoreline bird species within Newtown Creek⁶, we request that mitigation be required for the loss of these trees, and that the USACE or NYSDEC pursue mitigation locally, on shorelines adjacent to the site. Our organization has previously utilized funding from NYSDEC to oversee ecological restoration at the public street end site, Plank Road, near this facility and would be happy to discuss other mitigation opportunities in the surrounding area.

We appreciate your consideration of these comments. We appreciate that the contaminated nature of Creek sediments and Superfund designation complicate this project, and while we are eager to advance smart investments in marine transportation of the Creek, we need to ensure that proper coordination and ecological protections are prioritized with this project. We are available to

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https://www.nan.usace.army.mil/Portals/37/docs/civilworks/ConDep/CDR_2023/Jun23/5305-Newtown%20Creek-CN-OPTI.pdf?ver=U2cwhXNTbNvM4daFnmNF0g%3d%3d

³ <https://www.inaturalist.org/projects/newtown-creek>

⁴ <https://www.mentalfloss.com/article/569958/map-shows-all-trees-new-york-city>

⁵ <http://www.newtowncreekalliance.org/wp-content/uploads/2023/08/Alexis-Mohamed-Presentation.pdf>

⁶ <https://drive.google.com/file/d/1sYXxqZuvDIJCXWeW3eckme2zpRRxsrU-/view>

discuss this project further in private or at a public meeting with the Newtown Creek Superfund Community Advisory Group or Community Board meeting.

Sincerely,



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CC:

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