

February 24, 2020

Mark Schmidt
Remedial Project Manager
U.S. Environmental Protection Agency
290 Broadway, 18th Floor
New York, NY 10007

RE: Comments on the Newtown Creek Superfund Site Proposed Plan for CSO Discharges

Dear Mr. Schmidt:

We appreciate the opportunity to share our feedback, comments and concerns about the Newtown Creek Superfund Site Proposed Plan for CSO Discharges from Operable Unit 1.

Newtown Creek is an important part of the North Brooklyn community. Many of our residents interact with Newtown Creek through boating, birdwatching, nature walks as well as the many workers whose jobsites are located alongside the Creek. Yet many other residents ignore it entirely, scared off by stories of sludge and smells and its history of spills. Too many North Brooklynites interact with the Creek mainly by passing over it in buses and cars. For too long, this resource has been a dangerous drain on our community. It is past time for the Creek to be made a safe place for people, wildlife, and for the many commercial purposes that it already serves.

We believe that the US Environmental Protection Agency's (EPA) proposed plan does not meet the standards of safety this community deserves. Our specific concerns and question are outlined below.

- The EPA should strive to ensure that maximum reduction of contaminants of primary concern (COPCs) occurs. Reducing COPCs from CSOs by 61% leaves a significant percentage of contaminants entering Newtown Creek. This is unacceptable.
- Any reduction of contaminants in Newtown Creek is beneficial. In the proposed plan it is argued that because of other contaminants entering Newtown Creek, even 100% control of COPCs “would not be significant.” However, this reasoning is flawed for two reasons.
 1. This determination is made before even assessing the change in contamination from other inputs. Once other sources of contamination are addressed, the share of contamination coming from CSOs may be drastically different. Significance could only be assessed at this point.
 2. What is the EPA's definition of significance? It is stated that, “the LOE evaluation shows that all three alternatives provide roughly the same level of protectiveness.” However, while graphs, such as figures 5a and 5b are helpful for visualizing change between alternatives, it is not immediately evident what the total difference would be. The EPA must be more transparent about the true difference between the various proposed remedies so that the public can best understand the Alternatives.

- Modeling for CSO volume must include projected changes in precipitation and CSO output due to climate change. The Long Term Control Plan (LTCP) is not expected to be operable until 2042. By then, models predict that precipitation in New York will increase, especially heavy precipitation events. So while the current recommended plan is to capture 61% of CSO, when climate change projections are taken into account for the years that it will be opened (2042) as well as the life of the project (hopefully far beyond that), it is unrealistic to assume that this solution would in fact capture 61% of CSO.
- NBN is concerned about the feasibility of the “track-back program” that is “considered” as part of Alternative 2. Given the size and complexity of the sewershed in North Brooklyn, how effective is a track-back program likely to be in determining the source of contamination? If there is a successful track record of this type of intervention, NBN would strongly urge that it be adopted. However, if this measure is unlikely to have much success, NBN would argue that other proven methods to reduce COPCs in overflow should be considered. For example, the plan could include inspections of facilities that are known to use COPCs in their operations to ensure their disposal practices are sound or introduce a program that reduces disposal at such facilities during precipitation events. Additionally, the track-back program was only suggested to be in place until the LTCP is in place. However, with at least 39% of overflow still reaching the Creek, it would stand to reason that any measures that were necessary before the LTCP was put in place would still be necessary afterwards.
- Alternative 2 requires “sampling of discharge from the four major CSOs to Newtown Creek on a quarterly basis until the LTCP is fully implemented, with regular reporting to the EPA.” Sampling of CSO discharges should be done more frequently than quarterly, as Alternative 2 proposes. It is not clear in the alternatives document why quarterly sampling is recommended. Infrequent sampling of a site allows more contaminants to enter Newtown Creek undetected. With the LTCP not likely to be in place before 2042, more frequent monitoring would allow for increased detection of COPCs and thus the ability and reason to implement more comprehensive preventative measures. Additionally, what does regular reporting mean? NBN urges the definition of regular to mean that reporting should occur after each sample is taken such that any concerning numbers can be dealt with as soon as is possible to prevent further contamination.

In sum, we urge the EPA to pursue much stronger clean-up thresholds and more clearly define those thresholds. The rigor with which the Superfund Program is carried out will have an immediate and direct impact on the lives of our community members.

Thank you again for considering our comments and appreciate the opportunity to share our perspective. We look forward to your responses to continuing to ensure that Newtown Creek be cleaned to a standard that is protective of human health and the environment.

Sincerely,



Anthony Buissereith
Executive Director



Lael K. Goodman
Environmental Justice Program Manager