

COALITION OF QUEENS ELECTED OFFICIALS

c/o Congresswoman Carolyn B. Maloney

28-11 Astoria Blvd.

Astoria, NY 11102-1933

October 15, 2010

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Newtown Creek

Dear Administrator Jackson,

We are delighted to learn the Newtown Creek has been added to the National Priorities List and that the Environmental Protection Agency (EPA) will now be determining the nature and extent of the contamination and, most importantly, will be developing and executing a plan to clean it up. While Newtown Creek borders both Brooklyn and Queens, up to now most of the EPA's attention has been on the Brooklyn side of the creek. That has to change.

Time after time, Queens has simply been forgotten – literally omitted from the studies, the documentation and the EPA's attention. We urge you to give both sides of the creek equal attention, and to focus on all of Newtown Creek's tributaries, including Dutch Kills, Maspeth Creek and East Branch.

The EPA's habit of overlooking Queens has been persistent and troubling:

1. The EPA's "Fact Sheet" on Newtown Creek, found on your website at <http://www.epa.gov/region02/superfund/npl/0206282c.pdf>, lists the only county for Newtown Creek as 'Kings.'¹ Clearly that must be corrected as soon as possible so that the public and the media have a proper understanding of where the creek is and the fact that the pollution and clean up is having an impact in two of New York City's five boroughs.
2. Pollution in the creek derives from a number of sources, but a significant source has been oil flowing into the creek from Greenpoint, creating a spill area that exceeds 52 acres. In the Coast Guard and Maritime Transportation Act of 2006, Congress specified that the US Coast Guard "shall conduct a study of public health and safety concerns related to the

¹The Fact Sheet also claims that the two Congressional District in which it lies are the 8th and 9th, when in fact Newtown Creek intersects the 14th, which I represent, and the 12th, which is represented by Congresswoman Nydia Velazquez.

pollution of Newtown Creek, New York City, New York, caused by seepage of oil into Newtown Creek from 17,000,000² gallons of underground oil spills from Greenpoint, Brooklyn, New York." In his remarks supporting the legislation, Representative Anthony Weiner made clear that the study was supposed to address problems in the entire affected area, which, one would assume would include both banks of creek.³ On July 21, 2006, the Coast Guard and the EPA entered into a Memorandum of Understanding which transferred response authority to the EPA. Despite the clear Congressional mandate to study the entire creek, the EPA studied only the Brooklyn side. As stated in its

²The EPA's 2007 study placed the total volume of the leak as high as 30 million gallons, nearly three times the size of the Exxon Valdez spill.

³From the Congressional Record for the 109th Congress, September 15, 2005, p. H8035, Congressman Anthony Weiner's remarks: *"The legislative intent of the amendment that directs the Coast Guard to study Newtown Creek (Creek) is for the Coast Guard to revisit the findings of its July 1979 report entitled "Investigation of Underground Accumulation of Hydrocarbons along Newtown Creek," and address the following issues:*

"The actual current size of the Greenpoint Oil Spill (Spill) and the extent to which oil from each refinery site contributes to the Spill.

"The extent and severity of surface water pollution and sediment contamination from the Spill, and methods to prevent further seepage into the Creek .

"The Spill's impact on existing conditions in the Creek including but not limited to low levels of dissolved oxygen and high levels of bacteria.

"The interaction between pollution from the Spill and pollution from other sources in the Creek including but not limited to Combined Sewer Overflow Pipes and the Newtown Creek Sewage Treatment Plant.

"The extent to which oil and contaminated sediments in the Creek disperse into New York Harbor.

"The extent to which the Spill has affected aquatic species in the Creek and Harbor, and methods to prevent further harm.

"The extent to which the Spill has affected groundwater in the surrounding area, and methods to prevent further harm.

"The extent and severity of contaminated soil in the area affected by the Spill, and methods to prevent further harm.

"Any public health issues raised by the Spill and the current remediation efforts, both independently and in interaction with other pollutants in the Creek .

"Any safety issues raised by the Spill and the current remediation efforts, both independently and in interaction with other pollutants in the Creek .

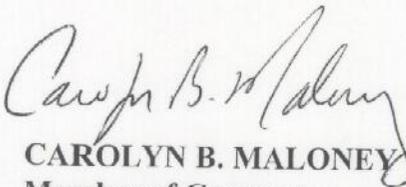
"The extent to which the current remediation efforts are sufficient, and any new technologies or approaches that could accelerate product recovery and/or improve the scope of the remediation."

September 12, 2007 report: "A conscious decision was made to limit the scope of the study to the Newtown Creek oil spill and its petroleum based impacts on the Greenpoint community." The report to Congress outlining the results of the study made no mention of the fact that oil seeping into Newtown Creek from Greenpoint has had a significant impact on the Queens side of the creek, much less any analysis of that impact.

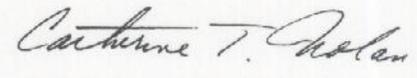
3. In December 2009, the EPA conducted sampling in connection with its deliberations over whether to add Newtown Creek to the National Priorities List. The EPA's sampling stopped at the mouth of Dutch Kills, one of Newtown Creek's five tributaries. A map of the sampling is set forth at http://www.epa.gov/region02/superfund/npl/newtowncreek/newtowncreek_sampling.pdf. It is not clear why most of the tributaries were studied extensively while Dutch Kills received no attention whatsoever. Although Dutch Kills is a significant tributary, the EPA has gathered little to no information about the nature and extent of pollution there. Dutch Kills should be given appropriate attention in the EPA's clean up. Similarly, little or no sampling was done in Maspeth Creek and East Branch.
4. Standard Oil Company had significant operations in Hunters Point, Long Island City, adjacent to Newtown Creek, for decades. Newtown Creek Alliance reports: "By the end of the 19th century, Rockefeller's Standard Oil, which began as Astral Oil Co. in 1880, had over 100 distilleries on both sides of Newtown Creek, and each refinery's average effluent of discharge per week was 30,000 gallons, most spewing into the creek." Nonetheless, the EPA's studies and fact sheets do not mention the presence of oil distilleries or discharge on the Queens side, and I have not seen any analysis of the impact on Newtown Creek of any discharge from Queens-based facilities.

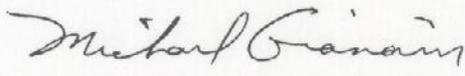
Clearly, remediation of Newtown Creek is impossible unless both sides of Newtown Creek and all of the tributaries, including Dutch Kills, are properly studied and the specific problems of each site along the creek are addressed.

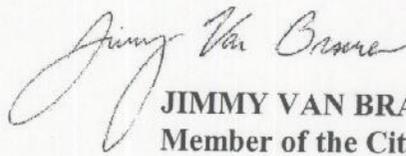
Very truly yours,


CAROLYN B. MALONEY
Member of Congress


HELEN M. MARSHALL
Queens Borough President


CATHERINE NOLAN
Member of the Assembly


MICHAEL GIANARIS
Member of the Assembly


JIMMY VAN BRAMER
Member of the City Council

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