



September 8, 2021

Honorable Bill de Blasio
Mayor, City of New York
City Hall
New York, NY 10007

Dear Mayor de Blasio:

We find serious problems with the City's Gowanus Neighborhood Rezoning and accompanying Draft Environmental Impact Statement (DEIS) which is fraught with inconsistencies and contradictions that the U.S. Environmental Protection Agency (EPA) has outlined in its thorough comments on the DEIS related to the Gowanus Canal Superfund cleanup.¹

The 2013 EPA-issued Record of Decision is unequivocal in requiring that any future development under the City's purview not compromise the environmental cleanup remedy, specifically stating that redevelopment projects must prevent additional sewer load. High-density residential development can put more pressure on old sewers risking overflow contamination of the cleanup and spillover effects. In order to ensure that the rezoning does not increase combined sewer overflows (CSOs) into the canal and surrounding area, the City must comprehensively study the sewer system, drainage and hydrology and implement tools to guarantee that new development does not add to the problem. Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.

The City claims that the rezoning would result in either no increase or a net reduction in CSO loading as stated in the DEIS.² However, EPA has identified significant and substantive inconsistencies in the City's wastewater and stormwater calculations in Chapter 11 and Appendix F of the DEIS. The rainfall data for storm frequency, intensity and duration are critical inputs for the volume projections, yet the City's DEIS relies on an outdated 2008 model storm year for rainfall data when there is much more recent data available.³ EPA concludes that new watershed modeling should be prepared. We find it inconceivable that 2008 data was used in this study, given the highly environmentally compromised location, and the City's doing so infuses doubt in the conclusions drawn throughout the DEIS. The public deserves accuracy and transparency.

Moreover, EPA also points out that the City does not take into account its own best climate change and sea level rise projections. The events of the last few weeks should make clear to everyone that the effects of climate change are not just projections but here, with the last two storms, Henri and Ida, setting records for rainfall in the northeast. EPA also points out that sea level rise is of equal importance because CSO outfalls can become inundated by seawater entering the combined sewer system during

¹ U.S. Environmental Protection Agency (EPA) letter to Marisa Lago, Director New York City Department of City Planning "Comments on Gowanus Neighborhood Rezoning Draft Environmental Impact Statement and Gowanus Canal Superfund Site, Brooklyn, New York" (August 9, 2021)

² DEIS Chapter 11: Water and Sewer Infrastructure p. 11-4

<https://www1.nyc.gov/site/planning/applicants/env-review/gowanus.page>

³ EPA letter to Marisa Lago p.6-7

high tide which will only worsen, causing potential sewage backups and discharges at other locations as we have seen. The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.⁴

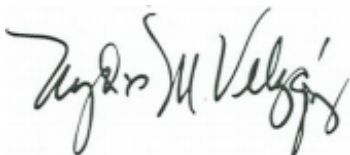
Moreover, the City is out of compliance with many of EPA's latest orders on CSO controls, yet the City assumes in its DEIS that those measures are a *fait accompli*. City responded to EPA's Administrative Order on completing the tanks that it cannot comply with the set deadlines.⁵ The City also asserted that it does not need to meet requirements to ensure compliance with its stormwater regulations at new development sites (which would include the proposed 2021 Unified Stormwater Rule), or employ separation and treatment of stormwater at new Canal-side development projects and street-ends, or even have discharge monitoring and reporting requirements to ensure the CSO remedy remains effective. This is extremely troubling. The City's deliberate noncompliance with the EPA's orders does not give us confidence in the conclusions reached in the DEIS, particularly with regard to the areas addressed by the EPA in its comments of August 9, 2021. If one bases development on faulty assumptions, that development will be faulty. Given the environmental toxicity of much of the rezoning footprint, that is simply unacceptable.

Groups included in the Gowanus Neighborhood Coalition for Justice and Community Board 6 have echoed many of these concerns and have listed among their top three "dealbreaker" demands that to support rezoning, it must have "net zero Combined Sewer Overflow." They call for a transparent, accessible, and timely reporting of *actual* CSO impacts as new buildings are constructed to validate the model to prevent further pollution in the Canal. They have also called for the creation of a Task Force with a funded facilitator for 15 years to hold the City and all parties accountable for any commitments made through the rezoning process. No such commitments have yet been made, giving us even more concern.

Based on the current DEIS, it is abundantly clear that the City cannot assure that sewer overflows won't be increased and therefore compromise the cleanup and health of the canal and local residents and workers. The City needs to get it right before it proceeds and that means a full and responsible cleanup instead of non-compliance with EPA orders on the overflow tanks. The tanks should be the bare minimum. The City needs to do much more now to ensure responsible development in the future, especially with record setting storms now being the norm. Mother Nature will not be fooled by the City's use of pre-Sandy, pre-Superfund data.

We look forward to your prompt response and a new DEIS to address EPA and community concerns.

Sincerely,



Nydia M. Velázquez
Member of Congress



Jo Anne Simon
Member of NYS Assembly

⁴ The EPA also recognized the environmental justice areas relating to public housing, and the proposed affordable housing at Public Place and recommended an environmental justice analysis be incorporated into the DEIS.

⁵ EPA included in its comments to DCP correspondence in response to its Administrative Order from Robert D. Fox of Manko, Gold, Katcher & Fox on behalf of the City dated July 14, 2021.