



80 Van Cortlandt Park South Ste. E1
Bronx, NY 10463
www.bceq.org

January 4, 2019

Mr. Edward Hampston
NYS DEC - Division of Water
Downstate Compliance Section
625 Broadway, 4th Floor
Albany, NY 12233-3506
By email to: edward.hampston@dec.ny.gov

Re: 2018 Citywide LTCP Modification

Dear Mr. Hampston,

Please accept these comments on the New York City Department of Environmental Protection (DEP) request for a modification to the New York State Department of Environmental Conservation on the milestone to submit an approvable Citywide/Open Waters Long Term Control Plan (Citywide LTCP) from December 31, 2018 to March 31, 2020. (DEC Case #CO2-20110512-25 modifying #CO2-20000107-80). The continued delay of this plan has had and will continue to have a major impact on the Bronx. The first step and easiest method toward an effective participatory community based plannery process is to reinstate the Citywide CAC on a monthly basis.

Our history of comment on the Open Waters plan is long and extensive. In 2016¹ we wrote that we needed a separate written Harlem River - Wards Island Watershed - Waterbody study and plan, including a timetable for agreed upon green infrastructure. By 2018, we refined our needs² and added some of the following points to the 2016 letter: 100% Green Infrastructure as the “Preferred Alternative”; fund maintenance for GI projects in the build contracts; provide a separate Bronx Harlem/Hudson River LTCP timetable for completion in 2021 or within a five-year planning period; hold other alternatives and the method of comparing and evaluating each; and adopt new design criteria based on measurable goals to encourage and provide incentives for zero discharge of runoff to the local pipe, above and beyond the requirements of the law and regulations. We also urged the Daylighting of Tibbetts Brook in and around Van Cortlandt Park, and Brook Park in Mott Haven. We are a member of and support the 11-8-2018 SWIM letter.³

In addition, we have worked toward identifying the projects that the DEP could use to solve the problem of CSO pollution in Bronx waterbodies. This will enable the DEP to capture runoff in some of the highest catchment areas and outfalls of the city in the Harlem River. The list includes the Daylighting of Tibbetts Brook in Van Cortlandt Park, the Brook Park Created Wetland from adjacent homes roof runoff, the Amalgamated Hilltop Project⁴ including the conversion of DEP property into a Rain Garden Open Space, the Riverdale Neighborhood House GI playground, and the Living Shoreline proposals for Van Cortlandt Park, the Harlem River and Westchester Creek.

¹ <http://www.bceq.org/wp-content/uploads/2016/11/BCEQ-Harlem-River-LTCP-2017-v3-Signed-10.20.pdf>

² <http://www.bceq.org/wp-content/uploads/2018/01/Long-term-control-plan-for-the-Bronx-Harlem-Hudson-River-Jan-2018-FINAL.pdf>

³ <https://drive.google.com/file/d/1P8Jc2-B7SKSWLJC2vhed35gT9wt2t3mi/view>

⁴ Hilltop Plan GI Neighborhood Concept Plan can be viewed at: <http://bit.ly/2rUDflk>



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DEP commitment to projects such as these is essential to the effectiveness of the LTCP as they provide quick and measured easy results indicating a movement toward zero discharge of stormwater. In that way, the City would have better estimates of the treatment train as it would be released from capturing storm events.

The studies should describe how much water is being and not being treated at treatment plants? Is it 10 times the sanitary flow as was mentioned at the December 5 Annual Citywide LTCP Meeting? How many times is it more than that? Where is the most egregious pipe? How does this LTCP solve this problem? Why is Hunts Point only 200 mgd, not 400? Why are the design features of Green Infrastructure for the 2 inch storm, when most of the storms these days are mostly higher and more intense? As we look forward to 2019, we further state:

1. What is the Mission and Goal?

We need to be able to ascertain their goal in order to comment on it. The LTCP Citywide/Open Waters LTCP is unfair to the Bronx Watersheds of the following waterbodies: Harlem, Hudson, Bronx, East, and Hutchinson Rivers, and Westchester Creek. There does not seem to be any direction, mission or goal. What is the agency's missions and goals for these areas? Can we conclude what the DEP goals are more than cleaner water? There is no operational goal stated as such. Is it increased water treatment plan capacity? Is it optimization of GI? Is it increased retention and detention?

One other question that seems related to goals and timing is the cost to control CSO pollution. The DEP stated that "Financial capability plays a key roll in assessing the affordability of CSO control measures."⁵ The blog of Dr. Manny Teodoro of Texas A&M University⁶ of December 5, 2018 explores "Water & Sewer Affordability in America." His ongoing research is focused on what low-income households pay for essential service in the United States. They calculated basic single family residential water and sewer service prices and measured it against a percentage of the minimum wage, looking for the impact on the limited disposable income of the lower wage earner. Preliminary stats indicate that in the average utility, paying for basic water and sewer service requires about 9.5 hours of labor at minimum wage. This puts the regressive nature of the water fee in a perspective that most can understand.

This also shows us how to change the fee schedule to be fair and equitable. Just like other utilities – your wireless and/or cable provider, the schedule for the basic service amount of water use – say 100 gallons per day, should be a the same rate for all. Over and above that standard rate, the DEP should increase fees at a higher rate per gallon for those who want to use more than the standard water for say, the garden, the swimming pool, washing the car, etc. Clearly, the city can raise more funds to protect and preserve clean water for a healthy city. They can do this without hurting the working poor just by being creative!

⁵ Annual-citywide-public-meeting-presentation-2018-ed.pdf page 26.

⁶ <http://mannyteodoro.com/?p=738>



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2. The Harlem River Watershed deserves a separate look.

The DEP should designate the Harlem River watershed as one of its catchment areas, and adopt the data and recommendations from the “Harlem River Watershed and Natural Resources Management Plan (the Plan) for the Bronx.” It is a community driven planning effort, funded by the New York State Department of State’s (DOS) Local Waterfront Revitalization Program, and intended as a road map for agencies, community partners, and other stakeholders in pursuing coordinated resource protection and restoration in the watershed. In addition, the DOS funding was in concert with the BCEQ and NYC Parks Department completion of Step 2 of the Harlem River Brownfield Opportunity Area. Both studies of Harlem River Watershed are relevant and have the potential to mitigate runoff.

3. Green Infrastructure is being ignored.

The DEP’s commitment to \$1.5 billion spending over 10 years should prioritize the incorporation of *more* green infrastructure facilities designed to capture the most water, not just the most common storm, but the largest storm. Green Infrastructure is nature based landscaping of soils to increase infiltration rainfall rates *in situ*, where it falls, as it meanders down to the base flow via tunnels created by ants and other creatures thereby contributing clean water to the nearest water body. This beautiful and efficient method has successfully provided healthy ecological services for centuries. It is a proven superior alternative to the standard urban runoff method of water transport overland capturing sediments, pollutants and toxics with it as it speeds down the hill to the lowest polluted source.

Green Infrastructure costs less, is more protective, and comes in many shapes and sizes. There are green roofs, bioswales, living shorelines, rain barrels, rain gardens, daylighting, methods to mold and cultivate your soil to make it more thirsty, trees, native plants, and a variety of creative designs for living shorelines with oyster reefs, castles, and other natural materials to protect and restore wetlands and the waterfront’s edge. The success of this method is dependent on how willing the decision maker is to try to capture as much rainfall naturally - and its free. It can also reduce flooding, which damages street infrastructure causing expensive repairs, and major accidents.

We would like to point out that your offices accepted the Newtown Creek LTCP of June 30, 2017 which mentioned that the “DEP’s Green Infrastructure Program ... seeks to saturate priority watersheds with GI based on the specific opportunities each watershed presents. ... nearly 1300 GI assestswill result in an annual CSO volume of approximately **83 million gallons per year.**” We find this to be an unacceptable conclusion indicating that something is wrong with the design. In a recent article by the Penn State Extension,⁷ they stated: “A recent USDA Forest Service study found that New York City's street trees reduced stormwater runoff by **890.6 million gallons annually**, with a value of \$35.6 million in stormwater management costs.”

We know that GI division is committed to spend \$1.5 billion. What portion of this is going to be expended in the Open Waters project? What proportion of that in the Bronx? When will that

⁷ <https://extension.psu.edu/a-green-solution-to-stormwater-management> (which can be found on <http://www.bceq.org/2018/10/25/living-ecological-green-infrastructure-tools/>)



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start? We need quantifiable commitments and demonstrations of the two divisions of DEP sharing resources and overlapping projects.

4. Public Participation.

In order to dovetail LTCP planning with its Green Infrastructure plan priorities, DEP should hold planning and review sessions in Community Board districts within the Harlem River Watershed, combining districts where topography warrants. The Milestone Modification Request references the need for “public participation process” but does not recognize either the overlapping land-use policies that affect green infrastructure investment or the City Charter’s principle of coterminality, as outlined in section 2701, as a framework for this process. Even though this has not been done before, because the DEP has redrawn the lines for the treatment train, we suggest another method that is not arbitrary or capricious. We urged that the proposed Open Waters LTCP catchment areas use community district lines, or multiples thereof, as required under the City Charter Chapter 69, Section 2700 and 2704 the intent of which is to “*encourage and facilitate coterminous community districts and service districts*” to ensure CB oversight of service delivery, which DEP is a part.⁸

While we are in the conversation about the City’s Charter requirements, we find that it incredible that the DEP does not utilize the City’s Planning Commission instead of the highly paid out of state consultants. The City Planning Department understands better where the City’s population and needs are today, tomorrow and fifty years from now (when it is likely most of the construction will be implemented based on the current time).

Finally, the public sessions that DEC requires should be precluded with a document that people can read and ask questions, not just get a power point after the meeting is over. We expect that the DEP is much more clear and straightforward about its measures. Data points must be made clear: outfall capacity; storm surge level; and most importantly, green infrastructure water capture rates. They should report up front the results of green infrastructure on runoff prevention.

The Bronx Council for Environmental Quality (BCEQ) is getting ready to celebrate 50 years with the Clean Water Act for our work as a non profit all volunteer organization fighting for clean water, air and soil for Bronx County. We have had many successes over the years, but the longest fight by far is this one. (One of our board members has been on the City Wide CAC since the 1990’s.) We hope to someday sometime soon see some success, or in government lingo, S6.

Thank you for this opportunity to participate. Please respond with your comments. If you need any further information, contact Karen Argenti at 646-529-1990 or karen@bceq.org.

Sincerely,

Robert Fanuzzi
President, BCEQ

Karen Argenti
Secretary, BCEQ

⁸ City Charter, Chapter 69, Section 2704. Coterminality of Local Services, ... (2) To be coterminous with one or more community districts or aggregates of them: housing code enforcement, highway and street maintenance and repair, **sewer maintenance and repair**, and health services, other than municipal hospitals.