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June 26, 2025

New York State Department of Environmental Conservation
ATTN: Gwendolyn Temple
625 Broadway, 4th Floor
Albany, NY 12233-3500

Email: WQSrulemakings@dec.ny.gov

Re: Proposed Rulemaking Regarding New York City Saline Water Classifications and Harlem River Use Attainability Analysis

Dear Ms. Temple:

Kindly accept these additional comments on the Harlem River's Use Attainability Assessment (UAA) in your recent proposed change. The Bronx Council for Environmental Quality (BCEQ) is a member of a broad coalition of elected officials, neighborhood and recreational groups, and environmental organizations opposing the reclassification of the Harlem River from Class I to Class SB ww and is named as a member of the Environmental Groups in the Pace Environmental Litigation Clinic comments, with which we are in concurrence.

BCEQ seeks to establish — as an Inherent Human Right — a sound, forward-looking environmental policy regarding an aesthetic, unpolluted, environment protecting a natural and historic heritage. These comments document our forty-year effort to improve the water quality of the Bronx and Harlem Rivers and to record the failure of the city and state to adopt the measures we have proposed.

These comments will show that the water quality impairment of the Harlem River found under the revised Enterococcus standards of 2023 are a result of inadequate watershed and stormwater management by city and state, and merit additional, measurable commitments from city and state to improve Harlem River water quality and reach those higher water quality standards. We therefore find the New York State Department of Environmental Conservation (State) reclassification proposal to be flawed and negligent with respect to the protection of the Harlem River as required by the Clean Water Act (CWA), specifically Section 402 National Pollutant Discharge Elimination System (NPDES), and Section 303 Water Quality Standards and Implementation Plans. We furthermore hold that the State reclassification proposal improperly uses the UAA process to memorialize and positively affirm these failures.

BCEQ consistently urged both the State and the New York City Department of Environmental Protection (City) for greater, not less protection of these waterbodies, particularly concerning Green Infrastructure (GI), a watershed approach, and more efficient water quality monitoring. For the most part, our comments were ignored.

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1. Summary

This letter will focus primarily on the Harlem River and the slippery and deteriorating slope of neglect or indifference by the State. The 2005 Consent Order for Combined Sewer Overflow (CSO) and 2012 Consent Order for GI were not enforced for decades. The State allowed expensive upgrades required on waste resource recovery facilities, pump stations or other industrial infrastructures are regular maintenance or capital requirements under the State Pollutant Discharge Elimination System (SPDES) and should not be credited to the additional costs of City's Long Term Control Plan (LTCP) to stop overflows. Other alternatives, such as GI should have been budgeted first. During these periods the City was experiencing a tremendous building boost, and this was not accounted for even though it adversely impacted the sewers and flooding – causing more CSOs.

The State's Program failed to oversee (1) the DEP's compliance with the CWA permits on GI and Stormwater; (2) the State Department of Transportation (SDOT) compliance with CWA 402 for SPDES permits bridge and highway discharging pollutants on or over the Harlem River, untreated; (3) the State's Program failed to acknowledge the inter-regional watersheds that flood and discharge other pollutants into the Bronx, untreated; and, (4) the public education and outreach to the level required in the CWA, including to the present day in this UAA.

The recent UAA has additional flaws, concerning the formation of the LTCPS, inequitable programmatic budgeting, and lack of the watershed approach including the no build out past and future projections. Common knowledge reasons that wet weather is the problem as it causes overflows. The ww variance is just a band aid. Why not solve the problem?

We conclude with a review of issues concerning health, environmental justice, fair share, public trust doctrine, community vision, alternatives, and more.

1. BCEQ and the Harlem River

Most consequentially, we proposed a separate Harlem River LTCP that would specifically address the preponderance of CSO outfalls on the Harlem River, as documented by the City, its upstream points of pollution, and the runoff from federal highways that thread through the sub-watershed catchment area. Our request was ignored, and instead the Harlem River remained in the Open Waters LTCP. Now the Harlem River is the first water body to be evaluated under enhanced water quality standards of 2023, and to no one's surprise, it has failed. These failures are the reason for led to this UAA, as stipulated by federal law. Far from including steps to remedy these failures, the State UAA reclassification proposal compounds them by providing clearance and exemptions for the water quality problems that the LTCP was supposed to solve.

The recent UAA has additional flaws, concerning the formation of the Long-Term Control Plans, inequitable programmatic budgeting, lack of the watershed approach including the no build out past and future projections, no Waterbody/Watershed Facility Plan, and minimal public participation.

Since the 1990's, BCEQ members have been working on CSO issues, first on the Bronx River and then on Harlem. In order to clean up the water, we decided to get more people to the Harlem River. Despite what has been written in the UAA, there are decades long water recreational rowing and canoeing programming by many groups on the Harlem River. We were able to supplement this by providing free programming for public school children in large canoes. Then, the reopening of the oldest bridge in the City – Highbridge, helped to revive Highbridge Parklands on either side of the bridge. Twenty-five years of asking DEC and DEP to clean the Harlem River to no avail.

We had to do it ourselves.

In 2004, BCEQ was awarded a $98K State Brownfield Opportunity Area[1] (BOA) Grant (which was first run out of the DEC along with the New York State Department of State). It was on the Harlem River north of 161st Street to the Hudson River. Phase I identified an environmental method of working with nature to clean potential brownfields. In 2009, BCEQ joined with other community groups along the river and formed the Harlem River Working Group, now called the Harlem River Coalition. Phase II was funded $350K, and we partnered with the Parks Department to develop that planning document.

In 2012, we were granted a $200K NOAA grant to build a Wetland at Pier 5 with the support of a NOAA-WCS regional partnership grant and the New York City Department of Parks & Recreation, created a demonstration pop-up wetland filled with plants to hold and clean stormwater runoff from the Major Deegan I-89 highway. BCEQ built this large, self-contained planter on unimproved parkland beneath a six-lane elevated highway along the Harlem River. The "pop-up wetland" prevented runoff from a segment of the highway from being discharged directly into the river. Instead, the water is released into the air through transpiration, mitigating the heat-island effect of the urban landscape. USGS scientists were hired to monitor water quality, which they set up right at the site.

This reclassification proposal writes off the many years of advocacy that continue to bear fruit for the reactivation of the Harlem River waterfront. As a result of the efforts of BCEQ, the Harlem River Coalition and other community-based organizations, city officials and private developers now include waterfront access in public and private waterfront projects. The New York City Department

[1] **BCEQ Harlem River Brownfield Opportunity Area (BOA) Step 2 is FINAL**
Below are two files which make up the whole report. Please read each.
160304 HR BOA FINAL REPORT-Sect 1-3
160304 HR BOA FINAL REPORT Sect 4 & Appendix

of Transportation is funding a Harlem River Greenway intended to further activate the waterfront by offering additional access from the city roadways to the Harlem River waterfront. The Army Corps of Engineers has funded the Harlem River Restoration Project, a feasibility study with the City.

2.1 Green Infrastructure

In 2007, EPA issued Green Infrastructure guidance, which was discussed with the City. This memo opened the flood gates for GI in NYC – even though the rest of the nation was already using it. The current UAA states that the paucity of GI in the West Bronx and Northern Manhattan is due to high bedrock. No matter the issue, what is clear from the 2007 EPA GI Guidance is that there are other alternative methods that the City is not employing. It is curious that the State neglected to recognize this discrepancy. The wording continues to be so important that it bears repeating here:

> "Green infrastructure can be both a cost effective and an environmentally preferable approach to reduce stormwater and other excess flows entering combined or separate sewer systems in **combination with, or in lieu of, centralized hard infrastructure** solutions. EPA Water Programs are in a pivotal position to exert leadership in the consistent and reliable implementation of green infrastructure approaches.
>
> ….
>
> Green infrastructure approaches essentially infiltrate, evapotranspirate or reuse stormwater, with significant utilization of soils and vegetation rather than traditional hardscape collection, conveyance and storage structures. Common green infrastructure approaches include green roofs, trees and tree boxes, rain gardens, vegetated swales, pocket wetlands, infiltration planters, vegetated median strips, reforestation, and protection and enhancement of riparian buffers and floodplains. Green infrastructure can be used where soil and vegetation can be worked into the landscape. It is most **effective when supplemented with other decentralized storage and infiltration approaches,** such as the use of permeable pavement, and rain barrels and cisterns to capture and re-use rainfall for watering plants or flushing toilets. These approaches can be used to keep rainwater out of the sewer system to reduce sewer overflows and to reduce the amount of untreated stormwater discharging to surface waters. Green infrastructure **facilitates or mimics natural processes that also recharge groundwater, preserve baseflows, moderate temperature impacts, and protect hydrologic and hydraulic stability**." (**emphasis added**)

Moreover, the wording of the new 2023 CSO Consent Order Modification – Green Infrastructure, definition, page 5, defines similar methods, including connecting GI to sewer infrastructure:

> For purposes of this Order, "green infrastructure" shall be defined as follows:
>
> Within the context of stormwater management, the term green infrastructure includes a wide array of practices at multiple scales to manage and/or treat stormwater, maintain and restore natural hydrology (including restoration of historic stream beds and ravines associated with reconnecting previously existing stormwater hydrology) and ecological function by infiltration, evapotranspiration, capture and reuse of stormwater, filtration, and detention. On a larger scale, green infrastructure includes, but is

> not limited to, ecological systems, **both natural and engineered, and protection and enhancement of riparian buffers and floodplains and daylighting, bluebelts, coupled with policies to regulate new development and redevelopment for stormwater management.** On the local scale green infrastructure consists of site- and neighborhood-specific practices, including cloudburst management. Such practices essentially result in runoff reduction, peak flow reduction through slow-release orifice controls where necessary, and/or establishment of habitat areas with **significant utilization of soils, vegetation, and engineered media where feasible, rather than traditional centralized hardscape collection, conveyance and storage structures.** Some examples include green roofs, trees and tree boxes, pervious pavement, rain gardens, vegetated swales, planters, stormwater harvesting and reuse systems, and surface and subsurface stormwater storage systems that either perform as retention or slow-release detention systems. **Related sewer conveyance needed to connect a green infrastructure** asset to sewer infrastructure is included as part of the "Green Infrastructure." (**emphasis added**)

BCEQ has been working with the City on a GI facility funded for 2026. It took 3 years for funding as there were so many other GI on the list. Grove DEP Green Infrastructure project as a result of the Hilltop Report. The Hilltop Report is a great example of where to put GI in a neighborhood. We asked people to tell us where there was flooding, walked the areas, and planned for GI. Responses of Flooding and High Flow Estimates – BCEQ Water Working Group with Bronx CB8 – see map. Walk through high steep area of Bronx CB8 with photos, with Riverkeeper and NYC Soil and Water. Harlem River Watershed Hilltop Green Infrastructure, with Riverkeeper, Soil and Water, Bronx CB8, BCEQ

2.2 Total Maximum Daily Loads & Low Impact Development

In the early 2000s, BCEQ asked the State for a Harlem River TMDL and never heard back – we were not even on the 303d list. Since the Harlem River LTCP was not on the work schedule, we wrote about the Bronx River LTCP about using Low Impact Development (LID) and/or Total Maximum Daily Loads (TMDL): "… What we need is 1. LID and the Westchester Plan to be written into the Long-Term Control Plan for the long term. 2. Another baseline method to assess the health of the river, which takes into consideration the pollutants absorbed by the actions in the LID and Westchester part of the plan. You could call this a TMDL. … "[2] Low Impact Development is another long-term goal for BCEQ (see link for more info).

2.3 Sensitive Areas

In 2010, BCEQ asked the State for a Bronx and Harlem Rivers including the Bronx Kill as Sensitive Areas[3] because both the Bronx River and Harlem River, including the Bronx Kill (hereinafter referred to and constituting the whole of the Bronx and Harlem Rivers) support primary contact recreation.

"Primary contact recreation" has been defined by the U.S. EPA to include: swimming, rafting,

[2] https://bceq.org/2009/09/05/dep-offers-bronx-river-cso-plan-august-2009/

[3] https://drive.google.com/file/d/15PpVzEtpVlAVSoQye8LUlFnIzzkryirK/view?usp=sharing

> wind surfing, canoeing, kayaking, tubing, scuba diving, snorkeling, water skiing, other.1 Other states have adopted EPA's perspective that "primary contact recreation" means activities "(1) where there is a high likelihood of incidental ingestion of water, . . "

Organizations such as The NYC Department of Parks and Recreation and The Bronx River Alliance Recreation Program supports and promotes primary recreational activities in the Harlem and Bronx River such as kayaking, canoeing, and scuba diving. Sensitive Areas requirements are supported in urban areas of Philadelphia. In Washington, D.C., James Woodworth of National Resources Defense Council (NRDC) mentioned in his paper "Balancing Bathers and Bacteria ..." that: "despite the swimming ban, and the current uses recognized by the regulatory body, ... **the reality is that primary contact recreation**, and other activities that pose high risk of exposure to bacteria contamination, including fishing, wading, rowing, kayaking, and swimming, **do occur in or on the major water bodies** . . ." (**emphasis added**).

The State responded that "The City of New York **does not condone bathing** in the tidal Bronx River, Harlem River or the Bronx Kill as these waterbodies do not have water quality classifications that support primary contact recreation. They are classified as Class I. The best usages of Class I waters are secondary contact recreation and fishing. Secondary contact recreation means recreational activities where contact with the water is minimal and where ingestion of the water is not probable. Secondary contact recreation includes, but is not limited to, fishing, boating, canoeing and kayaking. A Class SB waterbody would support primary contact recreation, as the best usages are primary and secondary contact recreation and fishing, …

… The goal of Mayor Bloomberg's PlaNYC 2030 is to make all waterbodies in New York City capable of supporting secondary contact recreation. The current WWFPs being finalized by NYCDEP are striving to meet that goal as well. This goal, combined with the New York City Health Code, do not indicate that the Bronx River, Harlem River or Bronx Kill would meet the CSO Policy designation of "waters with primary contact recreation" and therefore, as NYCDEP has indicated in the WWFPs, and the Department would agree, these waterbodies **do not meet the designation of "sensitive areas."** BCEQ appeal the decision and received another response that "The Department cannot make the designation of the Bronx and Harlem Rivers as '·sensitive areas·· a specific requirement for an approvable WWFP or LTCP."

2.4 Harlem River LTCP

We asked the State for a separate Harlem River LTCP, and was turned down. It would seem that since the Harlem River is completely different from the rest of the City – with the bedrock, that it should have been separated. According to the UAA, there would appear to be many alternatives. The volume from the outfalls is telling if only 5 outfalls need work: (UAA, April 2025 | 4-11)

> "The largest CSO outfalls that discharge into the Harlem River are WI-056 (582 MGY per typical rainfall year, representing 31 percent of the total annual volume to the waterbody) and WI-060 (285 MGY)."

"Of the total annual CSO volume for the typical rainfall year, 66 percent is generated from five outfalls: WI-056, WI-060, WI-062, WI-057, and WI-046."

"Approximately one-half of the CSO outfalls each have annual overflow volumes of less than 5 MGY (million gallons per year). Approximately one third of the CSO outfalls each discharge less than 1 MGY in the typical rainfall year."

2.5 Harlem River Watershed and Natural Resources Management Plan

In anticipation of the upcoming LTCP Watershed /Waterbody Facility Plan, BCEQ sought information on the river in the form of a Watershed Plan. Because we had finished the second phase of the BOA, the Harlem River was eligible for a DOS funded program for the Harlem River Watershed and Natural Resources Management Plan - A Plan for the Bronx Side of the Harlem River from the Parks Department. In addition to a very comprehensive plan, it also identified many places for Green Infrastructure.

2.6 Living Shorelines for the LTCP and the Army Corps Feasibility Study

In 2018, BCEQ has described a Master Plan for the LTCP. It was prepared and presented to the City. This report included a list of GI sites, including the waterfront greenway, which had already been designated the environmental greenway. 2.4. Waterfront GI. Before it is too late, we have to increase natural areas along our shorelines by using Green Infrastructure (GI). Sustainable design guidelines for waterfront parks, wastewater systems and coastal infrastructure redevelopment (such as the Waterfront Alliance's WEDG certification) will achieve this goal, be aesthetically pleasing, and manage a natural waterfront with access for all. In the EIS, Waterfront development along the Bronx side of the Harlem River should be compared to adequately weight these goals in waterfront development. Both Mill Pond Park and the Fresh Direct warehouse are recent developments which we believe can be easily remedied by changes in policy that restore natural parkland, ie, a greenway.

Part of our Master Plan includes working with NYS DOT, CSX/MN/Amtrak and other large surface area landowners to develop waterfrontages naturally with GI. Other general processes as alternatives.

"1 Use 100% Green Infrastructure as the "Preferred Alternative" for the Harlem/Hudson River Watersheds on the Bronx side for both CSO and MS4. Compare other options with these plans to determine the most effective, efficient and economical method to achieve clean waterways. Combine like GI small construction projects together for a quicker and economical design build project.

2. Fund maintenance for all GI projects maintenance in each contract to build. Identify the responsible party and method to maintain. Bring something like the National Green Infrastructure Certification Program (http://ngicp.org/) to NYC to train workers to design, build and maintain GI in all public areas.

3. Provide a Bronx Harlem/Hudson River LTCP timetable for completion in 2021 or within a five-year planning period. There should be no six month extension – DEP is already one year or ten years, or 50 years too late. Start now!

4. Concurrent with the LTCP, begin the processes of Environmental Assessment Statement (EAS) and Environmental Justice CP-29 Commissioner Policy 29 (CP-29) (PDF). Provide public notification. As part of the EAS, kindly review and provide the data on the location and size of the discharge for the new sewer connections over the last 15 years (or since the latest CSO consent decree).

5. Hold separate Bronx "Harlem/Hudson Rivers" area meetings to discuss other alternatives and the method of comparing and evaluating each. Create a separate Bronx "Harlem /Hudson River" Watershed/Waterbody, then incorporate it with the other parts.

6. Adopt new Design Criteria based on measurable goals to reduce runoff to zero discharge to the local pipe."

Recently, we have been working on drawings for living shorelines. The one on Fordham Landing is a Living Shoreline. 2023 – BCEQ Fordham Landing CSO Capture Wetland Phase 1, 3/23/2023 Living shoreline along the WIB056 on upland area. We also have a new living shoreline at Van Cortland Park in the Mill Pond.

Hudson Raritan Estuary (HRE) - Harlem River Ecosystem Restoration Feasibility Study, NY. The Harlem River Feasibility Study will investigate the feasibility of restoration opportunities including Living Shorelines along the Harlem River. The New York District and USACE "Engineering With Nature" (EWN) Program would identify living natural and hybrid shoreline opportunities along the Harlem River to intentionally align natural and engineering processes to efficiently and sustainably deliver economic, environmental, and social benefits to the region through collaboration. Working with EWN, this project will investigate the shorelines to identify restoration opportunities, evaluate alternatives and develop a Recommended Plan for future construction authorization. The recommendation expects to restore degraded habitat, provide secondary flood risk management benefits while integrating green infrastructure along the waterfront greenway. The NYC Department of Environmental Protection plans to be the non-federal sponsor. This project was requested by the Bronx Council for Environmental Quality, a non-profit 501c3 membership organization, and the Harlem River Working Group, a coalition of local non-profit groups. The DEP is a 50% match for a total of $3 Million

In addition, new waterfront development is now taking place under the NYC DEP Uniform Stormwater Rules, which provides both botanical and detention features to manage stormwater load. Though the Harlem River is now impaired, we believe that the waterfront design modifications now in place for development along the river enable measurable reduction in CSO and in turn provide the UAA with measurable water quality milestones. The proposed UAA reclassification disowns any

considerations or calculations for reaching higher water quality standards through improved stormwater load management.

3. Concluding Issues

We join with environmentally minded watershed and community groups deeply rooted along the Harlem River, within the Bronx and across New York City to voice our profound concerns regarding the State's proposed reclassification of the Harlem River to Class SB (ww). This reclassification, based on the City's UAA for the River, represents a grave misstep that directly undermines the foundational water quality promises enshrined in the CWA, for which the State bears ultimate responsibility. More critically, it threatens to perpetuate a cycle of environmental injustice that has long plagued our communities.

The decision would, in essence, grant a permanent permit to discharge an astounding 1.9 billion gallons of combined sewer overflows (CSOs) annually into this vital waterway. Such a volume of raw sewage and stormwater runoff is not merely an inconvenience; it is a direct assault on the health of the river and, by extension, the health of the residents who live alongside it. The Bronx, our home, already bears the unenviable distinction of being the poorest and least healthy county in the entire state of New York. Our communities face disproportionately high rates of asthma, heart disease, diabetes, and other chronic health conditions, often linked to a lifetime of environmental burdens and systemic neglect.

3.1 Public Health and Environmental Justice in the Bronx

For generations, the Harlem River has been treated as a conduit for waste, a dumping ground for the City's sewage, rather than the vibrant ecological and recreational asset it could and should be. This historical pattern of pollution has directly contributed to the health disparities we now observe. Residents living near the river are often those with the least access to quality healthcare, healthy food options, and safe recreational spaces.

This proposed reclassification is a stark reminder of how environmental burdens are frequently, and unfairly, distributed along socio-economic and racial lines. The Bronx is predominantly composed of Black, Hispanic, and immigrant communities – populations historically marginalized and deliberately situated in close proximity to polluting industries and infrastructure. Many of these communities are contiguous to New York City's most egregious CSO outfalls into the Harlem River.

To downgrade the river's classification is to implicitly accept a lower standard of environmental quality for these communities, signaling that their health and well-being are less valuable than the convenience of continued, antiquated wastewater management practices. This is the antithesis of environmental justice, which demands that all people, regardless of race, color, national

origin, or income, enjoy the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.

3.2 Environmental Justice - A Right, Not a Privilege

The implications of the proposed reclassification extend far beyond mere water quality metrics; they cut to the core of environmental justice and the fundamental right of every community to a healthy environment. It is an act of environmental injustice that systematically deprives our communities of the environmental benefits enjoyed by more affluent areas. Environmental justice demands that no population, especially those already burdened by poverty, racial discrimination, and health disparities, should bear a disproportionate share of negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

3.3 Undermining Recreation, Equity, and Economic Potential

How can a community fully embrace its waterfront when it is perpetually threatened by raw sewage? It makes activities like kayaking, paddleboarding, fishing, and even simply walking along the shore after a rainfall, fraught with health risks. In the Bronx, where open space is scarce and recreational opportunities are often limited by financial constraints, a clean, accessible river represents a lifeline. Denying this access, particularly when it stems from a failure to adequately manage municipal waste, is a profound issue of equity. It entrenches the unequal distribution of environmental amenities, disproportionately impacting the health and well-being of the poorest and least healthy county in the state of New York.

3.3 Economic Revitalization

Beyond direct recreational access, a clean Harlem River holds immense, untapped potential for economic revitalization. Imagine a river vibrant enough to support eco-tourism, drawing visitors who wish to kayak, birdwatch, or explore its unique urban ecology. Consider the local businesses that could flourish around a truly healthy river, from bait and tackle shops to cafes serving waterfront patrons. Investment in a cleaner river is an investment in local jobs and economic growth, fostering a sense of place and opportunity in communities that have historically been overlooked.

3.4 Equitable Fair Share

Cost should not be determinative. The Harlem River Long Term Control Plan was the last in a series of "fixes" throughout the City. Our city has a "Fair Share" doctrine embedded in Land Use

regulations which demand each neighborhood's fair share of services and resources.[4] Do not let the City off the hook under a consent decree. The Bronx and particularly the Harlem River catchment deserves its share of an equitable investment in water quality. The cost of water need not be a burden on low-income rate payers – there are other options the City should consider and change. For instance, the two-tiered charge for basic needs and the basic but higher fee per gallon for those who use more.

3.5 Public Trust Doctrine

This decision undermines the very concept of the Public Trust Doctrine where access to and in the water is a sacred right for all. A river that remains burdened by CSOs is not truly accessible. While wealthier communities often enjoy pristine waterfronts and ample recreational opportunities, other parts of the Bronx are being asked to accept a perpetually polluted river as its norm. This creates a clear disparity in quality of life and access to natural amenities, a disparity that should be actively addressed and rectified by state environmental agencies, not cemented by regulatory action.

3.6 Harlem River Vision

For decades, the vision for the Harlem River, as articulated by the community, is one of a clean, vibrant waterway that serves as a cornerstone for revitalization. This includes not only direct recreational use but also broader ecological restoration that supports native wildlife and enhances the river's overall health. Achieving a swimmable and fishable river is not an unattainable dream; it is a goal that is within reach with proper investment and political will.

3.7 Alternatives that are less impactful than a tunnel to nowhere

The solution to outdated systems is not to lower environmental standards, but to invest in modern, sustainable solutions. This UAA implicitly accepts the current state of pollution as an immutable reality. This is a false premise because people are swimming in the river and need protecting. Once again, we need a mandate for innovative green infrastructure projects, such as permeable pavements, green roofs, and bioswales to reduce stormwater runoff and flooding.

3.8 Intergenerational Equity, and Accountability

For the Bronx, this decision is not a legacy of progress; it is a legacy of pollution, neglect, and a compromised environment. It denies future generations the full benefit of a healthy river for recreation, ecological education, and community well-being. This is an unacceptable inheritance.

[4] The 1989 City Charter (Sectio 203) required the City Planning Commission to adopt criteria to further the fair distribution of the burdens and benefits associated with city facilities, consistent with community needs for services and efficient and cost effective delivery of services and with due regard for the social and economic impacts of such facilities upon the areas surrounding the sites. Link

Environmental justice requires us to consider the long-term impacts of our decisions on future populations, especially those who will continue to reside in historically marginalized areas.

Accountability is paramount. Allowing this reclassification suggests a failure of accountability on both fronts. The long-term costs of inaction – including chronic health issues, lost recreational opportunities, diminished property values, and the perpetual ecological damage – far outweigh the immediate financial burden of investing in robust CSO abatement strategies. These costs, both tangible and intangible, will continue to be borne disproportionately by the residents of the Bronx.

4. Time to Do the Right Thing

Prioritizing the health of the Bronx means upholding the highest possible standards for our waterways, not lowering them. To declare that this target is "unattainable" for a major urban river like the Harlem River, especially when less affluent communities bear the brunt of the pollution, is an abdication of duty. It sends a message that environmental quality is negotiable, and that some communities are simply destined to live with lower standards. This is fundamentally unjust. It ignores the fact that people are having primary recreational contact that is not being protected.

Instead of lowering standards, the State must hold the City and other permits (such as state highways and railroads; and Westchester County) accountable for developing and implementing a truly transformative LTCP for the Harlem River Watershed. This will require an investment in Green Infrastructure as the primary goal; increase community outreach and engagement all over the watershed; and the enforcement of timelines and budgeting. The State should develop a comprehensive and aggressive Harlem River LTCP, TMDL or Watershed Plan with full community stakeholder engagement that commits to significant reductions in overflows as detailed within.

Finally, the EPA Environmental Financial Advisory Board (EFAB) developed recommendations for addressing water affordability in its January 2025 EFAB Water Affordability Report. This report identifies Green Infrastructure (which they describe as GSI strategies) are "less expensive than conventional centralized stormwater infrastructures alternatives"[5] because they can be "implemented incrementally, allowing utilities to adapt more cost effectively to conditions associated with climate change."[6] We are not surprised.

Thank you for this opportunity to participate. Kindly respond individually with your comments, either in writing or in person at a meeting where we can have a dialogue. If you cannot access the google drive

[5] EFAB Water Affordability Report, https://www.epa.gov/system/files/documents/2025-01/efab-water-affordability-report.pdf page 40

[6] Green infrastructure costs less than conventional gray infrastructure, provides green jobs and reduces municipal water usage and cooling costs. At the household level, this can result in increases in available income for preventative healthcare, healthy foods, and adequate housing, all of which have proven health benefits and contribute to overall health and wellbeing. From Healthy Benefits of Green Infrastructure in Communities, August 2017, www.epa.gov/sites/default/files/2017-11/documents/greeninfrastructure_healthy_communities_factsheet.pdf

documents, we can convert everything web based. If that is the case, or if you have any other questions, please contact Karen Argenti at karen@bceq.org, Robert Fanuzzi at robert@bceq.org, or Chauncy Young, harlemriver@bceq.org.

Sincerely,

Karen Argenti	*Dr. Robert Fanuzzi*	*Chauncy Young*
BCEQ Corresponding Secretary	BCEQ President	Coordinator, Harlem River Coalition

Enclosed: Below are links to an appendix and index.

APPENDIX

- Master Plan for the Harlem River LTCP by BCEQ
- Green Infrastructure Map Citywide
- Interesting Documents

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- **ACOE - Living Shorelines** Hudson Raritan Estuary TOC.pdf
- **Green Infrastructure**
  - 2007_EPA Green Infrastructure guidance
  - 2023 CSO Consent Order Modification - Green Infrastructure Definition page 5
  - 2008_Modeling the Impact of Green Roofs on CSO in the Bronx.pdf
  - NYCDEP GI Map - Citywide.pdf
- **LTCP - 303d**
  - 2019_LONG_TERM_CONTROL_PLAN_(LTCP)_FOR_THE_HARLEM/HUDSON_RIVER_CSO AND MS4 FOR THE BRONX
  - HARLEM RIVER (SEGMENT ID 1702-0004) Impaired.pdf
- **Pier 5 - 2014 - the popup wetland** https://bceq.org/2017/05/14/pier-5-bceq-pop-up-wetland-work-approved-by-parks/
- **Sensitive Areas Request 2010** https://archive.epa.gov/ow/ost/web/pdf/designated-uses-abstracts-balance-bathers.pdf
- **Watershed Management Plan 2015 - Harlem River** https://www.nycgovparks.org/planning-and-building/planning/conceptual-plans/harlem-river-watershed
- **MAPS on CSO – FYI** https://openseweratlas.tumblr.com/map
- **Sewershed Maps** https://drive.google.com/file/d/0B4wX_nnTabwhT0x4bWxmNUFFTnc/view?resourcekey=0-z0Tg41SBUKE7ucho4nP-yg