



May 21, 2021

Walter Mugdan, Acting Regional Administrator
U.S. EPA Region 2
290 Broadway
New York, NY

Dear Acting Regional Administrator Mugdan,

Thank you for taking the time to meet with us on December 21, 2020 to discuss the Gowanus Neighborhood Rezoning and its relationship to the EPA's Gowanus Canal Superfund Site Cleanup. We are grateful for the EPA's diligence in advancing the Gowanus Canal Superfund remedy over the past decade, and we were thrilled to celebrate the commencement of dredging with you in November. We also appreciate your strong commitment, reiterated in your Oct. 27, 2020 letter, to protecting the Canal from future contamination,

The Gowanus Neighborhood Rezoning was certified by the New York City Planning Commission on April 19, 2021 and is in the first phases of the City's Uniform Land Use Review Procedure (ULURP). The City has laudable goals for this rezoning plan that aim to build on the Superfund cleanup. As we review the rezoning proposal, we are eager for the EPA's input on critical questions related to the environment and human health. The review process should be guided by the EPA's assessment of whether or not the plan is consistent with Superfund requirements and will protect the Superfund remedy. Therefore, we would like EPA's assessment of the City's claim that the rezoning will contribute to a cleaner canal, and result in a more sustainable, resilient, and healthy community in the coming decades.

We are therefore requesting EPA's written review of the plan and accompanying environmental impact statement (EIS). We are especially interested in the EPA's assessment of the following issues, but also welcome your broader feedback. In addition, we have some questions about the ongoing role of the EPA, both during and after the completion of the Superfund project, in relationship to potential development projects.

- **Potential CSO increases/decreases into the Gowanus Canal from rezoning-related development**

As the EPA wrote in the Gowanus Record of Decision, "Current and future high density residential redevelopment along the banks of the canal and within the sewershed ... shall be consistent with ... guidelines to ensure that hazardous substances and solids from additional sewage loads do not compromise the effectiveness of the permanent CSO control measures by exceeding their design capacity."

As you know, the NYC Department of Environmental Protection is currently updating the Citywide Stormwater Rule for 2021 (following legislation passed by the City Council in August 2020, co-sponsored by Council Members Lander and Levin) which will increase on-site stormwater management requirements for certain lots within the combined sewer area. We seek an assessment of DEP's modeling to evaluate whether this new rule will achieve the "no net CSO" goal that our offices and our communities have established for this rezoning. In light of EPA's oversight role for the Superfund remedy and deep knowledge of the waterway, we are eager for your agency's review of the impact of rezoning-related development on CSOs, given the new 2021 Unified Stormwater Rule.

- Is the 2021 Unified Stormwater Rule sufficient (with existing size thresholds) to prevent an increase in CSO loading with new development on projected and potential development sites?
 - Do you project CSO increases or decreases at individual outfalls, as well as at the aggregate level?
 - How do you assess any risk posed by rezoning-related development under the 2021 Unified Stormwater Rule to the canal remedy in the period before the new CSO tanks are operational?
 - Do the updated design guidelines allow sufficient flexibility to ensure that buildings can meet infiltration requirements even where the high water table poses challenges to water absorption (e.g. through private investments in green infrastructure in the public right-of-way)?
 - With the projected increase in sanitary flow and the reduction of stormwater under the new rule, what is the anticipated ratio of sewage to stormwater in future CSO loadings compared to present ones? What will the impact be on water quality?
 - Is the City using accurate/sufficiently conservative baseline assumptions for their analysis of anticipated rainfall volumes, and accounting for sites that currently drain directly to the canal and will require new sewer connections?
- **What is EPA's assessment of CSO-shed level infrastructure investments, requirements, and needs? Please address:**
 - Open space improvements, including canal-front esplanade requirements (including new measures to ensure long-term resiliency, how these improvements relate to new bulkhead requirements, etc)
 - Requirements on future development, including elevation requirements to address sea-level rise, rooftop wind, solar, or green roofs, etc.
 - Whether improvements are needed to address potential rezoning-related impacts to sewer pipe bottlenecks that contribute to flooding or CSO events in affected sewersheds.
 - Opportunities for streamlining permitting for direct stormwater discharge from private properties at street ends, and the use of oil/water separators (as EPA required at the high-level sewer on 3rd Avenue and Lightstone put in voluntarily on its site).
 - Flood mitigation at key locations (e.g. 4th and Carroll, which has flooded during the heaviest storms for many decades)
 - **Review of proposed development projects on brownfields**
 - Will the EPA review individual development applications in advance of permitting, either by mandate or at the request of owners, as was done at the Lightstone

Development site, to ensure compliance with the Superfund remedy, stormwater/CSO management, brownfield remediation, and environmental/human health? We would be especially interested in your review of the Gowanus Green development, which is located on the Public Place site, the site of a former manufactured gas plant. As we know from EPA's remedial investigations, this MGP site has residual coal tar buried deep in the soil containing volatile toxins as well as semi-volatile organic compounds, VOCs and PAHs (polycyclic aromatic hydrocarbons). Would such a review address safety concerns around migration and vaporization of these compounds given the proposed future uses on the site and the remediation efforts by National Grid and what is proposed by the Gowanus Green team?

- **Oversight**

- How will the EPA monitor CSO and other environmental conditions in the canal over time? Will there be public reporting on this analysis? How could we connect ongoing oversight of the Superfund remedy with ongoing oversight of rezoning-related development and commitments?

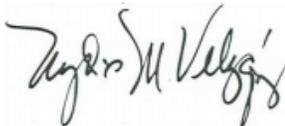
The EPA's diligence in pursuit of environmental protection, combined with strong communication and community partnership, has earned the trust of the community and its elected officials. We appreciate this work, and ask that you bring this due diligence to an assessment of the proposed rezoning and coordinate as an involved agency under New York State Environmental Quality Review Act (SEQR). Further, since Superfund, Clean Water Act, Flood Insurance Act, and Rivers and Harbors Act jurisdiction and compliance requirements overlap in Gowanus, we likewise seek that your sister agencies FEMA and the US Army Corps of Engineers coordinate as co-involved agencies under SEQR.

Thank you for your partnership through this process, and your consideration of our request.

Sincerely,



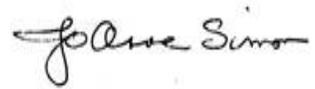
Brad Lander
Councilmember



Nydia M. Velázquez
Congresswoman



Jabari Brisport
State Senator



Jo Anne Simon
Assemblymember



Stephen Levin
Councilmember