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Congress of the United States
House of Representatives
Washington, DC 20515

NYDIA M. VELÁZQUEZ

12TH DISTRICT, NEW YORK

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Testimony of Honorable Nydia M. Velázquez
Before the New York City Council
November 26, 2007
The Newtown Creek Oil Spill

Good afternoon, Members of the NYC Council. I want to express my appreciation to Speaker Quinn and the Council for holding these landmark hearings. The Newtown Creek oil contamination is a human tragedy, a regional economic impediment, and it has damaged an entire community.

I'd like to take a moment to explain how big a problem we have with the Newtown Creek oil spill. It's bigger than Valdez. The Coast Guard discovered the spill in 1979, and estimated that the oil companies left 17 million gallons of oil in the Creek area.

Now, we believe that estimate was actually low. There may have been 25 to 30 million gallons of oil when the spill was at its largest.

And environmental clean up experts believe we will never be able to extract all of it. The oil plume still takes up some 55 acres. And the plume does not stay still. It has drifted, contaminating more and more of the Creek. So even though some of the oil has been removed from the Newtown Creek area, although the area of impact is still enormous.

The clean up has not gone well, by anyone's estimation. Equipment being used to remove the oil is strained. This unparalleled oil contamination has not significantly been contained, even after all these years. Few things frustrate me more than the oil companies' unwillingness to commit the resources necessary to fix the mess they caused.

Today, I urge the Councilmembers to keep in mind that thousands of our fellow New Yorkers have been wronged here. The Newtown Creek community in Greenpoint and Queens - is a proud and vibrant part of New York. Although surrounded by water, families living in this area cannot enjoy their waterfront. Families are worried and leery of what lies beneath.

This community which contributes so much to our City, has to deal with Brownfields sites, the BQE, Williamsburg Bridge traffic, the largest sewage treatment plant, an expansive bus terminal, and a high concentration of waste transfer stations.

Add to this the Creek oil spill, and you can see why residents suffer from asthma, emphysema and bronchitis at a 25 percent higher rate than the rest of the City. Children and the elderly are particularly vulnerable.

This is not just an issue of a clean up. *It's a matter of environmental justice.*

The residents have a right to live in a community that supports good public health.

The first step in that process is for the oil companies to take responsibility for their actions. They have an obligation to do what it takes to right the wrong they committed. They continue to use the same excuses. Exxon claims to be a good corporate citizen yet has decided to duck this public forum. Their absence today speaks volumes about their level of commitment to the well-being of the community they chose to work in.

2006 was worth \$39.5 billion in profits for Exxon, the most profitable year that any company has ever had. New Yorkers pay an average of \$3.26 per gallon of gas – that's a 128% increase since 2001. And, we will pay triple what we paid in 2001 for the cost of home heating oil this winter. *My colleagues – we know Exxon Mobil has the means to finance the clean up. Even children know they have to clean up the mess they make.*

I am also disappointed that the EPA has decided not to participate in these hearings.

Recently, Congressman Weiner and I obtained federal funding so the EPA could study this problem and issue a comprehensive report. The Report raises concerns about benzene vapors seeping onto people's property. It reports that:

"high levels of methane gas concentrations have been found during vapor intrusion sampling in some commercial establishments. These levels were found to be above the Upper Explosive Limit (UEL)."

In other words, EPA found some high vapor levels in local businesses. EPA did not venture into private homes, such as those on Kingsland Avenue, Van Dam Street and Meeker Avenue. The State should complete this work. The Report also notes that new wells are needed to establish a better pace of removing oil contaminants from the Creek. Those new wells should be installed immediately.

The Report is a start, but overall it falls short in addressing public health and other impacts. Research is still needed to determine the full extent of the damage and the true health impacts. The EPA has told us that people should not fish or swim in the Newtown Creek until it is deemed safe. This warning underscores the need for a comprehensive clean up effort to render the Creek healthy for use.

In proceeding, Exxon Mobil cannot be allowed to take a haphazard approach to this clean up. Between early March and late June, Exxon stopped using most of its pumping recovery wells, citing uncertainty about litigation and State permits. A stop in the cleanup of even a few weeks increases the likelihood that new seepage will further contaminate this community.

We cannot tolerate this tactic. Exxon's lawyers should not be using the threat of clean up stoppage as a courtroom negotiating tactic. If an oil company tries this again, the full force of local, state and federal law should be brought to bear.

Aside from the oil companies, the State must also play a key role in spurring the clean up. With a new Governor, we have an opportunity to establish better environmental conditions for communities like Greenpoint and Queens. The new Administration should take steps to direct the State Department of Environmental Control to prioritize the Newtown Creek cleanup in the years to come.

And the City Council can play a critical role. The State, through the NYSDEC, has the lead role in spurring clean up efforts. But City environmental protection and health agencies can provide support for the State's efforts. For instance, City experts keeping track of local health trends can help show that the oil spill has real consequences and impacts people's health every day. Also, the City can help make sure that signage warning people not to swim or fish in the water is visible. And aside from signage, the Council can prioritize other efforts to keep people who live near the Creek informed.

In closing, I would like to remind everyone that Newtown Creek's neighborhoods are full of working families and small businesses. Today, you will hear from concerned citizens from my district. Let's keep their health, both physical and economic, in mind.

I commend you for holding this hearing and encouraging us to stay focused on the key issues. How to protect the health and safety of the people living and working near Newtown Creek? How to keep the clean up moving forward? And how to learn from this oil spill as we design good environmental health policy for our City. Thank you.

New York State Department of Environmental Conservation

Regional Director, Region 2

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Alexander B. Grannis
Commissioner

**STATEMENT OF SUZANNE Y. MATTEI, REGIONAL DIRECTOR
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
TO THE CITY COUNCIL COMMITTEE ON ENVIRONMENTAL PROTECTION
REGARDING CLEANUP OF NEWTOWN CREEK
NOVEMBER 26, 2007**

Good afternoon. My name is Suzanne Mattei, and I am the Regional Director for the New York State Department of Environmental Conservation (DEC). With me today are DEC technical experts Martin Brand, Senior Engineering Geologist and Project Manager for the Newtown Creek Remediation Project; Edward Hampston, Senior Environmental Engineer and Project Engineer for the Greenpoint Petroleum Remediation Project, and Selvin Southwell, Deputy Regional Water Engineer for DEC Region 2, which covers New York City. My testimony today will focus on the Green point Petroleum Remediation Project, and the condition of Newtown Creek and the actions needed to improve its water quality.

Newtown Creek is a tidal waterway just over three and a half miles in length that extends along the boundary between Brooklyn and Queens to the East River. The total drainage area of the Creek and its tributaries -- Whale Creek (and the Whale Creek Overflow Canal), Dutch Kills, Maspeth Creek, East Branch, and the English Kills -- encompasses over 10,000 acres. This area is drained almost entirely by combined storm water and sanitary sewers. There is no freshwater flow to the Creek today, other than storm water and combined sewer overflow (CSO) during wet weather.

In its original natural state, Newtown Creek was shallower, with sloping banks and small islands. It was dredged years ago to accommodate shipping, and today its banks mostly are shored

up by retaining walls. As a result of heavy industrialization, leading to groundwater contamination and toxic storm water runoff, Newtown Creek is among the more polluted waterways in America.

DEC currently classifies Newtown Creek as Class SD saline surface water. The best or highest usage of such water is for fishing and fish survival, but not for swimming or other contact recreation, and not for fish propagation. Documented water quality problems include low dissolved oxygen, odors and floatables. Sediments on the Creek bottom, in addition, are contaminated with PCBs, heavy metals such as lead, mercury and copper, and petroleum hydrocarbons. To improve the Creek's water quality, one must consider a range of pollution sources, including oil storage facilities, manufacturing plants, inactive hazardous waste disposal sites, spills, combined sewer overflows, and other sources.

The most well known source of contamination, of course, is a large underground oil spill that was first discovered by the United States Coast Guard in 1978. DEC held a public meeting in Greenpoint on October 16th of this year, at which we responded to many questions about the Exxon Mobil underground oil spill and the cleanup process. DEC Commissioner Pete Grannis, who was appointed by Governor Spitzer, has made cleaning up this oil spill a high priority. DEC had reached a cleanup agreement in the past with Exxon-Mobil, but it only required remediation of the liquid petroleum (generally known as "free product") underground. A more comprehensive approach that includes investigation and remediation of dissolved petroleum constituents and soil contamination is needed, as well as expediting the recovery of the liquid petroleum. DEC technical experts put together the scientific grounds for a lawsuit against Exxon-Mobil, and worked with State Attorney General Andrew Cuomo to prepare the case. The lawsuit, brought by Attorney General Cuomo on behalf of the citizens of our State and DEC Commissioner Grannis, as trustee for New York's

natural resources, was filed on July 17, 2007. We are strongly committed to this joint effort with the State Attorney General to expedite the cleanup.

One question that has received a lot of attention lately is the volume of the spill. Because this is an underground oil spill, no one can measure it with complete accuracy. The United States Coast Guard estimated its size at 17 million gallons. While a recent report by the Environmental Protection Agency (EPA) observes that estimates have ranged from 17 million to 30 million gallons, EPA has not endorsed any particular estimate. The monitoring data on the spill's depth and location, as well as modeling based on this data, suggest that a 17 million gallon estimate is reasonable. But what is most important for cleanup purposes is not so much the spill's volume, but its location under the ground – how far it has spread. This is why the State DEC demanded that Exxon-Mobil pay for testing to identify the spill's "footprint." Over 300 monitoring points are evaluated on a quarterly basis. Based on this data, DEC has very good information on where cleanup must occur. Cleanup will continue – regardless of estimations of volume – until actual tests show that the hazard has been properly abated.

A good piece of news is that the indoor air investigation, conducted jointly by the State DEC and State Department of Health (DOH) has not shown any current evidence of "vapor intrusion" from the Exxon-Mobil oil spill into the homes that were tested. Thanks to local residents who responded to the request for volunteers, fifty-two homes were tested in the winter heating season of 2006 to 2007, when it would be easiest to detect any indoor vapors. No evidence of the kinds of pollution vapors that could be linked to the oil spill was identified. There will be further scrutiny of the potential for vapor intrusion to ensure the continued safety of the residents.

The oil spill, of course, still needs to be cleaned up. There is evidence that the oil has seeped into Newtown Creek. Also, while the fact that 52 homes did not show oil spill vapor intrusion is

encouraging, the spill still poses a continuing concern that must be addressed. DEC has been working cooperatively with the State Department of Health and the State Attorney General's office to expedite that cleanup. We also welcome the federal EPA's involvement; we had already begun work that is consistent with many of their report's recommendations and will continue to consult with them on best possible measures to speed this cleanup.

I want to make sure you know that ExxonMobil has applied for a wastewater discharge permit in connection with increased pumping for the oil spill remediation work, as required by law. That permit application is complete and was noticed for public comment on November 15, 2007. The deadline for public comments is December 14.

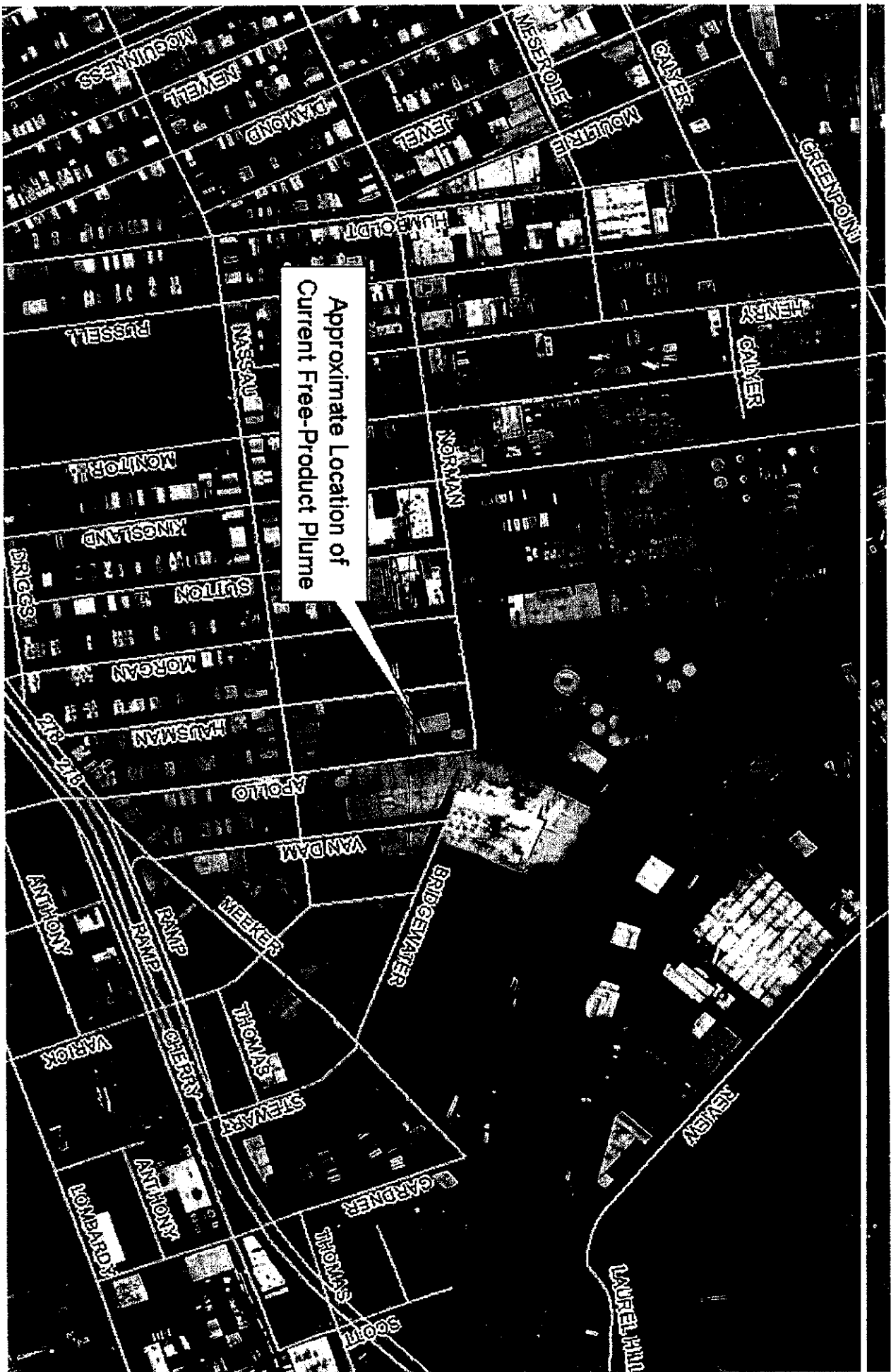
Other industrial sites on or near the Creek have contributed contamination as well. Several sites are currently being investigated or remediated under a variety of State and federal regulatory programs. These facilities include, among others, the former Keyspan/Brooklyn Union Gas Company Manufactured Gas Plant (MGP), the B.C.F. Oil Refinery site in Brooklyn, the former Paragon Oil Terminal site in Brooklyn, and the former Phelps Dodge/Laurel Hill smelter in Queens. Remediation is underway at some sites. At the former Paragon Oil Terminal, for example, the Chevron Corporation installed a barrier to block seepage of petroleum into Newtown Creek, and wells to recover petroleum from the ground. Additional analysis is underway to identify further strategies to stop seepage of oil into the Creek at this location. Considerable scientific analysis will be required to determine the most effective cleanup measures for Newtown Creek, but DEC is strongly committed to move forward expeditiously with this effort.

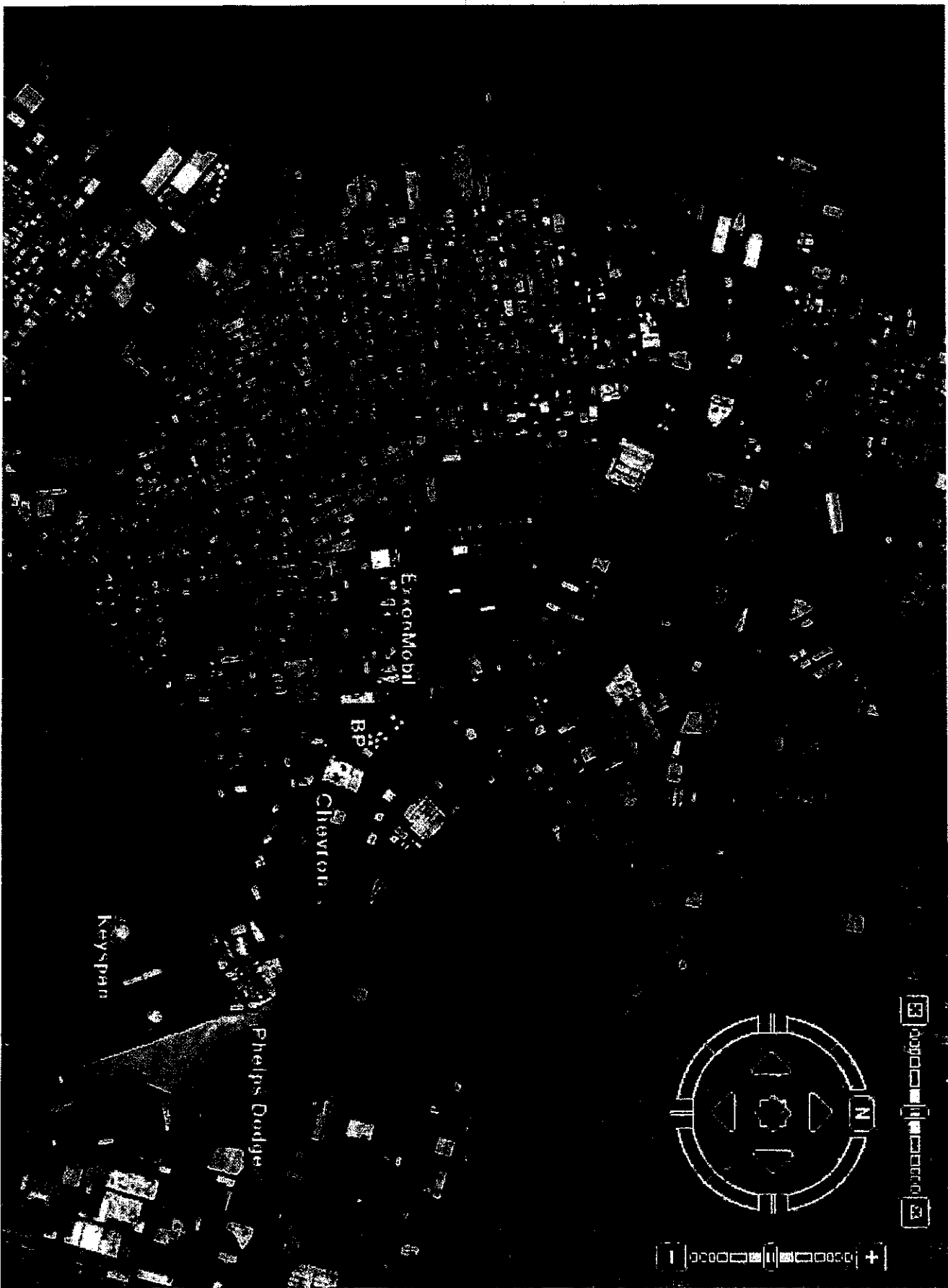
DEC is also concerned about reducing sewage and runoff pollution in Newtown Creek. While 29 industrial and construction sources currently have permits to discharge regulated wastewater directly into the Creek, a substantial source of discharge is from uncontrolled storm

water and sewer drainage. The Creek is subject to 20 combined sewer overflow (CSO) outfalls located throughout the length of the Creek and at the head ends of its tributaries, and over 100 points of storm water discharge. It is estimated that over 1.4 billion gallons of combined sewer overflow waters are discharged to the Creek every year. Much of this flow contains some contaminants, such as oil and grease, coliform bacteria, and solid waste. Also, while the Newtown Creek sewage treatment plant primarily discharges to the East River, on rare occasions it overflows during rain conditions into Whale Creek Canal.

Under a 2005 Administrative Order on Consent between DEC and the City Department of Environmental Protection (DEP), DEP has recently submitted a Waterbody Watershed Facility Plan as part of the federal Environmental Protection Agency's Long Term Control Plan. The Plan is expected to include measures to control floatables, improve storm water control, re-route sewers, aerate the Creek and tributaries to improve dissolved oxygen, and nuisance sediments at CSO outfalls. DEC is carefully reviewing this and eight other Waterbody-Watershed Plans submitted by DEP pursuant to the CSO Order on Consent. Once DEC has completed the initial review of the Plan and provided comments to DEP, then DEP and DEC will hold joint public meetings and provide a public comment period before the Plan can be approved. We will welcome comments from members of the City Council and we hope that you will also help us inform your interested constituents about the opportunity for public participation.

Thank you for the opportunity to present this testimony. We look forward to your questions and comments.





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Monday, November 26, 2007

City Hall Testimony

Re: Greenpoint/Newtown Creek Oil Spill

Hello, my name is Laura Hofmann. Thank you for the opportunity to speak to you about the oil spill under Greenpoint & in Newtown Creek. I'm a co-plaintiff in River Keepers' federal environmental case against the involved Oil Companies. Today I'm speaking on behalf of the Newtown Creek Alliance and my entire family.

I've lived in Greenpoint all my life & grew up knowing about the Oil Spill. My entire family was exposed to it's effects. Our community has been forced to live with the oily degradation & it's health effects for over a half century. Imagine. At least, a half century!! I was thrilled to become involved in this particular lawsuit because it focuses on the damages to the Newtown Creek & our environment.

I'd like to talk to you about community trust. There is none. This community has absolutely no confidence that the Oil Companies or involved agencies are aggressively conducting cleanup activities. We are not confident that the involved parties are doing what is necessary to protect the community. For that reason community folks have been calling for an independent technical consultant to guide us until the oil's completely cleaned up. Our community deserves & needs to have a well funded cleanup plan & advisory committee with a consultant and interagency task force that will be accountable to the community. This community deserves & needs a fully funded health study. This issue should also be overseen by this community cleanup plan team. There has never been a comprehensive health study of our community to examine possible links between the pollution and sicknesses in our community.

Brain disease has been on my personal radar for a number of years. Either I'm extremely popular or I know of too many Greenpointers that had brain tumors or brain cancer. My parents always lived near Newtown Creek. First they lived in Blissville, then in Greenpoint. And I was raised in Greenpoint near Newtown Creek along with my siblings. Our family medical history reads like an Area 51 report. Now, it's a well known fact that Benzene is among the chemicals that cause brain cancer. As I speak, my mother is in the hospital slowly dying from a rare Brain Lymphoma or (brain cancer). My father died in 2005 of another rare & devastating disease of the brain called Progressive Supra Nuclear Palsy. Even my parents dog suffered from a rare brain disease. I have lacunar infarcts of the brain along with Lupus & Fibromyalgia. My sister and brother have a hereditary blood birth defect called Congenital Spherocytosis. Even though no one in our family ever had such a problem to inherit it from. My oldest son suffers from a seizure disorder (also, a brain disorder). Like me he has been also been diagnosed with several autoimmune disorders. I'm disgusted each time I hear involved agency reps making references to City & State health statistics. Those numbers don't paint an accurate picture. My family's health statistics would never appear on the same page because each of our diseases are listed separately. Epilepsy, Cancer, Autoimmune diseases ... they're all listed under different categories. However, four of us (not including my parents dog) have/had diseases that affect the brain. So far, the involved environmental and health agencies have produced no comforting evidence that would show no connection between the spill and our community's health issues. Our community's health has never been studied while considering our unique environmental issues & unique exposures.

Our community health issues are also being glared by the fact that long time residents have moved on or have been displaced. There's now a new wave of hip folks moving in. In my eyes they are a new group of potential patients. And something needs to be done to clean up this neighborhood and address the health issues before those folks are affected as well.

There's no doubt about it. Oil is not good for your health or for our environment. So why is our community being forced to live it with for so long? I'm asking all of you to do whatever is in your power to help force a swift, thorough cleanup and health study. Thank you, in advance for anything that you can do.



BROOKLYN CENTER FOR THE URBAN ENVIRONMENT

TENNIS HOUSE, PROSPECT PARK, BROOKLYN, NY 11215 • PH 718-788-8500 • FAX 718-499-3750 • WWW.BCUE.ORG

Brooklyn Center for the Urban Environment

Testimony

November 26, 2007

The most important step towards the cleaning and development of Newtown Creek is to make the public aware of its existence.

Reaching nearly 100,000 students, parents, and teachers annually, the Center creates fascinating learning opportunities through explorations of and interactive programming on the urban environment. In 2005, the Center began The Newtown Creek Public Education Initiative (NCPEI) as part of a larger campaign to understand the history and promote environmental awareness of Newtown Creek. Funded by the Department of State Environmental Protection Fund, programming engaged local public school students and community members, helped build awareness of Newtown Creek and is leading to greater local ownership of the area's ecosystems, and furthering understanding of local environmental concerns and the industrial past and present. The Center has undertaken widespread public education campaign about Newtown Creek once again tapping into New York City's most creative and passionate minds - the minds of its youth.

The Center regularly offers public tours of the Newtown Creek area. During 2007, we offered 4 tours of Newtown Creek free to the community surrounding the creek. offer these programs free to the community. Tours include boat, walking and bike tours, and lead participants through Greenpoint across the Pulaski Bridge to Long Island City, allowing them to inspect remnants of the intense industrial development that thrived along Newtown Creek in the late 1900's and viewed the rapidly evolving Long Island City shoreline. In *Newtown Creek – The Bike Tour*, participants delved into the history, pollution, and health of Newtown Creek, culminating the year-long project with students from the Urban Assembly School for the Urban Environment and providing access to the best sites around the creek to discuss the industrial heritage, oil spill, combined sewage overflows, and the ecosystem.

The Center's most recent boat cruise was highlighted in *The New York Times* article, "A Creek Cruise With Sights Rare, Even to New Yorkers," (July 17, 2007), bringing awareness of the area and noting the potential for development. The article quoted a tour participant who said "The Newtown Creek is sort of this mysterious entity. It's extremely interesting to see it on a water level. It looks ugly with all the scrap metal around, but think about what it could be with parks, cafes and a river walk."

In closing, Brooklyn Center for the Urban Environment encourages continued education and exploration of the creek to help further the clean up efforts.



Photographs by James Estrlin/The New York Times

A boat tour of Newtown Creek, which is on the border of Queens and Brooklyn. The polluted waterway was once a busy industrial route.

A Creek Cruise With Sights Rare, Even to New Yorkers

By DALTON WALKER

A typical passenger might expect to see certain things when spending \$50 for a two-hour cruise, like a wonder of the world, or a leaping dolphin or two.

But yesterday, a two-story taxi boat was almost full to capacity with people who spent about that much for a tour of one of New York's most polluted waterways, Newtown Creek.

Cameras flickered away and passengers gawked as the industrial buildings, recycling plants and toxic sites that flank the creek slid by.

"The \$50 is a lot, but it's worth it," said Gene Pizzolo, 60, one of the 64 people on the boat.

"I never get to see this part of New York," he said. "It's not a tourist attraction. This tour was designed, I think, for New Yorkers to learn more about the city."

It was the fifth trip up the creek in five years sponsored by the Brooklyn Center for the Urban Environment, a nonprofit organization. (Members of the group, as well as seniors and stu-

dents, paid \$40.)

"The creek is something people don't get to see too often," said Ruth Edebohl, the tour coordinator. "It's interesting to see in person. It's a place that is even new to New Yorkers."

The boat launched from the Fulton Ferry Landing in Brooklyn and eased into the creek from the East River.

Speedboats and other watercraft zoomed past the creek's mouth, but the waterway itself, once a busy industrial route, was devoid of any recreational boats other than the cruise vessel.

Some of the creek is accessible by foot, but most of its banks are private property, so the best way in is by water.

At least one passenger said she detected an oily smell.

An explosion in 1950 leaked an estimated 17 million gallons of oil and gasoline, more than the Exxon Valdez spill, into the creek and its banks, and lawsuits seeking a faster clean-



up continue today.

During heavy rains, the city's sewer system overflows and dumps raw sewage into the creek, among other places.

Organizations like the Newtown Creek Alliance, the Metropolitan Waterfront Alliance and others have been trying for years to clean up the creek, which is on the border of Queens and Brooklyn.

The boat traveled deep into the creek just past the Kosciuszko Bridge, with the cars zooming overhead on the Brooklyn-Queens Expressway, then turned around when the water became too shallow.

"The Newtown Creek is sort of this mysterious entity," Allan Bentz-Letts, 63, said.

"It's extremely interesting to see it on a water level," he said. "It looks ugly with all the scrap metal around, but think about what it could be with parks, cafes and a river walk."

Many passengers walked back and forth on the boat trying to find the perfect camera shot.

"I consider it money well spent," said Liza Drake, 59, enjoying the view from the top deck. "I can't think of any other way to get on the creek for cheaper."

Irene Klementowicz
1044 Manhattan Avenue
Brooklyn, NY 11222

Greenpoint Resident, Observer and Participant since 1958

Greenpoint Incinerator opened 1958 burned garbage from all 5 boroughs, airports, police confiscated marijuana, medical waste from Staten Island Bailey Seton Hospital witnessed by Gabe Pressman Channel 4 and Concerned Citizens of Greenpoint.

Encouraged City Planning, Wilbur Woods, to change lower M3 Zoning to M3-1, portion of N.W. area Greenpoint '60, '61.

Plastic Harte & Co. located on Dupont Street, across from two schools, P.S.31 & SS. Cyril & Methodius had to comply with building pollution controls on there roof to protect the schools from air pollution.

Serious problems with Greenpoint incinerator, 36 years of polluting air and the Newtown Creek also operating several years without proper permits, finally shut down in 1994.

Newtown Creek water pollution control plant opened in 1967, adjacent to the Greenpoint Incinerator, designed to treat 310 MGD (million gallons per day) serving 3 boroughs, Brooklyn, Queens and Manhattan. It is being expanded physically, cost 3 billion with possible completion 2013.

Mobil Oil spill witnessed by Coast Guard around Meeker Avenue in the 1940's. It was a subterranean spill that surfaced and believed to be approximately 17 million gallons, greater than the Valdez spill.

This is an ongoing issue, that now presumes to be a spill of 30 millions of petroleum.

Not to be forgotten -- transfer stations, 40 % of the cities in Brooklyn Community Board 1, with the solid waste problem still a precarious situation.

Volunteered in all above, also participated as member of S.S. Cyril & Methodius Parish
Brooklyn Community Board 1 1986 to 2006
John Smolenski Memorial Democratic Club
Concerned Citizens of Greenpoint Inc.
Green Oaks Citizen Club
Past Seneca Club Member
197a Waterfront Committee
CRAB – Citywide Recycling Advisory Board
Solid Waste Advisory Board SWAB
Sludge Committee
Monitor Museum & Park
Newtown Creek Monitoring



STATE OF NEW YORK
DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-1010

THOMAS C. JORLING
COMMISSIONER

APR 15 1992

Dear Assemblyman Lentol:

It appears from your letter dated March 11, 1992, that the position of the Department, with respect to the status of the upgrade project at New York City's Newtown Creek Sewage Treatment facility, has not been communicated clearly. I am pleased to be given this opportunity to correct the record.

There are two instruments by which the City is bound to perform certain obligations with respect to the Newtown Creek Sewage Treatment facility. The first instrument is an Order on Consent that was executed in August 1990, between the City and the Department of Environmental Conservation (DEC) after the DEC commenced an administrative enforcement proceeding against the City. It mandates flow reduction and conservation measures to get the flow below its permit level and mandates specific measures with regard to toxics and pretreatment enhancement. Also, by the terms of this Order the City is required to fund in the amount of \$850,000, an environmental benefit project involving an environmental study of the Greenpoint Williamsburg section of Kings County.

The second instrument is a Judicial Consent Order executed by the City and DEC and Ordered by the U.S. District Court on June 23, 1988. It mandates an upgrade of the physical plant at the Newtown Creek facility.

The original schedule for construction of secondary treatment facilities at the plant, which was included in the Judicial Consent Order, required the City to submit a facility design plan in 1989, and complete construction on the project in 1996. This Compliance Schedule was amended at the City's request on April 27, 1990 to include a much more detailed schedule of construction and provide further that construction of the project would be completed in 1999.

In December 1991, DEC declared that it was rejecting the City's Facility Design Plan to install deep aeration tanks at the Newtown Creek facility because of the insults experienced by the North River Community as a result of difficulties connected with the deep tanks. Further, the DEC stated that it would not approve a plan which provides the facility with a capacity of less than 360 mgd, as recommended by the City's engineering consultants Greeley and Hansen, unless the City can provide a detailed city-wide scheme for diverting flows across drainage boundaries which demonstrates that the designated receiving

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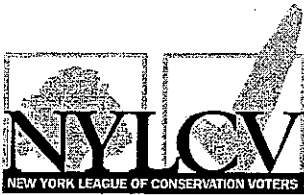
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Monitor Museum & Park
Newtown Creek Monitoring



**Testimony of Dan Hendrick
Communications Director
New York League of Conservation Voters**

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**New York City Council Committee on Environmental Protection
"Oversight: Newtown Creek"**

November 26, 2007

Hon. James Gennaro, Chair

Good afternoon Chairman Gennaro and members of the Committee, it is a pleasure to appear here this afternoon to discuss ongoing issues concerning the remediation of Newtown Creek. The 3.5 miles of Newtown Creek that separate Queens from Brooklyn represent one of the most polluted waterways in New York State. This body of water, site of the largest oil spill in the United States, also represents important opportunities for development and remediation.

Newtown Creek has long been fouled by industrial contamination. The notorious oil spill that was discovered in 1978, however, has contributed enormously to the Creek's degradation. The spill, caused largely by Exxon Mobil, was originally thought to consist of 17 million gallons of oil. Recent estimates, however, have indicated that the spill may be as large as 30 million gallons, making it by far the largest such spill in the country. The Creek has been called the most polluted waterway in America.

Despite the tremendous environmental challenges facing Newtown Creek, the surrounding communities of Greenpoint in Brooklyn and Hunters Point in Queens have experienced significant growth and development in recent years. The City has actively encouraged residential development in these communities and is likely to continue doing so. This heightens both the potential health problems arising from the Creek's contamination and potential environmental and recreational opportunities presented by a remediation effort.

The EPA's recent report on the extent of the Newtown Creek oil spill provides welcome answers to many ongoing questions concerning this environmental catastrophe. Unfortunately, many important questions, particularly those related to the health and safety of nearby residents, remain unanswered. As development continues and the population living in the vicinity of the Creek continues to grow, it will be increasingly important to understand the impacts of the spill on the health of area residents and develop plans to address those problems.

The complicated cleanup of the Newtown Creek oil spill will be a long

and costly process. It is disturbing to see that far too little progress have been made in the nearly thirty years since the spill's discovery. ExxonMobil and the other oil companies that are primarily responsible for the spill must be held accountable. DEC has a clear responsibility to more vigorously enforce existing consent decrees and to work towards new and more effective remediation programs. It is essential for DEC to develop a comprehensive remediation plan that will identify all responsible parties and stipulate a clearly articulated timeline. This plan should be developed in coordination with all stakeholders in the area, including the community organizations that have been active in the area for many years. Specifically, efforts should move beyond the current boom and well recovery system, and should be targeted to prevent seepage into the creek in the first place.

The Newtown Creek cleanup efforts also need to be supported by a broad vision of the Creek's future. The NYLCV urges the City to undertake a broad planning process in order to determine the best possible future uses of this important waterway. The City should engage local community leaders and stakeholders to develop this vision of Newtown Creek's future. Increasing the visibility of the Creek and highlighting the waterway's potential will widen the number of people concerned about its wellbeing and increase pressure for more rapid remediation.

The Newtown Creek oil spill ranks among the largest and most damaging environmental disasters in American history. It is incumbent upon the State and Federal governments to take a far more aggressive approach to meeting the environmental challenges in Newtown Creek.

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CONGRESSWOMAN YVETTE D. CLARKE

STATEMENT BEFORE THE NEW YORK CITY COUNCIL EPA OVERSIGHT
HEARING ENTITLED, "Cleaning Up the Oil Spill in Newtown Creek: An Update."
November 26, 2007

First, let me thank the distinguished Chairman, colleagues, community members, friends, and everyone else gathered here today for allowing me to submit my written testimony on this critical issue. Also, I would like to send my deepest apologies for not being able to testify in person; for my absence does not mean a lack of interest. I am diligently traveling around the 11th Congressional District ensuring constituents that their concerns, such as immigration, homeland security, education, and affordable housing, are clearly being addressed in the House Chambers. But we must address another concern today and that would be Newton Creek.

Newtown Creek, like the Gowanus Canal in my district, was one of New York City's waterways that played a major role in transporting goods which gave a huge boost to the city's economic development. Scores of industries fortified their businesses along this channel, which separated the two boroughs, Brooklyn and Queens. One industry that increased their presence in that area was big oil companies. The first kerosene refinery was started in 1854, and by the end of the 19th century, Newtown Creek had 50 refineries in the area that resulted in increased job opportunities. However, this increase in refineries also potentially increased a water pollution and environmental health crisis that I will now begin to discuss in my testimony.

It was reported that as this nation approached the turn of the 20th century; the refineries leaked approximately 30,000 gallons of toxic material in the creek, which made its way into the groundwater. Unfortunately at that time, city officials did not have the foresight to envision the aggravating circumstance of this change such as the declining water condition and possible health hazards.

According to some reports, around 1940, oil began spilling into the sewage pipes along Newtown Creek. At that time, the spill covered just nine acres. Then on October 5, 1950, a tank explosion erupted, triggered by fuel from one of the refineries unknowingly becoming ignited. The blast released oil that ultimately stretched well into Newtown Creek, causing approximately 17 to 30 million gallons of oil to seep underwater. An investigation confirmed that the spill aggressively expanded to a shocking 55 acres and some believe that it has continued to grow to more than six times the size of the infamous Exxon Valdez disaster that occurred in Alaska in 1989. Almost 30 years later, in 1978, the United States Coast Guard discovered oil seeping out of the Newtown Creek's banks near residential property during a routine patrol. The millions of gallons of oil that was released into the ground were now physically damaging and financially diminishing property values.

Now here we are, almost another 30 years later and many sections of the creek still contained visible amounts of the oily sheen. Although samples taken from the East River, at the point where Newtown Creek and the river meet are considered the cleanest,

layers of floating oil can still be found which measured between 30 centimeters to 3 meters thick. Many have reported the Newtown Creek spill extends from Greenpoint Avenue to beyond the Brooklyn-Queens Expressway. This was now currently compounded by raw sewage and other noxious contaminants that effervesce to the surface when it rains, which later goes back into the contaminated ground. The fumes from raw sewage and oil spills only contain a pungent odor; they also present a public nuisance due to the potential health hazard to many neighborhoods surrounding Newtown Creek. Area residents must inhale the potentially dangerous fumes and while it has remained makes up the toxic fumes' composition, the environmental group Riverkeeper in 2005 found benzene and toluene, which have been linked to cancer. Presently, no residents living there have reported any illnesses, but I believe that it is in the public interest to ensure that this environmental dilemma does not any lives at risk.

To date, the oil industry rarely used the creek and I have yet to see any substantial cleanup action. In 1990, the oil corporations liable for the polluted sites signed a consent order from the New York State Department of Environmental Conservation to start the cleanup process. Nevertheless, this process was and still is not very successful. These corporations were ordered to use pumping stations, which collect water and separate out the oil and according to them is a very slow-moving process. But it had been alleged that these same corporations repeatedly made and broke promises and ignored legal orders to clean up Newtown Creek. Now we can sit and argue that if the clean up would have been ordered shortly after the explosion in 1950, maybe Newtown Creek could have been rescued. But what we do know is that very little was done to improve the Creek's condition and I urge federal agencies to collaborate with the New York State Department of Environmental Conservation and advocacy groups to remedy the problem.

We must develop options to respond to this potential environmental health crisis that may harm New York City residents in the near and distant future. Let us not forget that Newtown Creek was vital to the city's economic growth and we must do all that we can to create an environmental renaissance to the area for all it has given to Greenpoint, Brooklyn and Long Island City, Queens.

Thank you and I look forward to working with you and my Congressional colleagues in any way I can on this important issue to New York City.