

**NEW YORK CITY  
WETLANDS STRATEGY  
DRAFT FOR PUBLIC COMMENT**

**SUBMITTED TO THE CITY COUNCIL  
PURSUANT TO LOCAL LAW 31 OF 2009**

**THE CITY OF NEW YORK  
MAYOR MICHAEL R. BLOOMBERG**

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# INTRODUCTION

Much of the city's natural waterfront consists of wetlands, the biologically rich area where water and land meet. Wetlands help improve water quality, control floods, capture stormwater runoff, sequester carbon dioxide, moderate storm surges, provide habitat for local and migratory birds, fish and other wildlife, and create a unique opportunity for New Yorkers to observe wildlife and to undertake other quiet, contemplative recreation.

When Henry Hudson first entered the New York-New Jersey Harbor Estuary in 1609, he was greeted with a breathtaking and amazing display of ecological diversity and natural beauty that is difficult to imagine when entering the Harbor Estuary today. Yet despite the significant loss of historical wetlands and streams, New York is still home to many critical natural areas in Jamaica Bay, Staten Island, and along Long Island Sound.

Wetlands are an important component of the City's vision for a greener, greater New York, and have increasingly been the focus of restoration efforts over the past two decades. PlaNYC, released in April 2007 and updated in April 2011, recognizes the importance of wetlands and establishes several initiatives to address issues of protection and restoration. PlaNYC committed to a study to identify where existing regulations are not protecting New York City's remaining wetlands as a first step in the development of a comprehensive policy. In January 2009, the City published *New York City Wetlands: Regulatory Gaps and Other Threats*, which described the gaps in federal and state regulations and recommended the exploration of policy options for the City to fill those gaps. This draft wetlands strategy builds on that white paper by examining all threats to wetlands and proposing policies to address them.

This draft wetlands strategy also builds on several other planning and policy efforts undertaken in recent years by the City. In 2007, the City released the *Jamaica Bay Watershed Protection Plan (JBWPP)* to evaluate the current and future threats to the Bay and establish strategies to address water quality, restoration ecology, stormwater management, and public education and outreach. Also in 2007, the City released a report of the Wetlands Transfer Task Force (WTF) recommending transfer of City-owned wetlands to the New York City Department of Parks & Recreation (DPR) and the New York City Department of Environmental Protection (DEP) for protection and management. And in March 2011, the City released *Vision 2020: New York City Comprehensive Waterfront Plan*, which establishes a goal and initiatives to restore degraded natural waterfront areas and protect wetlands and shorefront habitats.

This draft strategy also recognizes the important role of our state and federal partners and seeks to advance efforts already underway in collaboration with multiple agencies. A shift in thinking over the past 20 years has led to an increasing recognition of the importance of regional planning for habitat protection and restoration. Municipal and state boundaries, of course, have no impact on the flow of water and the movement of species. Ecosystems benefit from regional cooperation and coordination and the pooling of information and financial resources.

The City has actively participated in the New York-New Jersey Harbor Estuary Program (HEP), which is a partnership of federal, state, and local governments and other stakeholders focused on protecting and restoring healthy waterways, managing sediments, fostering community stewardship, and improving safe access to our waterways. Under the aegis of the HEP, the U.S. Army Corps of Engineers (Army Corps) and the Port Authority of New York & New Jersey (Port Authority) produced the draft *Hudson-Raritan Estuary Comprehensive Restoration Plan (CRP)*, a master plan for ecosystem restoration intended for use by all stakeholders. The City is an active partner in developing the final CRP and is seeking additional opportunities to leverage our efforts together with state and federal partners.

This draft wetlands strategy is written in accordance with Local Law 31 of 2009 (see Appendix C). Signed by Mayor Bloomberg on May 26, 2009, this law requires the City to create a strategy with the overall goals to conserve, protect, enhance, stabilize, restore, and expand wetlands and associated buffer areas in the city. The law also calls for a strategy to avoid and minimize wetlands losses and achieve no net loss of wetlands in the city; standardize and improve the management of wetlands and associated buffer areas; and balance the needs for wetlands protection with other, competing land uses that are in the public interest.

In particular, Local Law 31 and this draft wetlands strategy focus on the question of how to better protect small vulnerable wetlands parcels. *New York City Wetlands: Regulatory Gaps and Other Threats* found that existing Federal and State regulations protect New York City's tidal wetlands and its large freshwater wetlands from threats related to land use and development. However, freshwater wetlands smaller than 12.4 acres are not protected by State law and are vulnerable to determinations that they are outside of the scope of Federal protection. This draft strategy advances the City's understanding of the quantity and ownership of these vulnerable wetlands and proposes strategies that will enhance protection.

This draft wetlands strategy has been released to the public on January 18, 2012. The City will accept public comments on this draft strategy through **February 18, 2012** at [planyc@cityhall.nyc.gov](mailto:planyc@cityhall.nyc.gov).

# CONTEXT

## FUNCTIONS AND BENEFITS OF WETLANDS

Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, bogs, and similar areas. Wetlands have a unique position at the interface of terrestrial and aquatic ecosystems, and their assorted characteristics include stands of vegetation that are adapted to flooded conditions and shallow, multi-channeled bodies of water that buffer waves and wind.

While a number of wetlands definitions are used by federal, state and local government agencies, most definitions recognize wetlands according to their vegetation, soils, and/or hydrology. Federal and state wetland classification systems recognize two main types of wetlands, tidal and freshwater (non-tidal) wetlands. These broad categories comprise many unique ecological systems. Tidal wetlands include estuarine intertidal flats (mudflats, sand bars, and beaches), estuarine emergent wetlands (vegetated flats), or low salt marshes that are flooded on a daily basis, and high salt marshes in intermittently flooded tidelands. Freshwater wetlands include emergent, scrub-shrub and forested wetlands, or marshes, wet meadows, vernal pools, ponds, and intermittently inundated floodplains.

In New York City, wetlands were once considered wastelands to be converted to other uses through dredge and fill activity. Only recently has the importance of wetlands in densely populated urban areas been recognized. Although many of the City's wetlands have been fragmented or degraded, many continue to provide important ecological, economic, and social services.

Wetlands aid in the retention of stormwater, sediment, and nitrogen and other nutrients. By catching stormwater in wetlands, less runoff is channeled into catch basins leading into the separate and combined sewer systems or the city's surface waters. In addition, sediment, nutrients, and other pollutants from adjacent impervious surfaces are filtered by wetland plants and microorganisms, thus reducing the concentrations and frequency of nutrient-rich runoff into nearby surface waters.

Wetlands also buffer the shore from oceanic storm surges and dissipate the destructive energy of local floods. The expected sea-level rise and increased storm frequency associated with climate change will make this function even more important in the future.

Wetlands are among the most biologically productive ecosystems in the world, supporting more plants and animals and producing more organic material than adjacent aquatic or upland areas. The productivity of wetlands is often compared to tropical rainforests and coral reefs. This vegetation provides important habitat for fish and wildlife and forms the base of a rich food pyramid. In New York, more than two-thirds of shellfish, fish, and crustaceans harvested commercially and recreationally depend on these tidal wetlands during part of their lifecycle. Locally, more than half of the threatened or rare species depend on wetlands for some part of their life cycle.

Wetlands are also attractive natural features that attract wildlife for viewing and otherwise enhance the enjoyment of parks and public spaces. Wetlands are destinations for educational programming demonstrating the scientific method, using the field as laboratory, studying natural history, and other hands-on learning. They provide cultural and aesthetic values to local residents as well. These open spaces are particularly highly valued in our dense urban area.

## EXISTING CONDITIONS

Urbanization over the last century contributed to the drastic decline in New York City wetlands. The construction of bulkheads, pierheads, and hardened shorelines, and the dredging of channels, has significantly altered tidal wetlands, shoreline, subsurface and aquatic habitats, and hydrology. Now, the city's high marsh areas and accessible low marshes are either completely filled or confined to narrow strips in the landscape, and the upland edges have been filled and hardened for urban development.

In the past century, roughly 85% of the coastal wetlands have been lost in the New York-New Jersey Harbor Estuary and well over 90% of the freshwater wetlands in the city have been lost. In addition, hundreds of miles of riparian corridor were taken over by development, streams were filled or piped underground, and higher order streams were straightened and disconnected from their floodplains through the typical course of urban development.

### Location

New York City's largest remaining wetland complexes are found in Jamaica Bay, Staten Island, and the Upper East River and Western Long Island Sound.

Jamaica Bay, located in Brooklyn and Queens, is one of the most productive ecosystems in the northeastern United States and contains the largest tidal wetland complex in the New York metropolitan area. Jamaica Bay contains coastal woodlands, maritime shrub lands, grasslands, freshwater wetlands, brackish marsh, estuarine tributary and island salt marsh, and open water. A little over half of the Bay is in the Jamaica Bay unit of Gateway National Recreation Area, which includes the Jamaica Bay Wildlife Refuge—the only national wildlife refuge accessible by subway.

The Bay is an important habitat for wildlife, with more than 100 species of fish, a number of endangered species (including the peregrine falcon, piping plover, and the Atlantic Ridley sea turtle), and 214 "species of special concern." More than 325 species of birds have been sighted in the Bay, which serves as an important stopover point on the Atlantic Flyway migration route for nearly 20 percent of the birds on the continent.

One of the most serious issues facing Jamaica Bay is the rapidly accelerating rate of marsh fragmentation and loss. The rapid decline of Jamaica Bay's iconic marsh islands can be attributed to many factors. Hardening of the coastline, pollution, alterations due to dredging, sediment deprivation, tidal changes, sea level rise, and the loss of freshwater tributaries have all contributed to wetland degradation, with marshland loss accelerating in the last 20 years. Lakes, ponds, and vernal pools have been drastically changed by filling, dredging, shoreline armoring, and hydrologic manipulation.

Northwest Staten Island is a diverse landscape of habitat assemblages interspersed with industrial areas. This area may boast the most diverse array of wetland types in the city, including salt and freshwater meadows, spring-fed ponds, forested swamps, creeks, and salt marshes. Wooded upland areas abut tidal complexes, supporting avian species, amphibians, reptiles, and mammals.

Northwest Staten Island became known as the Harbor Herons Complex in the 1990s when waterbird populations showed a notable increase in the area. "Harbor Herons" was a blanket term given to a group of avian species that captured public attention including the great egret, snowy egret, black-crowned night heron, great blue heron, and glossy ibis. Once considered rare sightings in the New York Harbor area, these waterbirds have become common with the improvement in water quality over the last 30 years. Other vibrant avian populations also occupy the area. And nearby wooded areas and swamps with tidal and freshwater wetlands are prime foraging sites for shorebirds.

The north shore of Queens and the southeastern shore of the Bronx, along the Upper East River and Long Island Sound contain pockets of salt marsh along inlets, coves, and islands, despite sections of armored riprap that retain hundreds of acres of fill. On the south side of the Sound, in Queens, significant salt marshes exist at Alley Pond Park and Udalls Cove. Meadow and Willow Lakes, Little Neck Bay, Pelham Bay Park, and North/South Brother Islands also contain important fish and wildlife habitat.

Thousands of acres of salt marsh, tidal channels, and mud flats once characterized the Bronx shoreline, on the north side of the Upper East River. Most of these areas were filled in by the 1950s. Existing tidal wetlands are concentrated in Pelham Bay Park along Goose Creek Marsh on the Hutchinson River.

Most of the remaining freshwater wetlands in New York City, including ephemeral wetlands and small kettle ponds, are found in large parks, including Van Cortland Park in the Bronx and Alley Pond Park and Forest Park in Queens. Staten Island's Greenbelt Park System and its multiple parks along the south shore, such as Blue Heron and Arbutus, contain the largest number and most diverse array of remaining freshwater wetlands in the city. Many freshwater wetlands are also found within DEP's Bluebelt system on Staten Island.

### **Quantity**

The wetlands and riparian systems in New York City vary widely in size, type and condition, and include diverse functions from regionally critical habitat for local and migrating birds and fish to flood management and recreation for human communities.

Current estimates of wetland areas in the City come from New York State Department of Environmental Conservation (DEC) wetland maps and from U.S. Fish and Wildlife Service National Wetland Inventory (NWI) maps. The results from these maps vary greatly due to the date that the data was collected and the methodology used (see Appendix A).

The wetlands maps from DEC, which are the official regulatory maps for New York City, count 7,388 acres of tidal wetlands and 2,745 acres of freshwater wetlands for a total of 10,133 acres of wetlands. The tidal wetlands were originally mapped in 1974 and the freshwater wetlands were mapped over an eight year period beginning in 1987. DEC freshwater wetlands maps were completed in 1987 for Staten Island, 1988 for Brooklyn, the Bronx, and Manhattan, and 1995 for Queens.

Another source of information on the location, size, distribution, and type of wetlands is provided by the National Wetland Inventory program. According to the NWI maps, the city has 4,017 acres of tidal wetlands and 1,576 acres of freshwater wetlands for a total of 5,593 acres. The most recent NWI mapping, conducted in 1999 and 2004, occurred in Staten Island, Brooklyn, and Queens, the boroughs with the greatest number and acreage of wetlands. The NWI mapping for Manhattan and the Bronx was conducted in 1970.

The NWI includes wetlands primarily larger than 0.25 acres, and identifies hundreds of acres of freshwater wetlands and salt marsh in New York City that are not mapped or regulated by DEC. Freshwater wetlands maps by DEC cover wetlands 12.4 acres (5 hectares) or greater plus those wetlands that are smaller than 12.4 acres as designated by DEC as being of "unusual local importance. Approximately 36 wetlands complexes were granted this designation in the 1980s under a provision of the State Conservation law.

### Summary of Existing Mapped NYC Wetland Acreages

	DEC			NWI		
	Tidal	Freshwater	Total	Tidal	Freshwater	Total
<b>Area (acres)</b>	7,388	2,745	<b>10,133</b>	4,017	1,576	<b>5,593</b>

Even though the NWI freshwater wetland maps include smaller parcels not counted by DEC, the NWI maps show a significantly lower amount of freshwater wetlands (1,169 fewer acres) than the DEC maps. This is partially due to their more recent vintage, which likely shows loss in wetlands areas. This difference in quantity could also be due to the difference in protocol. NWI maps were created based on what was visible from aerial photography, while DEC maps were based on compiled knowledge of conditions at a site, including using a variety of information sources, such as various types and seasons of aerial photography, soil surveys, elevation data, other wetlands inventories, and some field verification.

The NWI maps also show a significantly lower amount of tidal wetlands (3,371 fewer acres) than DEC maps, which can also be credited to newer data and the fact that DEC tidal maps account for a higher volume of unvegetated shoals and mudflats that are not reflected in the NWI tidal wetland maps.

The major discrepancies between the two sets of wetlands maps, as well as the over ten year period since the official mapping of wetlands, indicate that the present amount of wetlands in New York City is not well known.

To better understand wetlands loss and the accuracy of existing wetlands maps, the City compared the NWI and DEC wetlands maps with impervious area maps of the New York City created by the University of Vermont Spatial Analysis Laboratory. This analysis shows that citywide about 1% of tidal wetlands map by both DEC and NW have been developed or paved. This analysis also indicate that about 4% of the freshwater wetlands mapped by DEC are hard built surfaces today, and about 6% of the freshwater wetlands mapped by NWI may also be impervious. For the freshwater wetlands that are mapped by NWI but not regulated by DEC, the rate of wetland loss to impervious area is about 10% and 20% for just those parcels on private lands. This suggests that wetlands on private property are more vulnerable than those on public land.

In September 2010, the City produced preliminary maps of existing wetlands in New York City based on an analysis of high resolution QuickBird satellite imagery and 30 years of Landsat satellite imagery (see Appendix B). While these maps are preliminary and require further refinement and analysis, they represent an important step in evaluating alternative methods and technologies to assess wetland coverage within New York City. To help with this refinement, in early January 2012 DEP received the completed Quality Assurance/Quality Control review of the optical remote sensing Light Detection And Ranging (LiDAR) imagery flown for the entire City in April 2010. The incorporation of this data into the preliminary wetlands survey will improve the accuracy of the maps but will still require additional refinement and representative field verifications to further improve the confidence level in these maps. While this type of evaluation for determining wetland coverage is relatively new, DEC has shown a interest in further evaluating this mapping technology. Prior to the issuance of the final wetlands strategy, the City will meet with DEC to advance this technology. We will continue to meet with DEC, other appropriate agencies, and academic institutions to increase the usefulness of these maps.



## Ownership

In New York City, the vast majority of mapped wetlands are publicly owned. For DEC-mapped wetlands, 781 acres (approximately 28%) of freshwater wetlands and just 225 acres (approximately 3%) of tidal wetlands are privately owned. For NWI-mapped wetlands, 335 acres (approximately 21%) of freshwater wetlands and 457 acres (approximately 11%) of tidal wetlands are privately owned.

Three main public agencies own the majority of wetlands in New York City: DPR, DEP, and the National Park Service (NPS).

Of 29,000 acres of DPR parkland, 2,204 acres (1,483 acres of tidal and 721 acres of freshwater) are mapped as wetlands by NWI. These include significant areas such as Pelham Bay Park in the Bronx, Marine Park in Brooklyn, Baisley Pond and Alley Park in Queens, and multiple parks in Northwest Staten Island. Many City-owned natural areas with habitat and ecological value are protected through DPR's Forever Wild program. DPR has designated 51 areas within the City's park system as Forever Wild preserves, including many natural waterfront sites. The Forever Wild program, which encompasses 1,799 acres of wetlands mapped by the NWI, provides guidance for management and recommendations for preservation but affords no legal protection for wetlands.

DEP owns 114 acres of wetlands mapped by NWI. Most of these wetlands areas are in the Bluebelt system in Staten Island. The Bluebelt is a stormwater management system for approximately one third of Staten Island's land area. The program preserves natural drainage corridors, including streams, ponds, and other wetland areas. Preservation of these wetland systems allows them to perform their functions of conveying, storing, and filtering stormwater.

Within Jamaica Bay, the National Park Service owns a large quantity of wetlands. Originally a sanctuary protected by DPR, since 1972 a large portion of Jamaica Bay has been part of the National Park Service's Gateway National Recreation Area, including the uplands, wetlands and waters south of the Belt Parkway in Brooklyn and Queens, and most of the island marshes. The NPS owns 1,520 acres of wetlands mapped by the NWI. Of those, approximately 95% are tidal wetlands.

### Ownership of NYC Wetlands Mapped by the National Wetlands Inventory

Area by Entity (acres)	Tidal	Freshwater	Total
DPR	1,483	721	2,204
DEP	18	96	114
DEC	142	46	188
NPS	1,448	71	1,519
Other Public Agencies	69	143	212
Total Public Ownership	3,160	1,077	4,237
Wetlands Not Located on Tax Lots	394	164	558
Total Private Ownership	463	335	798
<b>Area (acres)</b>	<b>4,017</b>	<b>1,576</b>	<b>5,593</b>

## Quality

While New York City still contains valuable wetland areas that provide critical ecological services, the overall conditions of these areas vary in quality. Many wetland parcels have been significantly degraded due to human modifications to natural systems, industrial pollution, and changes to water and sediment quality. Within the harbor, most streams and creeks have been eliminated by filling, redirected through storm sewers, or altered by channelization. Even though water quality in the Harbor is cleaner than it has been in a century, these other human-created or anthropogenic factors impair the quality of wetlands.

There is no doubt that many wetlands in New York City provide high habitat value for many rare and sensitive plants and animals. Rare dragonflies and sensitive salamander species are found in streams and seepage wetlands. Staten Island wetlands are home to the largest population of the New York State-threatened southern leopard frog and eastern mud turtle. The egrets and herons of the Harbor Herons complex are well known, but other birds of concern such as grebes, rails, and salt marsh sparrows nest in freshwater and salt marshes.

Within city limits, vernal pools, or seasonal depressional wetlands that lack a permanent above ground outlet, support vibrant invertebrate communities and, in a few places, obligate amphibians such as spotted salamanders, wood frogs, and Fowler's toads. These amphibian species are rare in the city as they require both fish-free, temporary ponds for breeding and surrounding natural uplands, where they spend the majority of their lives. Due to habitat fragmentation and degradation, most historic populations of vernal pool-breeding amphibians have been extirpated. However, both pools where amphibians are no longer present, and rapidly drying pools that naturally exclude amphibians, can add significantly to biodiversity by supporting complex invertebrate communities. These invertebrates provide an important food source for birds, turtles, and other wildlife. Vernal pools with differing lengths of standing water, and therefore different assemblages of species, can be found throughout the city's natural areas.

Quantifying the habitat value, quality, or condition of wetlands is more difficult, requiring on-the-ground data collection. Due to a lack of systematic quantitative assessment of wetlands of different types and in all five boroughs, the overall condition of wetlands in New York City is not well known.

## **REGULATIONS**

Authority over the waterfront and the waterways is quite complex. The City of New York has general regulatory jurisdiction over land use within its boundaries. However, wetlands are governed by a mix of federal, state and local regulatory programs. These overlapping jurisdictions create multiple levels of protection that apply to many of the city's wetlands. Unlike some municipalities, New York City does not have its own wetland regulatory guidelines or ordinances.

### **Federal Regulations**

The principal Federal law governing wetlands is comprised of the 1972 amendments to earlier statutes that are collectively known as the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (CWA)). The purpose of the CWA is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters." The CWA does not distinguish between tidal and freshwater wetlands.

Section 404 of the CWA contains the "dredge and fill" program administered by the Corps under the oversight of U.S. Environmental Protection Agency (EPA). The CWA prohibits the placement of fill into or the excavation or dredging of material into "waters of the United States" without a Corps permit. Certain wetlands have been considered "waters of the United States" and thus within the permit requirement.

Other relevant Federal laws include the National Environmental Policy Act (NEPA), which requires an assessment of the environmental impact of all permits and other major Federal actions, and the Coastal Zone Management Act (CZMA), which requires state coastal management plans and provides for state review of Federal actions to ensure consistency with those plans

### **State Regulations**

New York State has adopted separate statutory regimes for the protection of tidal and freshwater wetlands. Those statutes potentially regulate more area than Federal law because they extend protections to buffer areas that are adjacent to wetlands. However, the statutes require that the DEC identify and map individual wetlands before they can be regulated.

The Tidal Wetlands Act of 1973 is codified in Article 25 of the New York Environmental Conservation Law (ECL) and is implemented through DEC regulations. There is no acreage threshold for jurisdiction under the Tidal Wetlands Act, meaning that all tidal wetlands are regulated regardless of size. The Tidal Wetlands Act also regulates adjacent areas up to 300 feet upland of the wetland boundary except in New York City, where the buffer area is limited to 150 feet. Tidal wetlands maps are inventoried and maintained in DEC Regional Offices. In reality, the extent of tidal wetlands is subject to frequent change because the coast is a dynamic ecosystem.

The Freshwater Wetlands Act of 1975 (FWA) is codified in ECL Article 24 and is implemented through DEC regulations. Freshwater wetlands must be 12.4 acres (5 hectares) or greater to be regulated under the Freshwater Wetlands Act. In individual cases DEC has argued that smaller wetlands are hydrologically connected through surface waters and thus can be aggregated to exceed the 12.4 acre threshold. The only explicit exception to the acreage threshold is for smaller wetlands that the DEC designates as having "unusual local importance." Localities and citizens can petition the DEC to designate individual freshwater wetlands. Article 24 of the Freshwater Wetlands Act also authorizes DEC to regulate 100 foot buffer areas adjacent to regulated freshwater wetlands.

For the protections of the FWA to take effect, the DEC must first map the wetlands, provide notice to the owners of the affected wetlands, provide an opportunity for a public hearing on the accuracy of the maps, make appropriate changes to the maps, and file the maps with all local governments. The DEC maintains official regulatory maps of wetlands. Since wetlands grow and recede, DEC is authorized to change the maps, subject to the same notice and hearing procedures. The original wetlands maps for New York City were filed between 1987 and 1995. None have been amended. If the accuracy of the City's preliminary wetlands survey can be improved, then this technology could be used to update the state's regulatory maps on a more frequent basis to account for natural and anthropogenic changes.

### **Local Regulations**

New York City owns many wetlands but does not have a stand-alone wetlands protection statute or regulation. Rather, the City's wetland policies are outlined in the New Waterfront Revitalization Program (WRP), which implements the City's coastal planning obligations delegated by New York State under the CZMA, and the City Environmental Quality Review (CEQR) Manual, which implements the City's environmental review law.

The WRP is the city's principal coastal zone management tool. As originally adopted in 1982 and revised in 1999, it establishes the city's policies for development and use of the waterfront and provides the framework for evaluating the consistency of all discretionary actions in the coastal zone with those policies. When a proposed project is located within the coastal zone and requires a local, state, or federal discretionary action, the project's consistency with the policies and intent of the WRP must be determined before the project can move forward.

The WRP designates "Special Natural Waterfront Areas" (SNWAs), which are given a higher level of protection because of having "particular natural habitat features that should be considered in connection with any waterfront activity." Three SNWAs have been designated: the Northwest Staten Island Harbor Herons Area, Jamaica Bay, and East River Long Island Sound. In addition, the WRP recognizes "Ecological Complexes" that encompass both the waterfront and upland areas that hold a "variety of important resources" as well as Significant Coastal Fish and Wildlife Habitat. Two areas fall under the Ecological Complex category: the south shore of Staten Island and the Riverdale section of the Bronx.

WRP Policy 4 explicitly calls for the City to prevent the net loss of wetlands in the city. Policy 4 also states that "public investment should not interfere" with the habitat functions within a particular wetland area and that "fragmentation or loss of habitat areas within the SNWAs should be avoided and could be the basis for a determination of inconsistency with the WRP." With particular focus on the SNWA, Policy 4 seeks to protect and restore the ecological quality of these habitats by avoiding activities that would contribute to "permanent adverse changes" and fragmentation of these areas. The policy states that these ecological complexes should be restored and protected and careful consideration should be given to indigenous plants, rare ecological communities, vulnerable species, and sites designated as Significant Coastal Fish and Wildlife Habitats.

Under CEQR review, an action of the City must be evaluated for its potential to affect freshwater wetlands, tidal wetlands, and associated buffer areas. The CEQR Manual cross references Policy 4 of the WRP. CEQR also requires an alternatives analysis for proposed actions that are inconsistent with the policies of the WRP, as well as mitigation where necessary to assure consistency with the policies of the WRP. If impacts are unavoidable, economically feasible mitigation measures must be identified and proposed. In practice this evaluation is generally limited to Federal and state regulated wetlands and buffer areas. Wetland plant and animal species that are known to be threatened, rare, endangered, or otherwise sensitive or worthy of protection are also given individual consideration. However, there is wide discretion in how these evaluations are treated and how vulnerable species are protected.

## MITIGATION POLICY

When permits are issued that allow disturbances to wetlands or their adjacent areas, regulatory agencies will often require mitigation to compensate for the wetland loss. The ratio of compensation may range from requiring the same area of wetland enhancement or creation as the amount to be filled (ratio of 1:1), or, much more commonly, may require a greater amount of compensation (e.g. ratio of 1:2, 1:3, or more). Larger mitigation ratios compensate for the problem that it is difficult to construct wetlands, particularly freshwater wetlands, to achieve the same ecological function as existing functioning wetlands. Other special requirements may be part of a project's specific permit conditions, including the type and location of wetlands.

After attempts to avoid and minimize filling are exhausted, regulatory programs require that any remaining wetlands losses must be replaced through compensatory mitigation. The end goal of mitigation is that the lost ecological functions and associated values (i.e., the economic and social benefits) of adversely affected wetlands are replaced at the same level or better. Mitigation is widely recognized as a useful policy tool in cases where competing priorities favor the alteration of specific wetlands yet also the retention of some of their functions, in an adjoining geographic area. Depending on how and where wetlands are defined and delineated, mitigation can serve as an effective way to offset losses and to protect a regulatory regime that might otherwise become embroiled in compensatory takings or other litigation. However, for mitigation to be effective, additional regular follow-up monitoring work must be performed to ensure the mitigation project is successful and wetland functions are returning.

The establishment of human-created or improved wetlands is a maturing field, and under the best circumstances a restored, enhanced, or created wetland may take years to be as productive (in function and value) as a natural, undisturbed wetland. Some wetland types are also much more easily constructed or restored than others. For example, salt marsh reconstruction is generally successful if the appropriate design is developed, while freshwater swamp forest and emergent wetlands are more difficult to successfully design and construct. Accordingly, in mitigation decisions the preservation of existing wetlands is preferred over the restoration of degraded wetlands, and restoration is generally preferred over the creation of new wetlands.

Mitigation can take place on the site of the permitted filling activities or off-site. One off-site strategy is in-lieu fee mitigation, which allows wetland loss to be mitigated by paying a fee to a fund that then aggregates payments to larger restoration projects. Another off-site option, mitigation banking, encourages large-scale wetland restoration projects to generate "credits" that can be transferred to compensate for wetland loss within a predetermined area.

### Federal Mitigation Rules

Compensatory mitigation was first mentioned in 1980, when the EPA published guidelines for the Section 404 program. Mitigation became a key part of the Federal program after 1989 when it became national policy to have "no net loss" of wetlands. The commitment for no net loss of wetland functions and values was adopted in a 1990 memorandum of agreement between the Army Corps and EPA and then in the Water Resources Development Act of 1990.

In 2008, EPA and the Army Corps issued regulations governing compensatory mitigation for authorized impacts to wetlands, streams, and other waters. The rule clarifies the requirements for compensatory mitigation and requires the use of enforceable permit conditions, performance standards, and third party agreements. The rule initiates a watershed approach to mitigation, whereby both authorized impacts and mitigation are considered on a watershed scale rather than on a project-by-project basis, to the extent appropriate and practicable. The rule also attempts to incorporate principles of ecological restoration and

landscape ecology, by, for example, specifying detailed factors for determining ecological suitability for mitigation project sites.

**State Mitigation Rules**

New York State has not adopted statutes or regulations that authorize off-site mitigation banks for those wetlands within its jurisdiction (freshwater wetlands covered by the FWA and mapped tidal wetlands). In at least 22 other states, statutory or regulatory authority has resulted in state mitigation banks, private wetland mitigation banks, or mitigation banks for the sole use of state transportation authorities. For on-site mitigation, New York State recommends mitigation at a ratio of at least one acre of new or restored wetland for every acre filled or impacted and recognizes that it often will be necessary to implement higher mitigation ratios to fully compensate for lost wetland acreage and functions.

## CHALLENGES TO WETLANDS PROTECTION

Given the fragmented nature of our wetlands and riparian systems, there are many political, logistical, and educational challenges to protecting and restoring wetlands. These challenges are further complicated by a lack of protection for development for small freshwater wetlands parcels, the way that Federal and State mitigation requirements are enforced in practice, the existing polluted or degraded condition of wetlands, the effects of climate change, and the lack of sustainable funding source for wetlands protection and restoration.

### Development Threats

Wetland loss has occurred in New York City for a variety of reasons, but development and fill has been a primary cause. The historic pace of dredge and fill activity in wetlands has been slowed by federal and state legislation in recent decades. Most upland conversions occurred prior to the 1970s before wetlands came under the jurisdiction of the Army Corps and (together with wetlands adjacent areas) the DEC.

One study of Jamaica Bay estimates that 1,174 acres were lost from 1900 to 1974 due to filling for development, airports and landfills. As applied in New York City, current federal and state policies result in limited fill activity in wetlands and adjacent areas under certain circumstances. However, some wetlands parcels are still vulnerable to development.

Local oversight through relevant City laws – the CEQR process, the WRP, and the Uniform Land Use Review Procedure – does not apply to all development activities that might affect wetlands. These multifaceted programs are not exclusively or even principally directed towards wetlands protection. The WRP and CEQR requirements do not necessarily apply to all City or private actions that affect tidal or freshwater wetlands; nondiscretionary actions, or those of a limited scope, generally classified as CEQR Type II actions, are not reviewed for consistency. Accordingly, projects are not addressed in the WRP/CEQR process if they are not in the coastal zone, are built “as of right,” involve only ministerial government action, or are on the Type II list. Actions that are not subject to any of the above procedures include those affecting freshwater wetlands outside of the coastal zone, issuance of a building permits for as-of-right construction or any Type II action under CEQR, and purely private actions not involving any local or state agency approval or funding.

The true number of unprotected wetlands parcels in New York City is not precisely known, but only a small area is subject to development pressure. The NWI maps provide the best estimate for current wetlands, particularly for small freshwater wetlands that are not regulated by DEC. According to the NWI dataset, there are approximately 635 acres of freshwater wetlands in New York City that are not mapped by DEC (see Appendix A). Of these properties, 457 acres are owned by public agencies (City, state, and federal), and 72 acres are mapped as right of way, which effectively means that they are under public control due to land use regulations. Of these 457 acres of public-owned wetlands, the majority are owned by DPR (271 acres), DEP (14 acres), NPS (67 acres), the Port Authority (57 acres), DEC (16 acres), and multiple City agencies (44 acres).

Approximately 106 acres of freshwater wetlands mapped by NWI but not regulated by DEC are privately-owned, meaning they are not protected by state or federal regulations. These 106 acres exist on 1,027 City tax lots. This represents less than 7% of the total amount of freshwater wetlands mapped by NWI and less than 2% of all wetlands mapped by NWI.

Of the privately-owned freshwater wetlands mapped by NWI but not mapped by DEC, approximately 69 acres exist on tax lots greater than 0.25 acres. Since the NWI maps primarily map wetlands over 0.25 acres, this indicates that many of the parcels smaller than 0.25 acres may be connected to DEC-regulated wetlands or covered by state regulations either as part of the 100-foot buffer area or because the area would be

recognized by DEC during a field-based wetland delineation (provided the applicant pursues a permit). These 69 acres of small privately-owned freshwater wetlands not mapped by DEC exist on 83 tax lots, of which 19 tax lots contain wetlands larger than one acre. Of these 83 tax lots, 65 are on Staten Island, and they account for approximately 51 acres.

Of these 635 acres of freshwater wetlands that are mapped by NWI but not regulated by DEC, 457 acres are owned by public agencies (City, state, and federal), and 72 acres are mapped as right of way, which effectively means that they are under public control due to land use regulations. Of these 457 acres of public-owned wetlands, the majority are owned by DPR (271 acres), DEP (14 acres), NPS (67 acres), the Port Authority (57 acres), DEC (16 acres), and multiple City agencies (44 acres).

### **Mitigation Challenges**

When the filling or development of wetlands is permitted, applicants are typically required to mitigate those impacts through the restoration or creation of wetlands in within the same location or in another location. This is an important component of wetlands regulations since there are times where it is necessary to develop wetlands for important public infrastructure or key economic development projects that provide critical public benefits. However, as it exists in New York State, there are multiple challenges with the current mitigation system.

Wetlands mitigation in New York State requires restoration at the site of the disturbance or at a nearby location. In an urban setting, it can be difficult to achieve the goals of development and environmental restoration on a single parcel. This system often is not practical in New York City due to a lack of available space for on-site mitigation. It also leads to sub-optimal outcomes as the existing system often encourages restoration projects that are small, expensive, and of lesser habitat value. These significant flaws mean that the public is not getting the greatest benefit from the money spent.

The conventional wisdom has been that on-site mitigation provides better compensation for lost wetlands functions. More recent studies have re-examined these assumptions in light of the well-documented failure of on-site mitigation programs and the specific wetlands function sought to be replicated. Those studies have concluded that while hydrologic functions should be replicated as close as possible to lost wetlands, habitat functions may be better replicated off-site where wetlands can be larger, less fragmented, and more removed from the disrupting activities of human society. In addition, there are fewer wetlands available for mitigation, especially to meet in-kind and on-site constraints. Federal regulators acknowledge these failings and encourage the use of alternative mitigation mechanisms such as in-lieu fee mitigation or mitigation banking.

The current mitigation system also provides challenges to permit applicants since they often encounter regulatory hurdles, time delays, and uncertain outcomes that can hinder their ability to maintain their properties or create new housing, businesses, or open space. The maritime industry, which relies on the waterfront and waterways and routinely needs to build and maintain structures in and at the edge of waterbodies, is particularly affected by challenges in the permitting process.

### **Pollution**

Another current threat to wetlands is posed by sediment and pollutants, such as excess nutrients and metals, carried by sheet flow from non-point sources that are upgradient of wetlands. This untreated stormwater runoff can slowly fill wetlands and degrade habitat. To a degree, wetlands can absorb and filter these pollutants, as aptly demonstrated by the Bluebelt system on Staten Island, where engineered wetlands absorb and filter street runoff. But if pollutants exceed the carrying capacity of wetlands, then ecological functions will diminish over time.



### **Climate Change and Sea Level Rise**

Wetlands, like other fragile habitats and the biodiversity they nurture, are further threatened by the impacts of climate change and sea level rise. The City has worked with leading scientists and climate change experts through the New York City Panel on Climate Change (NPCC) to better understand the overall threat from climate change. The NPCC projects a sea level rise of 2 to 5 inches by the 2020s, 7 to 12 inches by the 2050s, and 12 to 23 inches by the 2080s. Under a scenario of rapid land-based ice melt, sea level rise could be 41 to 55 inches by the 2080s.

Sea level rise will cause the zone of wetlands-appropriate elevations to migrate inland. Depending on the vertical shore profile, a three foot sea level rise would cause the shore to retreat horizontally by as much as 50 to 100 yards. A key question is whether this natural inland migration can occur.

In New York City, the highly urbanized upland edge of many of our tidal wetlands prevents inland migration to adjacent upland or freshwater zones. Development before the adoption of federal or state regulations often occurred directly up to or on wetlands, leaving no transition area. Even development of upland adjacent areas that took place after federal or state wetland regulations may not have left much transition area for inland migration. While state law requires a 150-foot transition area in New York City, and 300 feet elsewhere, in practice permitted fill activity has been allowed much closer to the wetland boundary.

Even where some inland migration is possible, or wetlands will otherwise tolerate sea level rise, other aspects of climate change will pose a threat. For example, more extreme weather events, including greater storm surges and higher waves, will increase erosion and harming wetlands. Another hurricane like the 1960 hurricane that swept through the New York City area could scour out shallow sediments all the way to (and over) sea-walls, coastal roads and other hard shoreline surfaces, and cause significant damage to coastal wetlands.

### **Funding**

The maintenance, stewardship, and restoration of wetlands and natural areas require significant financial resources. Protection and restoration in New York City is particularly expensive. Cost-effective opportunities for restoration are increasingly difficult to find today, with high costs (and sometimes environmental impacts) of fill removal, site constraints, limited space, and competition for land. The establishment of sound, sustainable management and restoration goals is particularly challenging in our highly urban context with on-going environmental stressors and often-conflicting objectives for restoration. Wetlands restoration ranges from between \$290,000 and \$2,000,000 per acre in New York City.

Currently there is no dedicated funding mechanism for restoration projects. The City has funded restoration efforts using general operating funds as part of mitigation for landfill closures or other capital projects. Otherwise most restoration projects have been funded through grants from the federal and state governments and from non-profit groups. Maintenance and management functions are underwritten by general appropriations; external sources of funding are not generally available for these essential functions.

Recent federal funding for wetlands restoration has been authorized primarily on a project-by-project basis, and no stable funding source exists. A main vehicle for federal funding has been the federal Water Resources Development Act (WRDA) administered by the Army Corps. WRDA, originally authorized in 1974, has been renewed nine times, but not since 2007.

Even if we consider WRDA, federal wetland restoration and protection efforts in New York Harbor are underfunded in relation to other major estuaries. For example, The Environmental Protection Agency's FY 2011 budget included significant funding for ecosystem restoration work around the Great Lakes (\$300

million), Chesapeake Bay (\$63 million), and Puget Sound (\$20 million). Similarly, the Department of the Interior's FY 2011 budget increased restoration investments for such treasured landscapes as the California Bay-Delta region (\$155 million), the Everglades (\$75 million), Chesapeake Bay (\$32 million), and the Gulf Coast (\$27 million). A goal for the New York-New Jersey Harbor Estuary should be to have meaningful funding levels that are commensurate with these other regions and that recognize the significant ecological importance of the Harbor.

Managing and maintaining wetlands is also expensive. There are costs associated with maintaining these valuable areas regardless of the level of human visitation. Many wetlands require restoration of their hydrologic regime and native vegetation. Any boardwalks, benches, piers, and observation areas must be kept clean and in good repair. Adequate security and enforcement helps ensure public safety and prevents illegal dumping and off road vehicles. Such investments in natural infrastructure are necessary.

Achieving successful management and long-term restoration goals will require additional funding. To continue and increase restoration efforts, the City must strengthen partnerships with other government and local entities. The City will also need to develop innovative funding mechanisms that can enhance natural areas while also providing other environmental or public benefits. If the New York Harbor is to remain an ecologically vibrant region, a steady and dedicated stream of funding is necessary for local professionals to take a coordinated and scientific approach to restoration that does not neglect important restoration opportunities.

# OUR PLAN

PlaNYC established a goal to improve the quality of our waterways to increase opportunities for recreation and restore coastal ecosystems. The initiatives contained within this draft wetlands strategy are critical components that will help us achieve this goal.

One of the goals of this wetlands strategy is to achieve no net loss of wetlands. But this strategy also recognizes that addressing the quantity of wetlands in New York City does not provide a clear enough picture. This strategy also establishes the goal to improve the quality of the city's remaining wetlands and maximize their ecological functions to the greatest extent possible.

To achieve our goals, this draft wetlands strategy establishes a framework to address four key areas: protection, mitigation, restoration, and assessment. We will protect wetlands by improving public management of wetlands parcels, by seeking to acquire vulnerable privately-owned sites, and by enhancing the City's Waterfront Revitalization Program. We will improve wetlands mitigation by partnering with state and federal agencies to enhance mitigation guidance and establish a mitigation banking mechanism for public projects. We will restore wetlands by completing over \$50 million of ongoing projects, establishing a Natural Areas Conservancy, and partnering with the Army Corps and other regional partners to implement the Comprehensive Restoration Plan. Finally, we will assess wetlands to fill critical knowledge and data gaps by improving wetlands mapping, developing a wetlands research agenda, evaluating ecological functions of existing wetlands, and studying the impacts of climate change and sea level rise.

This draft strategy provides many important initiatives, but it does not cover everything the City is doing to create better conditions for wetlands. PlaNYC, the NYC Green Infrastructure Plan, the Comprehensive Waterfront Plan, and the Waterfront Action Agenda contain many commitments to greatly improve the overall harbor water quality and enhance the health of our ecosystems. These initiatives complement the protection and restoration efforts within this strategy.

We are upgrading our wastewater treatment plants to increase their capacity and improve the quality of the water they discharge. We will complete \$770 million worth of upgrades at the Bowery Bay, Tallman Island, and Wards Island wastewater treatment plants to reduce nitrogen discharges into the East River by more than 50%. We will also reduce the nitrogen discharged into Jamaica Bay by nearly 50% over the next 10 years.

We are making cost-effective "grey infrastructure" investments such as upgrading and constructing new detention facilities and pumping stations. Over the next 20 years, we will invest \$2.9 billion to construct grey infrastructure projects that reduce the amount of untreated water discharged into our waterways.

We are also making a transformative \$1.5 billion investment in green infrastructure that captures or detains stormwater before it can enter and overwhelm the sewer system. We will design, build, and maintain stormwater source controls, or small installations that control stormwater where it meets impervious surfaces. In 2010, we launched the NYC Green Infrastructure Plan. It will supplement traditional approaches with a \$1.5 billion, 20-year effort to improve water quality by making the city greener and more permeable. This investment, paired with targeted cost-effective grey infrastructure, will reduce combined sewer overflows (CSOs) by 40%. Green infrastructure will not only improve the quality of our waterways. It will also clean the air, lower energy demand, reduce carbon emissions, increase species habitat and property values, and reduce the city's vulnerability to the impacts of climate change.

We are investing millions of dollars in actively restoring the wetlands of Jamaica Bay. These efforts, encompassed within DEP's Jamaica Bay Watershed Protection Plan, include habitat restoration in and along Jamaica Bay and a comprehensive strategy by DEP to improve water quality while creating productive ecological areas.

We are also expanding the Staten Island Bluebelt Program, which purchases land to preserve it for surface water management purposes. Since the early 1990s, we have relied upon wetlands and natural areas in our Bluebelt system in Staten Island to convey, filter, and store stormwater runoff, thereby eliminating the need for costly storm sewer systems. Using natural systems in place of traditional sewers has saved taxpayers \$80 million in infrastructure costs, raised property values, and restored damaged habitats. The Bluebelt system is a successful model of a cost-effective sustainable stormwater management strategy that provides multiple benefits in addition to improving water quality. In Staten Island, we will expand the Mid-Island Bluebelt to Oakwood Beach, New Creek, and South Beach. We will also expand the use of this approach in parts of Queens and other boroughs where it is cost-effective and there is sufficient space.

All of these improvements will revitalize our city's aquatic ecosystems and allow millions of New Yorkers to access areas that have been off limits to recreational use for decades. Our commitment to improving our waterways is a critical element of our environmental stewardship for the next generation, which needs and deserves a clean and healthy harbor ecosystem.

## PROTECTION

### INITIATIVE 1

#### **Strengthen protection of vulnerable wetland parcels**

In recognition of the state and federal regulatory gaps that leave freshwater wetlands smaller than 12.4 acres vulnerable to development, the City evaluated options for increasing regulatory protection, including creating a local wetland regulatory scheme that would protect smaller freshwater wetlands below 12.4 acres.

Unlike other states that preempt all local regulation, New York State's wetlands statutes explicitly recognize several alternatives for local regulation of wetlands. The City could establish its own wetlands permit program. In New York State, municipalities can choose to enact independent wetlands protection and management ordinances if they are at least as protective as State law. In practice, this means that municipalities can enact freshwater wetlands laws that protect wetlands less than 12.4 acres in size through a local permitting regime.

Local legislation would be required to establish a permitting authority, a review procedure for permitting decisions, and a system for monitoring and enforcing permit requirements. In addition, a local permitting program would require additional resources to identify remaining wetlands, create regulatory maps, process permit applications, and enforce permit conditions.

Local wetland protection ordinances are common in many nearby municipalities and counties (e.g. Westchester and Suffolk Counties). Such local ordinances may, under State law, "...assume regulatory authority over State-designated wetlands from the DEC pursuant to Article 24 of the ECL by adopting local laws which incorporate specific provisions set by the State. To assume this authority, local governments must demonstrate to the State adequate technical, administrative and enforcement capabilities to carry out the state program." For example, Westchester County has developed a model ordinance for use by municipalities within that county. The model ordinance, as well as actual ordinances enacted by towns within Westchester, requires permits for most activities on or around wetlands that are smaller than the State threshold. The permits are reviewed by a special board or reviewing authority and can include mitigation requirements.

Any policy discussion must take into account whether there are a significant number and acreage of unprotected wetlands that would justify a program, the costs and benefits of protecting otherwise vulnerable wetlands from development and fill, and the opportunity costs of spending finite municipal resources on one policy when another might be more cost-effective. Moreover, any restriction on land use has to be weighed against the need for housing, education, municipal services, parks, and other public needs that require land.

The City has determined that the benefits of creating a new local wetland protection ordinance to protect a relatively small number of wetlands would not outweigh the costs of establishing and enforcing a new regulatory regime. As noted earlier in this draft strategy, the vast majority of small unprotected freshwater wetlands are publicly-owned. This draft strategy finds that fewer than 100 acres of freshwater wetlands, approximately 2% of all wetlands in the city, are privately-owned.

Many of the unprotected publicly-owned freshwater wetlands were previously evaluated for additional protection through the Wetlands Transfer Task Force (WTTF). Set up in 2005, the City formed the WTTF to inventory City-owned wetlands and determine the technical, legal, environmental, and economic feasibility of transferring these wetlands to the jurisdiction of DPR or DEP for protection and management.

The WTTF completed their work in October 2007 and issued a report pursuant to Local Law 83. More than 1,000 City-owned properties totaling approximately 700 acres were identified. The WTTF recommended the

transfer of 82 City-owned wetlands properties to the Department of Parks and Recreation (DPR) and the study of an additional 111 “special review” properties for transfer.

As of December 2011, all of the “special review” properties had been assessed by DPR. Nine properties, for a total of 96 acres, have already been transferred to DPR. DPR has also initiated requests to transfer eleven additional parcels, for a total of 98 acres. When these additional transfers are complete, a total of 194 acres out of 628 acres, or 31%, of the parcels recommended for transfer to DPR or designated as “special review” will be protected as City parkland.

The remaining 72 parcels recommended for transfer to DPR require further action, such as boundary surveys, signing and securing property, removing existing debris, and performing other clean-up work at the sites, which are still currently managed by the Department of Citywide Administrative Services (DCAS), the New York City Economic Development Corporation (EDC), the New York City Department of Housing Preservation and Development (HPD), and other City agencies.

The feasibility and timing of future transfers will depend on a variety of legal, regulatory, funding, and future construction issues. In particular, DPR’s policy is not to accept additional lands unless funds are identified to pay for their maintenance. Since maintenance and management funding is limited, DPR has been reluctant to accept transfer of isolated, small, and dispersed wetlands that require significant, ongoing resource obligations in excess of their hydrologic or habitat functions. The City has placed a hold so that no City-owned wetlands properties can be transferred without the knowledge of DPR. The City will continue to evaluate opportunities to fund the necessary improvements that are required for future transfers to DPR to occur.

Of special note are three properties at Arlington Marsh on Staten Island. The Administration remains eager to complete these partial transfers; however, as indicated in the recommendations of the Task Force, the project to expand the New York Container Terminal (NYCT) calls for related work to occur that will affect the adjacent properties. The City has recently reaffirmed its intent to complete the transfer of Arlington Marsh to DPR in both the Waterfront Action Agenda, released March 2011, and the Working West Shore 2030 plan, released June 2011.

The WTTTF also recommended that 76 of the City-owned freshwater wetlands properties on Staten Island, totaling about 12 acres, be transferred to the DEP Bluebelt Program. 62 of those properties were officially transferred in October 2011 because these parcels expressly play a role in stormwater management, a legal responsibility of DEP rather than DPR, and have a fee-based funding structure associated with them that DPR does not have. Of the remaining 14 properties, DEP will be seeking jurisdiction for nine of them. The other five properties are not adjacent to existing Bluebelt holdings and, therefore, not suitable for inclusion in the system.

#### **INITIATIVE 2**

##### **Increase wetlands acquisition efforts**

The City will seek opportunities to increase the acquisition of important wetlands parcels.

DPR has made a concerted effort to not only acquire and protect, but also in many cases to restore City wetlands and their adjacent areas. While DPR wetland acquisitions have tended to be properties already in City ownership, several have been private in-holdings. In the last ten years, DPR has acquired more than 2,000 acres of natural lands. Of those, Staten Island acquisitions accounted for 1,487 acres. Approximately half of DPR’s acquisitions within the five boroughs have included tidal wetlands, with some interior freshwater wetlands and associated woodlands.

The DPR acquisitions over the last 15 years have included important sites in all five boroughs. On Staten Island, acquisitions have included Blue Heron Park, Neck Creek Marsh, Long Pond Park, and wetlands at the Staten Island Industrial Park and Arden Heights Woods (602 acres); Ocean Breeze wetlands (110 acres); and Isle of Meadows (100 acres). In Queens, key sites include Vernam Barbadoes Peninsula (19.9 acres), Powell's Cove (21 acres), and Broad Channel wetlands (35 acres). Other acquisition include Paerdegat Basin (160 acres) in Brooklyn, Soundview Lagoons addition (31 acres) and North Brother Island: 30 acres) in the Bronx, and wetlands and upland riverfront at Sherman Creek (14 acres) in Manhattan.

DEP has also already acquired 325 acres of significant wetland and adjacent areas for the Staten Island Bluebelt and is planning to acquire an additional 195 acres over the next 30 years. The watersheds benefiting from Staten Island Bluebelt stormwater management projects include Richmond Creek, Sweet Brook, Blue Heron/Seguine Pond, Arbutus Creek, Wolfe's Pond, Lemon Creek, Sandy Brook, Mill Creek, Jack's Pond and Wood Duck Pond. The new Mid-Island Bluebelt system will acquire wetland and adjacent areas within the Oakwood Beach, New Beach, and South Beach sections of Staten Island.

A number of specific NYC wetlands have been identified as priority or acquisition sites by several federal, state, and City initiatives including the New York State Open Space Plan and the New York/New Jersey Harbor Estuary Program (HEP). The HEP "Priority Acquisition and Restoration Sites" list from February 2006 includes approximately 20 sites in New York City that likely contain wetlands. Unfortunately, federal wetlands acquisition program in general and the HEP program in particular are underfunded and not a reliable source for major acquisition efforts.

The City will work with local, state, and federal partners to evaluate opportunities for additional wetlands acquisitions. Specific attention will be given to the privately-owned small freshwater wetlands parcels that are not protected by state or federal regulations. DEP will evaluate private parcels in Staten Island that may be candidates for future inclusion in the Bluebelt program. The City will also seek to strengthen its partnerships with groups such as the Nature Conservancy and the Trust for Public Land to increase opportunities for future wetland acquisitions.

### **INITIATIVE 3**

#### **Update the Waterfront Revitalization Program to enhance wetlands protection**

The WRP is the City's formal policy for balancing economic development, natural resources protection, and public access on the shoreline. When a proposed project in the coastal zone requires a local, state, or federal discretionary action, a determination of the project's consistency with the policies and intent of the WRP must be made before the project can move forward. The Department of City Planning (DCP) is currently undertaking a process to revise the WRP, which was released 1999. This process will be underway throughout 2012 as proposed revisions must go through public review and approval.

Currently, the WRP identifies three coastal areas with regionally significant ecological resources as Special Natural Waterfront Areas (SNWAs)—Jamaica Bay, East River/Long Island Sound, and Northwest Staten Island.

To promote the city's goals for protecting and restoring coastal wetlands and other ecosystems, DCP is proposing to designate additional sites of ecological importance in the city's WRP. The proposed revisions will identify additional sites beyond the boundaries of the SNWAs as Recognized Ecological Complexes. This mapping is based on a review of science-based local and regional restoration plans. The identified sites are clusters of natural resources, though smaller and more fragmented than the SNWAs and often interspersed

with developed sites. Many are substantially environmentally-deteriorated and require an active approach to restoration.

For projects proposed at one of these sites, the WRP policy will be to pursue further identification of natural resources, and proposed projects should, to the extent practicable, incorporate design features which promote restoration opportunities as identified in one of the following plans: *Hudson-Raritan Estuary Comprehensive Restoration Plan*, the Trust for Public Land and NYC Audubon's *Buffer the Bay and An Islanded Nature*, the *New York State Open Space Plan*, and the NYC Audubon's *Natural Areas Initiative*.

As we update the WRP in the coming year, we will consider designating additional sites of ecological importance, such as the Upper Bronx River, Arverne, Plumb Beach, the southern portion of the Arthur Kill shoreline, portions of the Raritan Bay shoreline, the Staten Island Greenbelt, and Staten Island South Shore Bluebelts. Adding these areas to the Waterfront Revitalization Program as sites of ecological importance would enhance their protection.



## MITIGATION

### INITIATIVE 4

#### **Work with state and federal partners to revise wetlands mitigation guidance**

Opportunities for wetland mitigation occur frequently in New York City, but the regulatory process for mitigation could be improved to reflect the unique conditions here. Regulatory reviews of projects from New York City should recognize that the city's dense urban setting might call for a different approach to the protection and enhancement of natural resources than is used in less-developed areas. In other parts of the state, the waterfront is generally characterized by a range of low-density uses and parks on large tracts of land. An appropriate approach for New York City is to recognize the ecological opportunities that do exist and to use the development process to improve environmental conditions.

While mitigation is regarded as a helpful tool in wetlands management, there have been a number of problems with past mitigation programs, and the lack of effective oversight constitutes a significant gap in existing regulatory protections. A 2005 GAO report of the U.S. Government Accountability Office (GAO) found that a low percentage of mitigation projects were monitored for compliance and a low percentage of those projects achieved required mitigation ratios. Of mitigations required, about 75% were actually implemented, half of those ultimately comply with permit requirements, and 20% overall achieve some measure of functional equivalence with lost wetlands. This is consistent with the experience in New York City since the vast majority of wetlands mitigation projects are small (usually less than an acre) and conducted on-site.

The practical problems in requiring numerous small mitigation projects have led the Army Corps and EPA to conclude that on-site mitigation is less promising than mitigation banking and other efforts that create or restore larger wetland areas. The March 2008 federal Wetlands Compensatory Mitigation Rule rejected a preference for on-site compensatory mitigation because the failure rate is quite high, and instead expressed a more open attitude towards large-scale, off-site projects. The rule is based on findings that mitigation banks and similar pooling arrangements can create economies of scale, are easier to track, are more dependable, create habitat of sufficient size, are supported by trust funds, and are more easily turned over to non-profits or other entities for management and stewardship in perpetuity.

The wetlands mitigation process in New York City should be improved to better achieve ecological goals of replacing loss wetlands while making it easier for public institutions and private developers who are attempting to comply with environmental requirements. We need to adapt our approach to wetlands mitigation now that we have evolved our techniques and practices for mitigation and large-scale restoration, which have allowed for many valuable acres of habitats to be created while still allowing for sustainable economic growth and maintaining a vibrant waterfront with incentives for economic investment, job creation a working waterfront.

DEC's requirements for wetlands mitigation exist in a series of guidance documents. DEC's Freshwater Wetlands Regulation Guidelines on Compensatory Mitigation was produced in 1993 and is currently available on DEC's website. This guidance establishes a priority to first avoid and then minimize project impacts and that the preferred order of compensatory mitigation is wetland restoration, then creation, and finally enhancement. DEC states a clear preference for compensatory mitigation to be in-kind and on-site. DEC also requires that mitigation proposals should be based on plans containing clear specific detail, short- and long-term goals, and measurable performance criteria. Also, DEC states that mitigation preferably should be completed prior to starting the permitted project or concurrently with it.

Similarly, DEC's tidal wetlands mitigation requirements are not posted on their website and generally not publicly-available. Their guidance for tidal mitigation exists in an internal memo from 1986 and a draft memo

from 1995 that was never finalized. The mitigation process in New York City should be improved to increase transparency and provide more clear guidance.

The City has formed a working group with DEC, the Army Corps, EPA, and other key stakeholders to evaluate changes to mitigation policy. The City's goal is to improve the effectiveness of the mitigation process and the implementation of mitigation projects. The City will work state and federal partners to provide clear, transparent, and scientifically-backed guidance.

The City will seek to advance the State's mitigation policy to ensure greater predictability in the permitting process and improved protection and restoration of sensitive wetland habitats. The City will seek to create a clear mitigation policy based on existing scientific information that includes guidance on requirements for types of mitigation, ecological criteria and assessment of impacts, amounts of compensation and replacement ratios, financial guarantees, monitoring and maintenance, and geographic service area. The City will also seek acceptance for creative approaches that are suited to New York City's unique urban conditions, such as receiving mitigation creation for debris removal and hazardous material remediation.

#### **INITIATIVE 5**

#### **Create a wetlands mitigation banking or in-lieu fee mechanism for public projects**

Mitigation banking can provide economies and ecologies of scale for wetland restoration. The consolidation of scientific expertise, financial resources, and regulatory oversight into large-scale mitigation activities can streamline the permitting process and ensure that mitigation is both professional and ecologically significant. Mitigation banking or in-lieu fee mitigation, if established in New York City, could channel resources to larger ecological restoration projects. Instituting a policy on these methods of mitigation could provide important new tools to improve the permitting process—and improve the environment.

The 2008 *Compensatory Mitigation for Losses of Aquatic Resources Final Rule* issued by the Army Corps and EPA establishes performance standards and criteria for mitigation for activities that require federal permits. The two options favored in the Final Rule guidelines are in-lieu fee mitigation and mitigation banking.

In-lieu fee mitigation involves permit applicants designating an approved third-party organization to undertake wetland creation, restoration, and/or enhancement. The third-party organization—typically a governmental agency or non-profit—has an agreement with appropriate regulatory agencies to use fee payments from permit applicants to engage in compensatory mitigation. In-lieu fees have proven beneficial because they allow organizations with technical expertise to tackle complex wetland projects. In the past, federal regulators have favored in-lieu fee arrangements, but the Army Corps now lists them second in its preference hierarchy.

Mitigation banking, the Army Corps's preferred mitigation strategy, allows permit applicants for projects of all sizes to purchase "credits" from a restored, established, enhanced, or preserved wetland, stream, or other aquatic resource. Based on a wetland assessment, a mitigation bank assigns habitat/ecological value to those resources in the form of credits that can be sold by the bank to permit applicants to offset losses of natural resources due to dredge and fill activities. Bank credits can be disseminated for projects within a delineated geographic region, or service area. Assigning credits and standardizing mitigation ratios (for example, one acre of wetland impact could require three acres of restoration) make the process more predictable.

The mitigation bank organization, which can either be a private or public entity, is responsible for restoring, enhancing, or preserving natural resources. A bank's mitigation requires a detailed plan prior to approval. The bank owners and regulators have a formal agreement, or bank instrument, to establish liability, performance standards, management/monitoring requirements, and terms of credit approval. An interagency review team,

usually chaired by an Army Corps representative, provides regulatory review, approval, and oversight of the bank and its mitigation efforts. This built-in enforcement ensures that a project meets its restoration goals.

Mitigation banks are often more successful than on-site mitigation projects. This is in part because many projects have modest wetland impacts. Mitigating individually for such impacts often results in a mitigation project that provides little, if any, environmental benefit. In contrast, a mitigation banking plan can be implemented on behalf of multiple projects. By assembling and applying extensive financial resources, planning, and scientific expertise not always available to permittee-responsible mitigation projects, mitigation banks reduce uncertainty over whether the compensatory mitigation will be successful. Mitigation banks also reduce permit processing times, and thereby improve the cost-effectiveness of compensatory mitigation. Finally, a mitigation bank can be created before a project is started, therefore ensuring the continuity of ecosystem services.

Both mechanisms provide numerous benefits over the current system by consolidating funding into larger projects that produce economies and ecologies of scale. By consolidating restoration projects and permitting approvals, these alternative mitigation strategies can save taxpayers and regulators time and money. The City will work with the State to develop wetland mitigation alternatives that will make the regulatory process more efficient and increase wetland restoration and creation opportunities.

The City will develop a mitigation banking mechanism for public projects. We will evaluate future City capital projects to determine the potential future need for wetlands mitigation. We will evaluate the costs of past on-site mitigation efforts and the potential costs of future on-site mitigation. We work with State and Federal regulators and natural resource managers to develop a comprehensive list of wetland mitigation opportunities and evaluate the costs and feasibility of using these sites to generate mitigation banking "credits." We will evaluate the remaining parcels that were recommended for transfer through the Wetlands Transfer Task Force but have not yet been transferred due to funding issues. We will also evaluate site identified for restoration through the Comprehensive Restoration Plan. Such a coordinated effort will allow for greater efficiency and efficacy for those public projects obligated to mitigate wetland impacts.

## RESTORATION

### INITIATIVE 6

#### **Complete City-funded restoration projects**

Protecting existing wetlands may not be enough to reduce the threats to our natural systems. We may also have to restore degraded wetlands and create new habitats to replace losses that have occurred.

The City has a long track record of wetlands restoration efforts. The earliest protection and management actions emerged from natural area inventories that led to fencing and removing dumped cars from forests and wetlands. In the 1990s, wetlands restoration efforts in the City were driven by spill response or outfall remediation at locations such as the Arthur Kill and Willow Lake.

Restoration projects continue today focusing on re-establishing appropriate hydrologic regimes, soils, and native wetland vegetation communities through fill removal, re-grading, clean soil placement, native plant installation, erosion control, and invasive plant management. To date, DPR has restored 80 acres of freshwater wetland and 90 acres of salt marsh at sites including Pugsley Creek, Four Sparrows Marsh and Prall's Island.

DPR is currently undertaking numerous wetlands restoration efforts. In Marine Park in Brooklyn, DPR is restoring White Island through shoreline stabilization, invasive species removal, planting of marsh grasses, and the placement of 150,000 cubic yards of sand that was dredged through the Army Corps's Harbor Deepening project. This project is adjacent to a \$2.7 million project at Gerritsen Creek that restored 31 acres of wetland and 23 acres of coastal grassland upon completion in July 2010. DPR is also undertaking restoration projects at Freshkills Park in Staten Island, Meadow Lake in Queens, and in the Bronx at Pugsley Creek, Soundview Park, and further upstream along the Bronx River.

DEP also has led several restoration projects. On the perimeter of Jamaica Bay, this includes the closure and remediation of the Pennsylvania Avenue and Fountain Avenue landfills. These inactive hazardous waste sites are being transformed into safe, productive, and usable open space. DEP's ecological restoration plan for these properties is consistent with and will enhance the existing natural features of Jamaica Bay. This project involved the planting of 30,000 trees and shrubs and more than 400 acres of coastal grasslands.

DEP recently completed a \$20 million environmental restoration of the northern portion of Alley Pond Park in Bayside, Queens. The project, which restored wetlands and reintroduced local plant life to a 16-acre section of the park, is part of an overall effort to reduce CSOs into Alley Creek and Little Neck Bay. The restoration project included the construction of eight acres of tidal wetlands, and eight acres of adjacent coastal grassland and shrub land habitat. Prior to the restoration, the area was dominated by urban fill that had destroyed former wetlands and invasive plants that prevented native plants and animals from growing and reproducing.

DEP is also undertaking a major ecological restoration of Paerdegat Basin as part of their effort to treat and capture CSOs to improve water quality within the basin. This project entails the restoration of tidal wetlands and indigenous coastal vegetation and the construction of an Ecology Park. The Ecology Park will provide access to salt marsh, intertidal mudflats, grassland, and shrub lands, and it will also offer educational exhibits about coastal habitats.

EDC also is undertaking restoration projects as part of the remediation of a former brownfield and creation of a 22-acre waterfront park at Bush Terminal in Sunset Park, Brooklyn. The site of the future Bush Terminal Piers Park was once part of Sunset Park's active industrial complex in the early 19<sup>th</sup> century and later became an

illegal dumping ground for hazardous waste. Today, the site exemplifies the ability for the reclamation of nature and the potential to have an ecologically vibrant and publicly accessible site within a reactivated industrial complex. After 30 years of inactivity, dense vegetation, including several well-established trees, has successfully filled in upland areas. Naturally-eroding piers have resulted in subtidal and intertidal wetlands, tidal lagoons, and an emerging sandy beach, which are home to crustaceans and multiple bird species. EDC has completed the remediation of the site and is currently constructing the public open space amenities that will transform this site into a productive natural resource and much-needed waterfront park for Sunset Park residents.

Since 2006 a partnership of city, state, and federal agencies has been restoring tidal wetlands by using dredged sediment to raise the elevation of the land and by planting cord grass. Approximately 60 acres of salt marsh have been created since the partnership began. Construction of the Elders Point East wetland took place in 2006-2007. This \$13 million restoration restored 48-acres of wetland habitat, placed approximately 300,000 cubic yards of sand, and planted more than 700,000 wetland plugs. DEP provided a cost-share of approximately \$2.5 million. Construction of the Elders Point West wetland began in November 2009. This \$11.6 million project restored 35 acres of wetland habitat, placed approximately 200,000 cubic yards of sand, and planted more than 200,000 wetland plugs. DEP provided a cost-share of approximately \$2.75 million.

In February 2010, DEP announced an agreement to improve the overall water quality and mitigate marshland loss in Jamaica Bay through a total of \$115 million in new investments. As part of this agreement, the City also will invest \$15 million for salt marsh restoration projects in the interior of Jamaica Bay. The City will leverage this \$15 million investment in the bay's wetlands by applying it as a local match to programs paid for with Federal funds, which typically pay for two-thirds of project costs. This could net an additional \$30 million in funding for Jamaica Bay marshland preservation projects. In 2012 the partnership plans to restore 30 acres of salt marsh at Yellow Bar and several acres of salt marsh along the north shore of Floyd Bennett Field.

The City continues to move forward and is actively engaged with its partners and environmental stakeholder groups in the restoration of the Jamaica Bay salt marsh island complexes. In addition to the previously mentioned restored salt marsh islands, the restoration of the Yellow Bar salt marsh island began in December 2011 with the award of the sand placement option for the approximate 45-acre restoration footprint. The sand placement of approximately 350,000 cubic yards at Yellow Bar will continue through late winter. The planting contract for the installations of the hundreds of thousands of wetland plants was awarded in January 2012 and will begin after the sand placement is complete and the appropriate planting window opens up in spring 2012.

In addition, the City and State will be the 100% funding sponsor for the sand placement on two additional salt marsh islands, Black Wall and Rulers Bar. Sand will be placed to restore approximately 25 acres for the two islands. Funding agreements between the partners are currently being developed and the hope is to have them finalized in spring 2012. While these two islands will not be planted with plugs under a specific contract, additional grant funding has been secured that will help with volunteer seeding and planting of these two islands.

Future salt marsh island restorations and other restoration improvements will be coordinated with all agency partners and environmental stakeholder groups. After the completion of the current work, all restoration partners will convene to discuss the design and implementation of additional restoration work.

Since 2002, the City has worked with state and federal partners to invest over \$74 million to restore over 175 acres of wetlands. In the next three years, the City will work with state and federal partners to invest over \$54 million at 17 sites to restore and enhance over 58 acres of wetlands and adjacent habitat.

## INITIATIVE 7

### **Enhance wetland restoration and management through creation of the Natural Areas Conservancy**

The next phase of our restoration work will require additional funding and innovation. To maximize efforts moving into the future, the City will seek to leverage public resources with philanthropic funding by creating the Natural Areas Conservancy. This entity will be the first citywide conservation entity in the country and a national model for other cities.

Public/private partnerships are crucial to meeting long-term sustainability goals. A unified conservation agenda for our natural areas will allow them to become platforms for the improvement of public health. Such an effort will also include a unified communications strategy and enhance the visibility of wetlands and other important ecological areas.

Most New Yorkers are familiar with Central Park and Prospect Park. Many New Yorkers are also familiar with the groups that manage these places, the Central Park Conservancy (CPC) and the Prospect Park Alliance (PPA). These groups have pioneered a successful model that has served as the template for dozens of public private partnerships in New York City. The Central Park Conservancy was founded in 1980. Between its incorporation and 2007, CPC spent more than \$450 million on restoring and maintaining Central Park. Today, CPC provides 85% of Central Park's \$37.4 million annual budget and hires 80% of its staff. The PPA was founded in 1987, inspired in part by the success of CPC. They have increased the number of park visitors by more than 300% and today support a staff of more than 100 individuals at a cost of over \$13 million per year.

Both of these organizations have increased the safety and improved the aesthetics of their parks. They have also improved the natural areas through ongoing investment in the North Woods of Central Park and the Ravine in Prospect Park. Without these institutions, these parks would not be what they are today – healthy, vibrant green spaces cherished by New Yorkers and visited by millions of tourists and contributing to public health.

Several other organizations including the Bronx River Alliance and the Greenbelt Conservancy have been similarly responsible for galvanizing the identity of their parks through fundraising, branding, stewardship, and community engagement. Building on the successes of the more than 40 public private partnerships that exist in New York City, the Natural Areas Conservancy will adopt this successful organizational model. The Conservancy will be a 501(c)(3) non-profit entity with an independent board of directors. The Conservancy will expand the capacity of DPR for natural areas management through a formal partnership agreement that clearly defines the roles and financial obligations of both parties. One of the most crucial roles that the Natural Areas Conservancy will play is to bring together the disparate interest groups that have a stake in the future of our natural areas and to cultivate an appreciation of this work with the general public.

The Conservancy will expand the existing capacity of DPR's Natural Resources Group. The staff of the Conservancy and the NRG will work together as a unified team, joined by a common mission. The organization will raise private money to fund the staffing and management costs associated with its stated goals and scope of work. The Conservancy will raise funding, cultivate local support, advocate for natural areas, and promote sustained government investment.

The City will continue its efforts to create the Natural Areas Conservancy in 2012. In the following year, DPR will seek to achieve incorporation, establishment of a board of directors and an advisory board, hiring of staff, fundraising, planning, and community outreach.

## INITIATIVE 8

### **Work with federal and state partners to complete and implement the Comprehensive Restoration Plan**

There has been great momentum behind regional planning for the Hudson-Raritan Estuary. Since 1987, the HEP's partnership of federal, state, and local governments; scientists and academics; and civic and environmental advocates have worked together to protect and restore waterways and productive habitats, manage sediments, foster community stewardship, educate the public, and improve safe access to our waterways.

The CRP identifies four principles: the Estuary is human-dominated, has been irreversibly changed, will continue to change, but can be altered beneficially through wise implementation of science and technology. The CRP also identifies 11 measurable restoration objectives, or Target Ecosystem Characteristics (TECs): coastal wetlands; islands for waterbirds; coastal and maritime forests; oyster reefs; eelgrass beds; shorelines and shallows; habitat for fish, crabs, and lobsters; tributary connections; enclosed and confined waters; sediment contamination; and public access. For each TEC, quantifiable long- and short-term objectives are described and opportunity areas identified.

The CRP has identified a total of 134 sites in NYC with coastal wetland restoration opportunities, 24 sites with tributary or stream connection restoration opportunities, and 16 sites with opportunities for restoration of enclosed or confined water bodies. These opportunities represent a wide range of sizes, conditions, types of wetlands, feasibility, complexity, and cost. Only a small fraction of these opportunities have any funding associated with them for design or implementation, or have been the subject of a feasibility study of some kind.

The CRP is meant to be a guide for the many collaborators to determine specific restoration projects within the estuary. Having a single plan ensures that the most critical parts of the ecosystem are targeted and reduces redundant efforts. However, to achieve the restoration goals, the New York-New Jersey Estuary needs substantial funding from numerous sources. Implementation of the CRP will also require cooperation among many agencies and organizations, regional partnerships that move beyond political boundaries and active support from officials and citizens.

The City will work with Army Corps, Port Authority, and other regional partners to finalize the CRP by 2013. The next steps for the CRP are to revise document based on public comments and identify new restoration opportunities missed in March 2009 draft report. The CRP partners will also further the state of the science for each TEC through detailed investigations, evaluate CRP sites/projects harbor-wide and within each planning region, validate each restoration opportunity, analyze of ecological benefits and costs, and develop implementation strategies.

## ASSESSMENT

### INITIATIVE 9

#### Improve wetlands mapping in New York City

Wetlands shift over time and the available maps of regulated wetlands within New York City are based on outdated and inaccurate information. Updated maps of wetland areas would help to quantify threats to wetlands and determine management and restoration strategies. Detailed maps are a necessary foundation for environmental planning and effective natural resources management.

Existing DEC regulatory wetlands maps are limited by the low quality and coarse resolution of available information that were compiled through overflights in the 1970s and 1980s. High resolution data mapping and GIS capability are critical for evaluating baseline environmental conditions and for observing and identifying natural resources trends over time, including changes in wetland coverage.

Local Law 31 of 2009, the law that called for the creation of this draft wetlands strategy, also required the City to submit by September 1, 2010 a “preliminary survey of likely wetland areas based upon satellite or aerial imagery.” Pursuant to this requirement, the City produced preliminary wetlands maps as well as a technical paper explaining methodology used to develop these maps. This work was completed by the Lamont-Doherty Earth Observatory at Columbia University under the management of DEP. This material is available on the City’s PlaNYC website (<http://www.nyc.gov/html/planyc2030/html/publications/publications.shtml>), and the preliminary maps are included as Appendix B.

These City’s preliminary wetlands maps adopt an alternative approach to traditional wetlands mapping. The preliminary survey was completed by combining current, high-resolution satellite imagery with archival imagery to identify potential wetland areas on the basis of multiple factors such as standing water, elevation above sea level, and vegetation dynamics. These alternative maps can be updated more readily than other remote sensing map products. Prior to this effort, most wetland maps have been based on visual interpretation of aerial photographs followed by field verification. That process of visual interpretation and manual digitizing of wetland boundaries is inherently subjective, time consuming, expensive, difficult to update, and potentially error-prone.

The preliminary wetlands survey provides a unique perspective that is impossible to obtain from the ground. While remote sensing does not eliminate the need for field verification, the new imagery does provide a valuable reconnaissance tool to help scientists and decision-makers focus field validation efforts. This effort is the first step to correctly identify and better interpret the data on the maps.

The preliminary wetlands maps show the potential minimum and potential maximum extent of wetlands areas. Many areas that are currently regulated as wetlands by DEC were not identified as potential wetlands through this preliminary survey. This may indicate that our maps should be expanded, or that DEC is regulating areas that are no longer wetlands.

After further refinement of preliminary maps, these areas should be field verified to identify the presence or absence of wetlands. As such, these preliminary surveys are not yet definitive wetlands maps; instead, they illustrate potential wetland areas that require further analysis and field verification. With refinements to the methodology and field verification, this preliminary wetlands survey has the potential to evolve into final wetlands maps.



Another useful tool for wetlands mapping and assessment will be Light Detection and Ranging (LiDAR) elevation data. Recently, the City acquired new LiDAR data to more accurately assess the physical characteristics of New York City's natural and built environment. The data was developed from flights in April 2010. This data will be particularly useful to determine where there are opportunities for migration of wetlands, and where natural or built impediments will require other strategies to help protect and conserve tidal wetlands. The City will work with our partners at Lamont Doherty to incorporate new LiDAR elevation data into the preliminary wetlands maps. The recently-completed quality assurance and quality control of the LiDAR imagery has created a Digital Elevation Model (DEM) down to an elevation contour of three feet. To further improve the usefulness of this data for the draft wetlands strategy and the NYC Green Infrastructure Plan, the City is currently preparing a scope of work for the development of specifications that will ultimately lead to the development of a DEM elevation contour of one foot. The creation of this one-foot DEM is expected to take six to nine months after the completion of the development of the specifications.

The preliminary wetlands maps are an important step toward better understanding the location and extent of wetlands in the city. A field verification effort of New York City's potential wetlands areas would require funding that is currently not available. Field verification may also take several years since the work would likely need to be conducted over several seasons. The City will evaluate the feasibility, costs, and benefits of field verifying potential wetlands areas in order to develop a more accurate wetlands map for New York City.

The City believes that the State should ultimately adopt updated regulatory maps for New York City to reflect changes in wetland location and composition over the past 20 years and to provide greater certainty to regulators and landowners alike. The City is committed to working with DEC and other partners to explore opportunities to turn the preliminary wetlands surveys into a final wetlands regulatory map for New York City.

#### **INITIATIVE 10**

##### **Monitor tidal wetlands and analyze the potential impacts of sea level rise**

To maintain healthy urban wetlands in the face of sea level rise, we need to understand which wetlands are likely to be vulnerable and how we might improve the resilience of these areas through restoration or protection efforts. There are multiple inundation mapping and storm-modeling efforts already occurring in the region by various agencies under various jurisdictions with different objectives. We need to be clearer about what these scenarios mean for short and long-term wetland vulnerability, what our options are to protect them, and what this means for the way we manage and prioritize efforts.

Part of the effort to understand what these scenarios mean will be to monitor a variety of wetlands with different known influences and evaluate their ability to keep up with sea level rise. In addition, climate change drivers such as accelerated rates of sea level rise, changing storm intensities, and altered temperatures, must be studied and considered when designing corrective and restoration actions.

To remain stable, salt marshes must accrete sediment and organic material at the same pace as sea level rise. To better understand site-specific conditions and long term trends, DPR is installing Surface Elevation Tables (SETs) accompanied by marker horizons at selected salt marsh sites. These SETs are like high-precision benchmarks, developed by the U.S. Geological Survey (USGS) to distinguish between surface sediment accretion and subsurface shallow subsidence in salt marshes. The elevation measurements document whether the shallow ground surface subsiding or rising.

SETs have been installed in City parks at Pelham Bay Park in the Bronx (along a Long Island Sound tributary and along the Hutchinson River) and at Udalls Cove Park Preserve and Spring Creek Park in Queens. The placement of SETs in tidal wetlands across New York City parks will allow monitoring of rates of accretion over

the long term to help determine if the marshes are keeping pace with accelerated sea level rise. In addition, it will allow comparison of accretion rates in City parks with other areas where SETs are located in the vicinity, e.g., at Jamaica Bay (on NPS sites), Hackensack Meadowlands, Fire Island, North and South Shore of Long Island, and Narragansett Bay, as well as other SET locations nationally and internationally. Locally, an understanding of how the surface of tidal marshes are changing will help us determine where restoration and management measures may need to be prioritized to best protect remaining salt marshes across the City. These are long-term monitoring stations, and we expect to have meaningful data on the relative sustainability of these marshes beginning in 2015.

In 2012, the City will establish SETs at two more parks, including one of the large marsh complexes in Staten Island. DPR is installing and monitoring these instruments in partnership with the Nature Conservancy-Long Island, Fairleigh Dickinson University, NPS, DEC, and USGS.

In certain tidal wetland locations, naturally steep higher terrain limits marsh migration along the coastal shoreline. Artificially placed fill that is not developed, but has become vegetated over the past decades, also limits migration. Artificial fill that has remained open space, but would restrict wetland migration was observed at Spring Creek Park and Jamaica Bay, and is present to some degree at virtually all salt marsh wetland in the city.

The City will identify opportunities for the inland migration of the wetland as sea level rises. This will require coordination between researchers to agree on critical metrics and improve our collective spatial understanding of wetland conditions. This will involve seeking funding for improved elevation data to be used in coastal inundation, hazard assessment, and marsh migration analysis. The City will determine the extent to which existing LiDAR elevation data covers coastal wetland areas and if and where data gaps exist for specific analyzes. The City will also determine data needs and funding mechanism to conduct horizontal marsh migration analysis to determine those locations in NYC where adaptation strategies may be feasible. Options to protect marshes include removal of barriers to upland migration, shoreline realignment, enhancement through sediment trapping, or beneficial use of dredge material to augment subsiding marshes. Such adaptive measures could decrease the vulnerability of nearby residential communities and transportation infrastructure to flooding.

#### **INITIATIVE 11**

##### **Assess the conditions and functions of New York City wetlands**

To improve the management and protection of wetland and riparian systems and to set appropriate management and restoration objectives and priorities, we need to better understand the conditions and functions of wetlands in New York City. We need to know how conditions are changing over time, the relative condition of the different types of wetlands in the urban landscape, and the ecological and physical processes and stressors that are controlling their conditions and functions. This is necessary to make the best decisions for individual sites as well as for whole types of wetlands and riparian systems.

DPR is undertaking several assessment programs of wetlands that they own. An ongoing initiative involves the analysis of data from rapid assessments of the quality and characteristics of select freshwater and tidal wetlands mapped by DEC and the NWI on DPR property as well as select unmapped wetlands such as vernal pools or riparian systems.

Over the last three years, DPR initiated efforts to begin to assess wetland conditions and use the analysis to prioritize restoration and management needs. A rapid assessment protocol was developed for freshwater

wetlands in 2010 under a grant from the EPA. For tidal wetlands rapid assessments, DPR is piloting the Mid-Atlantic Rapid Assessment Method used in Delaware, Maryland, and Virginia

DPR piloted a Freshwater Wetland Rapid Assessment Protocol in 2009 to obtain relatively quick and standardized snapshots of wetland conditions and characteristics at City parks in New York City. This protocol was intended to provide an overview of wetland conditions, identify management needs, and help prioritize sites for further assessment, maintenance and monitoring.

Over two summers, DPR assessed 88 wetlands. These sites represent a wide range of wetland types, sizes, drainage basin areas, and proximity to development. Results suggested about 10% of the sites assessed had few highly visible signs of urban impacts while about 10% were highly impacted. The most common impacts, found at the majority of the wetlands, were the presence of trails or roads within the 100 foot wetland buffer, hydrological impacts, increased nutrients from runoff, invasive species, and trash and debris. These and other impacts were found across all wetlands, with no obviously greater impacts at one type of size than another, except in the case of invasive species (forested wetlands were least likely to have invasive plants).

Preliminary results from the tidal wetlands rapid assessments show that all buffer areas include some development impacts and that inland migration potential is severely limited at most tidal wetlands sites. Roads, housing, parking lots, airports, and other human infrastructure built on fill border and restrict most marshes. At some of the larger wetland complexes, such as Pelham Bay Park in the Bronx, Idlewild Park in Queens, and William T. Davis Wildlife Refuge in Staten Island, there may be some sites where tidal restrictions can be reduced by redesigning and re-constructing infrastructure.

DPR will implement tidal rapid assessments on their properties with specific metrics to help better characterize conditions, impacts, and constraints in New York City's ultra-urban environment. DPR plans to conduct the Mid-Atlantic Tidal Rapid Assessment Method (MidTRAM) at six sites where long-term monitoring is being conducted. These sites are Udalls Cove, Spring Creek, and Idlewild Parks in Queens, Pelham Bay in the Bronx, and Saw Mill Creek in Staten Island. The protocol includes a GIS (desktop) component and a field-based component. DPR will adapt the protocol for NYC, by, for example, accounting for elevation (steep slopes) that would inhibit inland migration of marshes. In the Delaware Estuary where the protocol was mainly developed, the terrain is flat and steep slopes are not an issue. The MidTRAM protocol to characterize landscape and vegetation conditions at the six sites will be conducted in late summer 2012 following peak growth at the end of the growing season.

The results from this assessment will be used to determine if the methodology is suitable for broader implementation across the city to help prioritize sites for protection, restoration, and management intervention. These assessments will allow the City to identify our most stable marshes and evaluate the degree of deterioration of tidal marshes in relation to ideal or reference conditions. By thus categorizing conditions, the City can better determine priorities for management, protection, or restoration at deteriorating marshes.

Ultimately, a better understanding of target wetlands and riparian ecological conditions and functions is needed to guide assessment and policy in New York City. As part of the process of defining these target, or reference, conditions, there is a need to analyze wetland systems and sub-systems and identify stressors, risks, and controls on wetland conditions and function. The City needs to better determine how specific wetland systems can be protected by green infrastructure and other best management practices, and how these systems also contribute to New York City's green infrastructure.

Several ongoing studies at DPR are helping the City to better describe ecological conditions in specific freshwater wetland systems that may help the City identify target, or reference conditions. In 2011, DPR

initiated a multi-year study of vernal pools in Queens, Staten Island, and the Bronx, with reference sites outside the city, to better understand these ecosystems in an urban environment. Thus far, pools in the city have shown that they support species characteristic of those in less-developed environments throughout the northeast; although some pools in heavily urbanized areas contain lower overall diversity and species associated with degraded water quality. More data will be collected in 2012 so comparisons can be made across sites, both within and outside the city.

DPR has also been studying the sensitivity of select wetland-dependent species, such as dragon flies, to freshwater emergent wetland conditions. Analysis of this data will continue in 2012 and be used to help identify reference conditions for high ecological function.

The condition and function of wetlands in New York City needs to be described and assessed in a way that is clear, uniform, and useful for identifying and prioritizing protection, management, and restoration opportunities as well as evaluating restoration success. There is a need to select metrics with clear, demonstrated relationships among measures of condition, management actions, and objectives. Several efforts are underway to address this need. The City is working with local, state, and federal partners through the HEP to include appropriate metrics about wetland conditions in the CRP database of restoration opportunities. DPR is further developing rapid field conditions assessment metrics in 2012 that are intended to inform and track conservation and management actions, such as invasive plant removal on Parks property. The studies described above, to be completed in 2012, will help evaluate the utility of various metrics that can characterize conditions and point to potential management needs and implications at a subset of freshwater wetland systems.

#### INITIATIVE 12

##### **Develop a research agenda to address wetlands challenges**

Research and environmental monitoring are critical components to the successful design and implementation of wetlands protection and restoration efforts. It is important to undertake scientific research to understand the causes of habitat degradation and to facilitate a coordinated approach toward corrective actions, thereby enhancing restoration success and sustainability in New York City.

Testing alternative restoration techniques is required to select those that will have the greatest likelihood of success, and ongoing restoration of marsh islands, oysters, ribbed mussels, and eelgrass in Jamaica Bay has greatly benefitted from this approach. A multitude of federal, state, city, and municipal agencies, and private sources have supported implementation of these plans. Environmental and social scientists, engineers, and planners are conducting this research.

Scientists from DPR's Natural Resource Group (NRG) conduct research on a wide range of topics including wetlands conditions, fish and wildlife habitat, management and restoration practices, and the impacts of climate change. NRG's team focuses on applied science, where all data is used to inform management decisions. This includes conducting research on bio-indicators, studying species that provide information about the health of ecosystems. NRG also undertakes long-term research about the effectiveness of restoration work, including the study of the survival of plantings the effectiveness of urban restoration on ecosystem structure and functioning.

DEP has also undertaken research projects related to wetlands and restoration. Through the Jamaica Bay Watershed Protection Plan, DEP has implemented and monitored a series of pilot projects related to ecological restoration and the loss of salt marsh. This effort has also included organizing a series of symposia every few years to highlight ongoing and emerging research. The third symposium, *State of the Bay: Past,*

*Present, and Future – Revisited*, took place October 20, 2011 and was co-sponsored by the NPS and Brooklyn College. The symposium addressed a range of issues affecting the ecology of Jamaica Bay, but, the findings have broader implications for wetlands areas in other parts of New York City and the region.

The City will continue to work with partners throughout the region to develop and implement a research agenda to address wetlands challenges. Specific research activities could include:

- Establishing a central information clearinghouse for research, monitoring, and stewardship activities
- Assessing the quantity of remaining wetlands
- Evaluating the condition and ecological functions of existing wetlands
- Gaining knowledge on key topics such as nutrient loading, sedimentation, and climate change
- Measuring fish and wildlife populations and health
- Identifying priority monitoring needs that would benefit from multi-agency support
- Sponsoring technical symposia and public education events

The City will specifically collaborate with the National Park Service to evaluate the feasibility of establishing an enhanced urban ecology and wetlands research center in Jamaica Bay. NPS is in the process of expanding their research and science capabilities. The Gateway Research Learning Center, developed in 2002 under the name of the Jamaica Bay Institute, is part of the NPS's Natural Resource Challenge. Its mission is to promote and improve the ecological health and social relevance of Gateway National Recreation Area through research, education, and informed decision making.

The NPS currently has financial support through the Research Learning Center program to serve as a catalyst for research. The North Atlantic Coast Cooperative Ecosystem Studies Unit, an existing consortium of multiple federal agencies (NPS, USGS, US Army Corps of Engineers, and others) and 15 non-federal partners, including several from the NY-NJ region (CUNY, Columbia University, Cornell University, Stony Brook University, Rutgers University), currently provides a mechanism for facilitating federal-academic cooperative studies.

For the past year, the City and the NPS have explored opportunities to increase collaboration in New York City with a particular focus on Jamaica Bay. On October 27, 2011, Mayor Bloomberg and U.S. Department of the Interior Secretary Ken Salazar announced a new agreement to improve the Federal and City parklands around Jamaica Bay. The Mayor and Secretary Salazar signed an agreement committing to a joint planning process that will devise a new, unified governing model and new, common objectives for the 10,000 acres of publicly-owned land in south Brooklyn and Queens. Through this partnership, the City and NPS, along with other public agencies and key stakeholders, will evaluate the potential to develop a new center that supports environmental stewardship by identifying and conducting priority studies, promoting multi-disciplinary research, facilitating collaboration, encouraging community support and philanthropy, and engaging and inspiring students to pursue careers in urban ecosystem stewardship.

A great model for this effort already exists in New York City. In September 2010 the City of New York and the U.S. Forest Service jointly opened the New York City Urban Field Station (UFS) at Ft. Totten in Queens. The UFS is modeled after the Forest Service's century-old experimental forest research stations across the nation. UFS scientists conduct long-term research and share knowledge to support key initiatives such as parks improvements and urban ecosystem management. A key component of this partnership was to create a joint field lab and residential space for visiting scientists. This site allows scientists to reside and work in New York City on a temporary basis for data collection and other partnership work, greatly expanding the scientific and technical staff available to work throughout the city. The new facility is designed as a shared office and lab where city and federal scientists work hand-in-hand to address critical land management questions.

# IMPLEMENTATION

This draft wetlands strategy establishes a framework for improving wetlands and natural areas in New York City. By implementing this strategy, the City will improve wetlands protection, restore the functions of important wetlands, and improve the mitigation process to both enhance ecological and facilitate important public or economic development projects. Implementing this strategy will require strong coordination and collaboration within City government as well as with state and federal agencies and key non-profit organizations and other important stakeholders.

Education and outreach are important components of wetlands protection. The City's efforts would be enhanced if more community members, landowners, and property managers recognized the values of wetlands and the biodiversity that depend on them. The City currently promotes the value of wetlands and natural areas through outreach and education at its several nature centers in Inwood Park, Marine Park, the Greenbelt, and several other sites around the city. In addition, DPR works actively with multiple non-profit organizations across the city to provide environmental education and stewardship emphasizing wetlands and streams, including groups such as the Bronx River Alliance, Rocking the Boat, the Alley Creek Environmental Center, the American Littoral Society, the Rockaway Waterfront Alliance,, the Eastern Queens Alliance, and the Salt Marsh Alliance, to name only a few.

For the last seven years, DPR's GreenApple Corps (now part of DPR's new Environmental Service and Training Programs) hosted over 100 volunteers annually to learn about and clean up coastal habitats citywide. Coastal cleanup sites were chosen based upon the most significant needs. Locations have included: Pugsley Creek in the Bronx, Kaiser Park and Mill Basin in Brooklyn, Sherman Creek and the Hudson River in northern Manhattan, Dubos Wildlife Sanctuary and Rockaway Community Park in Queens, and Lemon Creek and Conference House Park in Staten Island. In the future, we will improve our outreach and education efforts by providing more service and training opportunities related to wetlands through DPR's Environmental Service and Training Programs.

The mission of Environmental Service and Training Programs is to support the restoration and protection of New York City's natural areas through volunteerism. The Program works to recruit, train, and support volunteers for a variety of projects across the city. These projects span coastal, wetland, grassland, and forested ecosystems and include park and street trees.

Urban Park Rangers have been promoting environmental stewardship for wetlands and natural areas through innovative, outdoor environmental education programs for over 30 years. Working out of 11 nature centers, including the Salt Marsh and Inwood Hill Nature Centers, the Rangers reach thousands of New Yorkers every year and strive to heighten awareness of the open spaces and natural resources hidden within our urban landscape. Rangers lead environmental education programs for school children, mentoring programs for high school students, and active recreation programs for the general public. They patrol natural areas and rescue, rehabilitate, and reintroduce native wildlife. They also operate nature centers in parks across the City. The mission of the Urban Park Rangers is to link New Yorkers to the natural world, teach them to care for the environment and their parks, defend the parks and their wild residents, and restore New York's natural heritage.

In 2011, Urban Park Rangers led 3,509 programs for 83,622 participants, including 45,482 students served through The Natural Classroom, the Urban Park Rangers' award-winning environmental education program for students in grades K-8. They also led 27,793 people through 1,289 active outdoor recreation programs such as canoeing, fishing, hiking, birding, and nature exploration. The Urban Park Rangers are currently working

together with researchers and educators at the Center for Climate Systems Research at Columbia University to produce a new curriculum for The Natural Classroom focusing on the impacts of climate change on New York City's wetlands and natural areas.

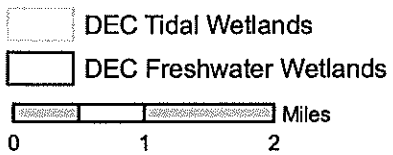
The City will track the implementation of the efforts of this strategy through a variety of ways. The annual PlaNYC Progress Report, released every April, will provide an update on the City's wetlands efforts. Many of these initiatives in this strategy will also be reported on in the update to the Jamaica Bay Watershed Protection Plan, to be next released in October 2012. As required by Local Law 31 of 2009, the City will submit a report on the wetlands strategy to the Mayor and Speaker of the City Council no later than April 22, 2015 and no later than every fourth year thereafter.

In addition to reporting on the initiatives of the City's wetlands strategy, the City will develop a reporting mechanism for wetlands indicators. By 2015, the City will provide metrics on wetland acres created, restored, and enhanced on parkland, as well as the number of sites and acreage where site assessments and monitoring has occurred.

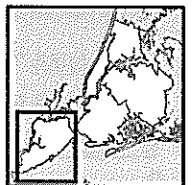
# **APPENDIX A:**

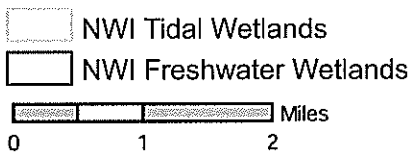
**WETLANDS MAPS FROM THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE NATIONAL WETLANDS INVENTORY**



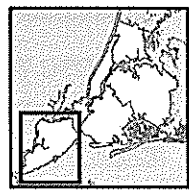


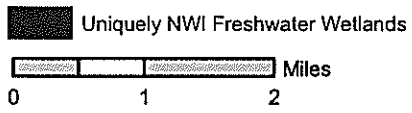
### DEC Freshwater and Tidal Wetlands Staten Island



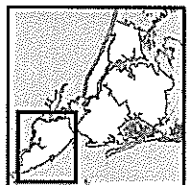


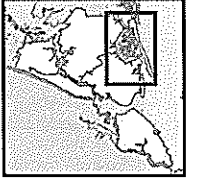
### NWI Freshwater and Tidal Wetlands Staten Island



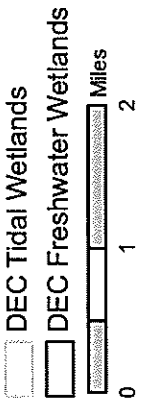


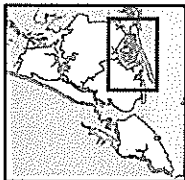
Uniquely NWI Freshwater Wetlands  
Staten Island



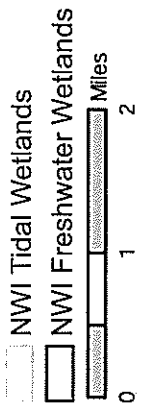


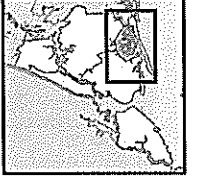
# DEC Freshwater and Tidal Wetlands Jamaica Bay



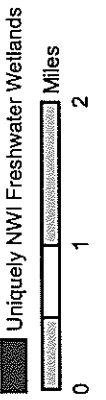


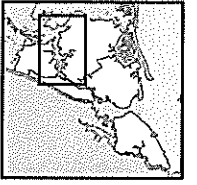
# NWI Freshwater and Tidal Wetlands Jamaica Bay



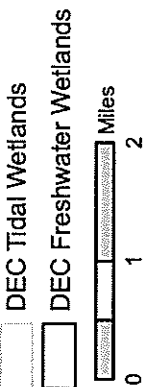


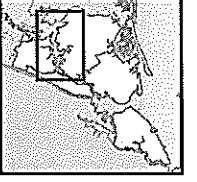
# Uniquely NWI Freshwater Wetlands Jamaica Bay





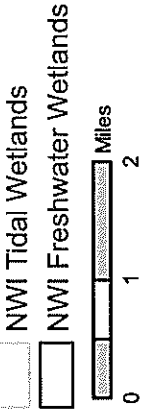
### DEC Freshwater and Tidal Wetlands Upper East River/West Long Island Sound



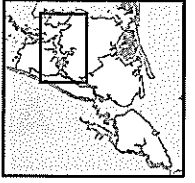


# NWI Freshwater and Tidal Wetlands

## Upper East River/West Long Island Sound







**Uniquely NWI Freshwater Wetlands**  
Upper East River/West Long Island Sound

Uniquely NWI Freshwater Wetlands



## APPENDIX B:

### WETLANDS MAPS FROM THE PRELIMINARY SURVEY OF WETLAND AREAS

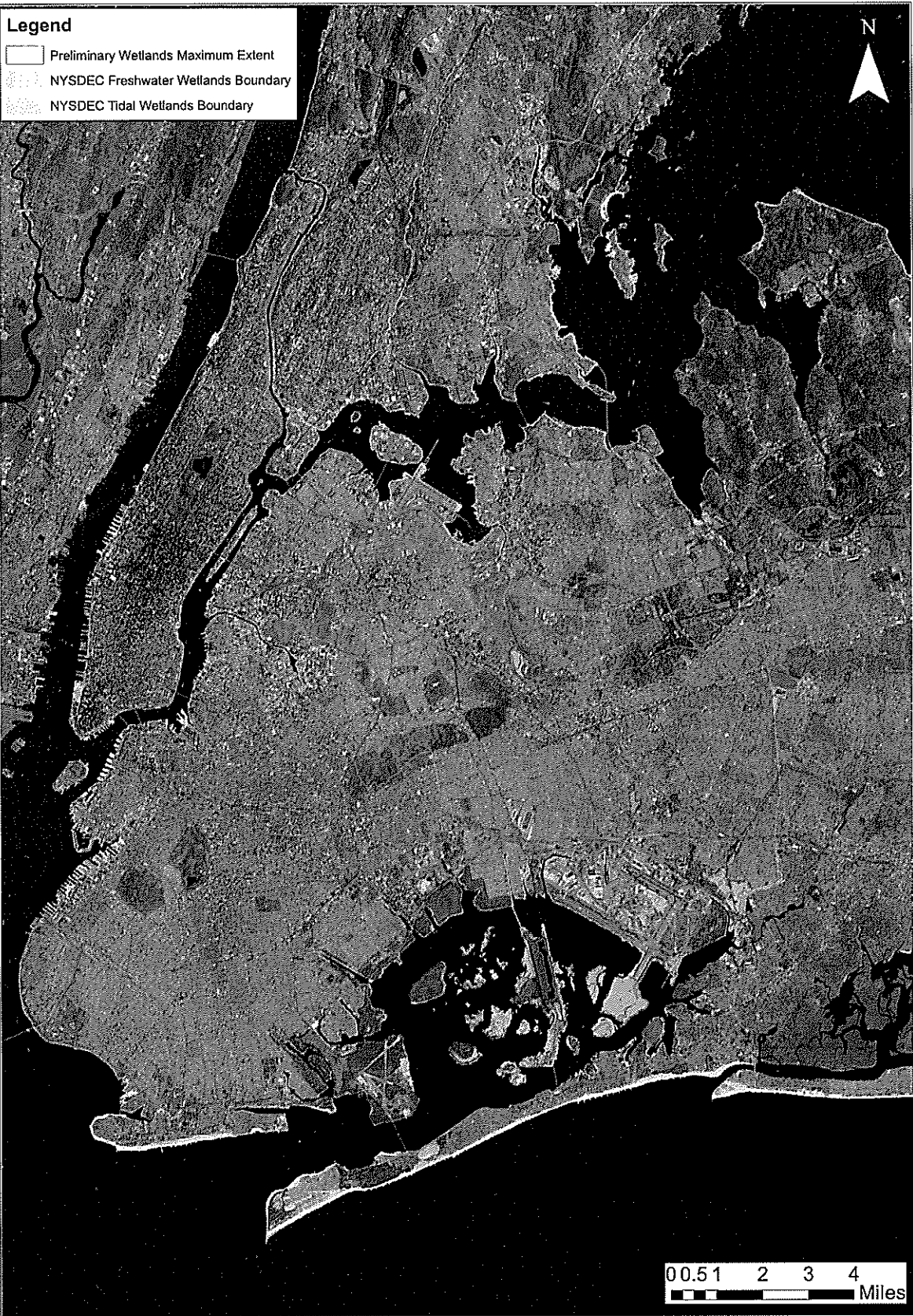
The full *Preliminary Survey of Wetland Areas* report and technical paper is available on the City's website at:  
<http://www.nyc.gov/html/planyc2030/html/publications/publications.shtml>



Preliminary Minimum Extent of Wetlands  
for Bronx, Brooklyn, Manhattan and Queens Using Satellite Imagery

Lamont-Doherty Earth Observatory of Columbia University





Preliminary Maximum Extent of Wetlands  
for Bronx, Brooklyn, Manhattan and Queens Using Satellite Imagery

Lamont-Doherty Earth Observatory of Columbia University





**Legend**

- Preliminary Wetlands Minimum Extent
- NYSDEC Freshwater Wetlands Boundary
- - - NYSDEC Tidal Wetlands Boundary

0 0.5 1 2 3 4 Miles



Preliminary Minimum Extent of Wetlands  
for Staten Island Using Satellite Imagery

Lamont-Doherty Earth Observatory of Columbia University

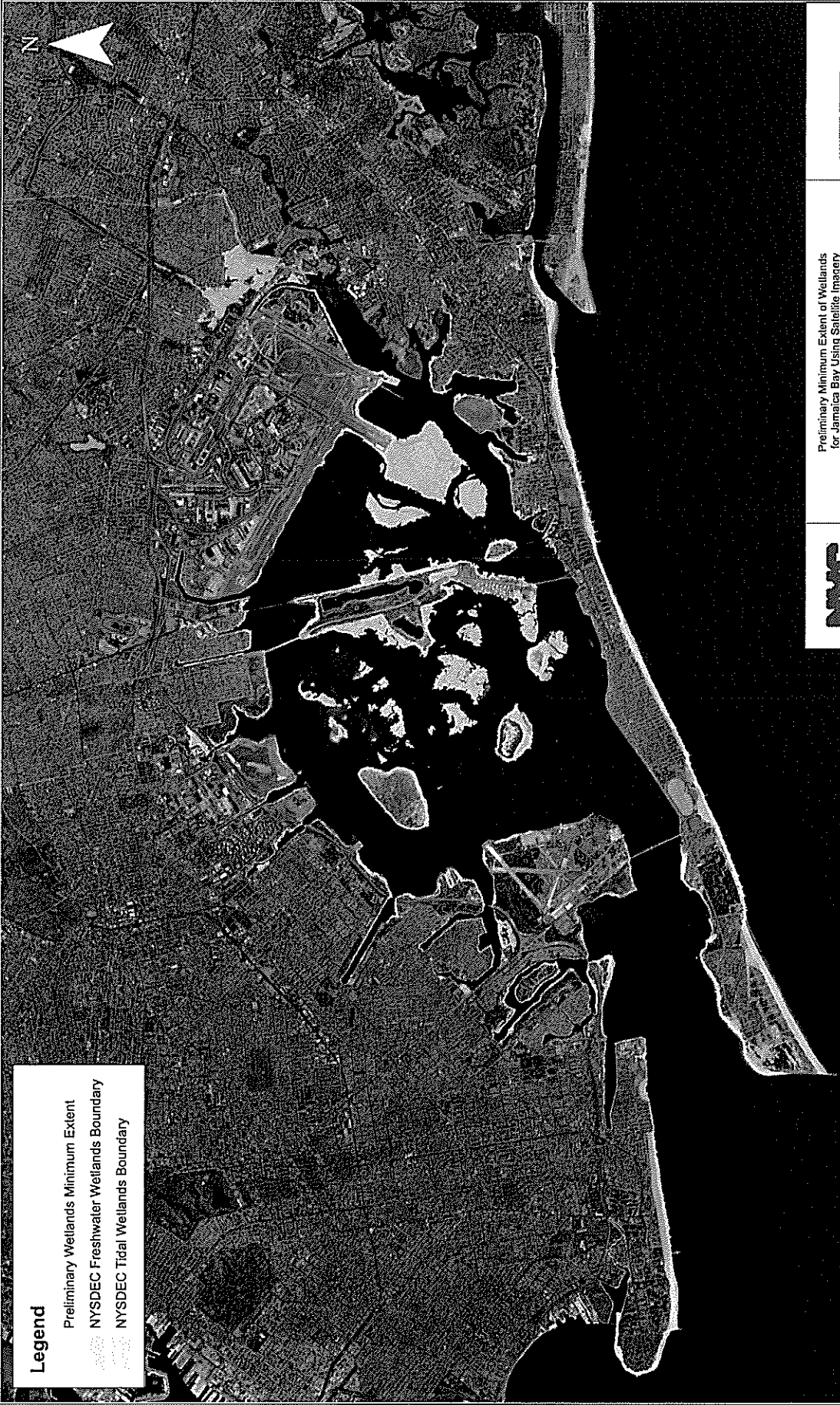




Preliminary Maximum Extent of Wetlands  
for Staten Island Using Satellite Imagery

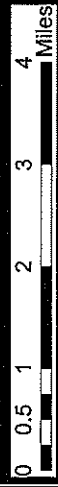
Lamont-Doherty Earth Observatory of Columbia University





**Legend**

- Preliminary Wetlands Minimum Extent
- NYSDEC Freshwater Wetlands Boundary
- - - - NYSDEC Tidal Wetlands Boundary



Copyright © 2010 Hobas






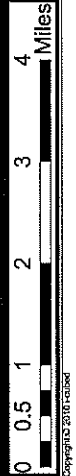
Preliminary Minimum Extent of Wetlands  
for Jamaica Bay Using Satellite Imagery  
Lamont-Doherty Earth Observatory of Columbia University





**Legend**

-  Preliminary Wetlands Maximum Extent
-  NYSDEC Freshwater Wetlands Boundary
-  NYSDEC Tidal Wetlands Boundary



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Preliminary Maximum Extent of Wetlands  
for Jamaica Bay Using Satellite Imagery

Lamont-Doherty Earth Observatory of Columbia University





# **APPENDIX C:**

**LOCAL LAW 31 OF 2009**

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2009**

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**No. 31**

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Introduced by Council Members Gennaro, Brewer, Fidler, Gentile, Gonzalez, James, Koppell, Liu, Nelson, Sanders Jr., Weprin, Gerson, White Jr., Martinez, DeBlasio, Vann, Felder, Mitchell, Eugene, Recchia Jr., Vallone Jr., Crowley, Garodnick, Lappin and Katz.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to the creation of a comprehensive wetlands protection strategy for New York City.**

*Be it enacted by the Council as follows:*

Section 1. Legislative findings and intent. The Council finds that wetlands serve a variety of critical functions important to the residents of New York City. These functions include filtration of pollutants, surface water storage, flood control, shoreline stabilization and prevention of erosion, stream flow maintenance including maintaining the aquatic habitat and opportunities for aesthetic appreciation of streams, groundwater recharge, sediment removal and nutrient recycling, promoting aquatic species productivity, biodiversity and provision of plant and wildlife habitat and enhancing recreational opportunities. Draining and filling wetlands impairs their functions and destroys native habitats. New York City has lost the majority of its wetlands to development, over time. The Council finds that to the maximum extent possible in consideration of competing land uses, preserving the remaining wetlands, creating new wetlands and undertaking actions designed to improve the functions of wetlands to the maximum extent

possible is in the best interests of the City, and offers a way to respond to the challenges that will be presented by climate change and rising sea levels.

The Council further finds that the existing law leaves gaps in wetlands protection and that it is necessary for the City to develop and implement a comprehensive wetlands protection strategy.

The Council further finds that existing maps of wetlands in the City are outdated and incomplete. For all of these reasons, the City must take steps to conduct a preliminary satellite or aerial imagery survey that will provide an overview of the remaining wetlands in the City, and provide a basis to develop and implement a wetlands strategy that will address challenges or obstacles to wetlands protection.

§2. Chapter 5 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-528 to read as follows:

*§24-528 New York city comprehensive wetlands study and protection strategy. a.*

*Definitions.*

1. *“City” shall mean the geographic area constituting the city of New York, including wetlands, shorelines and underwater lands.*

2. *“Office” shall mean the mayor’s office of long-term planning and sustainability.*

3. *“Wetlands” shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.*

*b. Preliminary satellite or aerial imagery survey. No later than September 1, 2010, the office shall submit to the mayor and the speaker of the council a preliminary survey of likely*

wetland areas based upon satellite or aerial imagery. The preliminary satellite or aerial imagery survey shall be for the purpose of indicating the overall size and location of remaining wetlands within the city and therefore to inform the development of an overall strategy for wetlands in the city.

c. *Development of a comprehensive wetlands strategy.* The office shall complete a preliminary wetlands protection strategy the overall goals of which shall be to (1) conserve, protect, enhance, stabilize, restore and expand wetlands and associated buffer areas in the city; (2) avoid and minimize wetlands losses and achieve no net loss of wetlands in the city; (3) standardize and improve the management of wetlands and associated buffer areas and (4) balance the needs for wetlands protection with other, competing land uses that are in the public interest, such as the construction of schools or affordable housing. Such strategy shall consider (1) the ecological, hydrological, economic, aesthetic and habitat functions of wetlands including, but not limited to future protection from storm surges and other effects of rising sea levels; (2) the current condition and protections afforded wetlands in the city, including wetlands smaller than 12.4 acres in size; and (3) the wetlands policies, laws, rules and regulations that have been adopted by other municipalities in New York state.

d. (1) No later than December 31, 2011, the office shall submit a preliminary comprehensive wetlands protection strategy that meets the requirements of this subdivision to the mayor, the speaker of the council and the public for review and comment. Access to the public shall include posting such preliminary strategy on the city's website and such other measures as the office deems appropriate to increase notice.

(2) No later than March 1, 2012, the office shall submit a final comprehensive wetlands protection strategy that meets the requirements of this subdivision to the mayor, the speaker of

*the council and the public. Submission to the public may include posting such final strategy on the city's website and such other measures as the office deems appropriate to increase notice.*

*(3) The comprehensive wetlands protection strategy shall include, but not be limited to, the following:*

*(i) appropriate legal requirements, management mechanisms, funding mechanisms, enforcement mechanisms and incentives to conserve, protect, enhance, restore, stabilize and expand wetlands and associated buffer areas in the city, whether publicly or privately owned;*

*(ii) appropriate legal requirements, management mechanisms, funding mechanisms, enforcement mechanisms and incentives regarding management of wetlands in the city by public and private owners to ensure their consistency and best practices;*

*(iii) land acquisition and land use planning practices and opportunities to provide for wetlands retreat;*

*(iv) strategies for adaptation to sea level rise that involve wetlands to the extent not provided for in any other planning or management initiatives undertaken by or on behalf of the city;*

*(v) opportunities to improve the implementation of wetlands mitigation and creation activities;*

*(vi) a protocol for coordination with appropriate federal, state and city governmental entities that have jurisdiction over or other property interest in wetlands or associated buffer areas including, but not limited to, coordination in the development of a comprehensive list of wetland mitigation opportunities and notification procedures regarding proposed development projects that may adversely impact wetlands or associated buffer areas;*

*(vii) reporting mechanisms for wetlands indicators; and*

*(viii) a public education program to increase awareness about the ecological, economic, aesthetic and other values of wetlands and their associated buffer areas, which shall include information presented on the city's website and such other means as the office deems appropriate.*

*(4) The comprehensive wetlands protection strategy shall include a schedule and milestones for implementing the strategy and achieving its goals. .*

*(5) To the extent that any element of the comprehensive wetlands protection strategy is provided for in any other planning or management initiative undertaken by or on behalf of the city, such element may be incorporated by reference.*

*e. The comprehensive wetlands protection strategy developed pursuant to this section shall be reviewed and revised as necessary to achieve its goals, the first such review to be undertaken within three years and thereafter no less often than every four years. No later than April 22, 2015 and no later than every fourth year thereafter, the commissioner shall submit a report to the mayor and the speaker of the council that provides an update on the comprehensive wetlands protection strategy developed pursuant to this section which shall include, but not be limited to:*

*(1) the implementation status of the measures included in such strategy, as it may have been revised pursuant to this subdivision; and*

*(2) specific progress towards each of the strategy's goals.*

*§3. This local law shall take effect immediately.*

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s:

I hereby certify that the foregoing is a true copy of a local law of The City of New York,  
passed by the Council on .....May 6, 2009..... and approved by the Mayor  
on ...May 26, 2009.....

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local law  
(Local Law 31 of 2009, Council Int. No. 506-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on May 6, 2009: 51 for, 0  
against, 0 not voting.

Was signed by the Mayor on May 26, 2009

Was returned to the City Clerk on May 26, 2009

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel

# Regional <sup>NJ CT</sup><sub>NY</sub> Plan Association

**New York City Council  
Committee on Environmental Protection  
Oversight - Challenges Facing Wetlands in New York City, and a Review of New  
York City's Efforts to Protect Wetlands, Including Local Laws 71 of 2005, 83 of  
2005, 21 of 2009, 31 of 2009 and the Wetlands Protection Goals Contained in  
PlaNYC. January 31, 2012**

**Statement by  
Robert Pirani  
Vice President for Environmental Programs**

Thank you for this opportunity to share our thoughts on the City's efforts to create a comprehensive wetlands policy for New York City.

My name is Robert Pirani. I am the Vice President for Environmental Programs for Regional Plan Association, a not-for-profit planning, research and advocacy organization. I was also the Co-Chair of the Wetlands Transfer Task Force. The Task Force was created by Local Law 83, legislation authored by Chairman Gennaro. I would like to thank him and the Committee staff for their continued leadership in protecting the City's wetlands and natural areas.

Several years ago, Regional Plan Association compiled the attached map of the historic wetlands of New York Harbor. Of the 100 square miles of coastal wetlands that once fringed the edges of the harbor, only 14 miles remain. Similarly, hundreds of acres of freshwater wetlands also have been filled or replaced by culverts and pipes.

We are encouraged by the slow but steady progress made by the City since the passage of the 2005 and 2009 laws. For the first time in its history, the City has moved toward adopting a comprehensive approach toward the wetlands within its boundaries. The set of Initiatives covered under the draft Strategy's Protection, Mitigation, Restoration and Assessment contain a number of important steps, including creation of Natural Areas Conservancy and progress on the assessment and valuation of wetlands. While we are still reviewing the document, there appears to be two ways in which this policy and more critically its implementation could be moved forward.



## **Protection**

The City survey notes there that loss of privately held wetlands seems to be greater than on City-owned lots and that “wetlands on private property are more vulnerable than those on public land”. While the total number of these wetlands is small (about 106 acres exist on 1,027 City tax lots) and the cost of new regulation may outweigh the benefit, there are other means of encouraging protection. I would note that the City estimates the cost of restoring wetlands as being between \$ 290,000 to \$ 2 million an acre; based on the midpoint of this “replacement cost”, the value of these wetlands is \$ 121 million.

The City should specifically assess the ecological and hydrological value of the properties, starting with understanding their location relative to other wetlands and their risk of development. The City notes that it will work to identify opportunities for acquisition. For areas adjoining public property or existing DEC wetlands, there are other means available to protect them, including petitioning DEC to include them in larger wetlands of the City’s assessment reveals ecological connections. The City and the proposed Conservancy should consider obtaining tax deductible donations of conservation easements on the property.

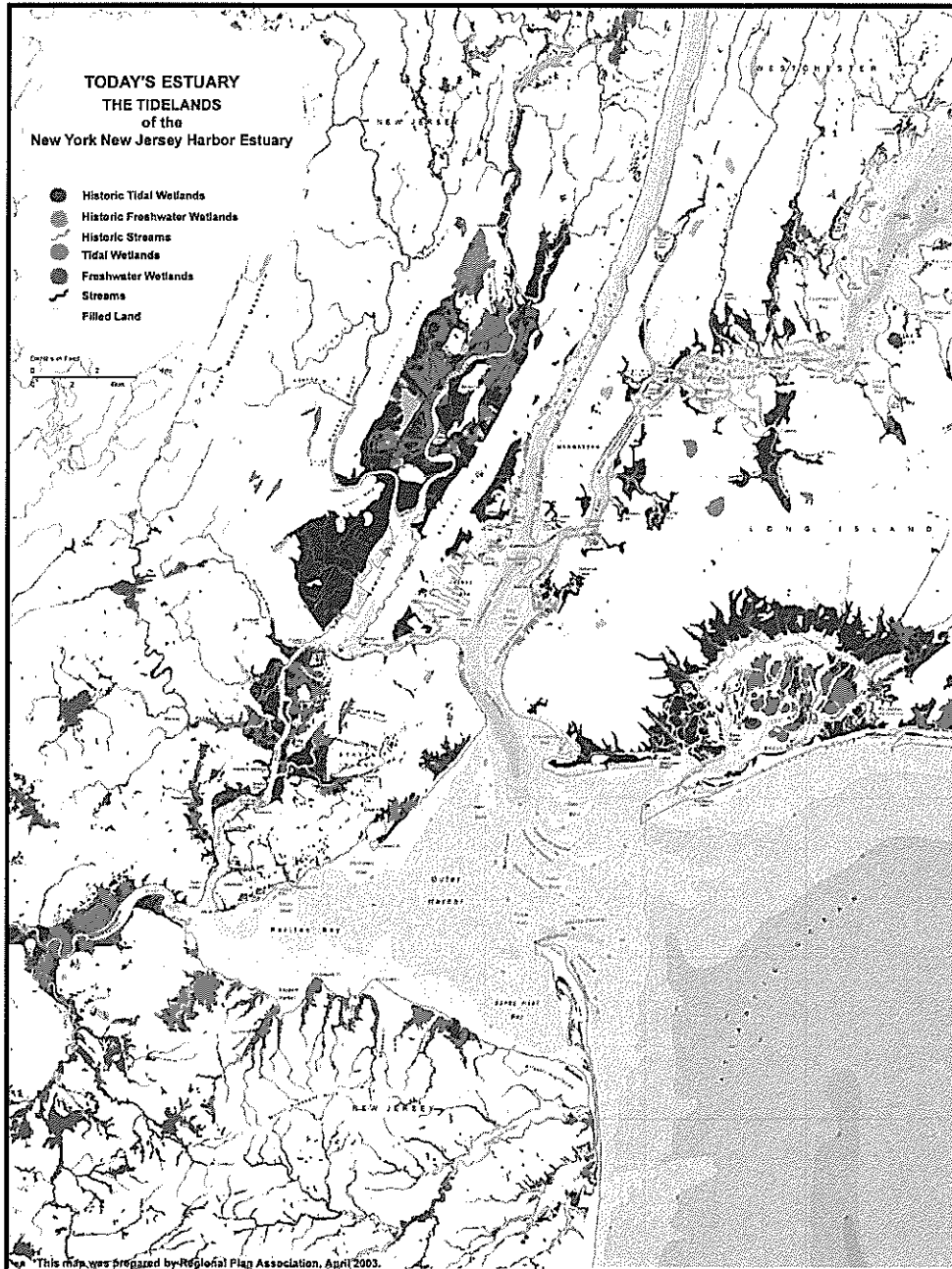
We are pleased that all of the “special review” properties have been assessed by DPR. The City should move forward expeditiously on DPR requests to transfer eleven parcels totaling 98 acres as well as the logistic work required for the remaining 72 “special review parcels.” In particular the properties in Bayswater and those adjoining Edgemere Landfill are ready to go to Parks. A priority for the proposed Conservancy should be identifying the means of preparing the remaining parcels for transfer.

The Strategy calls out the City’s promise to transfer three parcels that form Arlington Marsh on Staten Island. While we understand the connection to the proposal to expand New York Container Terminal, the uncertain future of that expansion makes us question why the transfer of the parcels should be held hostage to progress on that development.

## **Mitigation**

We appreciate that the City will seek to advance the State’s mitigation policy to ensure greater predictability in the permitting process and improved protection and restoration of sensitive wetland habitats, including creation of a mitigation banking mechanism for public projects. We would suggest that certain private projects in Special Maritime Industrial Areas also be eligible. While we appreciate the unique urban condition of the City’s wetlands, inclusion of hazardous material remediation as mitigation per se may not be appropriate if there are existing obligations under other federal and state law. Given the identification of this project by numerous work groups and task forces, additional progress on this effort should happen as soon as possible. Developing a comprehensive list of mitigation opportunities in coordination with appropriate federal, state and city governmental entities might be an easy thing to start with.

Thank you again for your interest and opportunity to testify on this issue.



Testimony of Aaron Koch  
Senior Policy Advisor  
New York City Mayor's Office of Long-Term Planning and Sustainability

Before a hearing of the Committee on Environmental Protection  
of the Council of the City of New York  
on Local Laws 71 and 83 of 2005 and 21 and 31 of 2009  
concerning wetlands protection and restoration

January 31, 2012

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Good afternoon, Chairman Gennaro and Committee Members. My name is Aaron Koch, and I am a Senior Policy Advisor in the Mayor's Office of Long-Term Planning and Sustainability. On behalf of the Administration, I will address the important wetlands issues that are the subject of this hearing. I'm joined today by John McLaughlin, the Director of the Office of Ecological Services at the Department of Environmental Protection, Bill Tai, Principal Environmental Planner and former Director of Natural Resources at the Department of Parks and Recreation, and Joseph Ackroyd, Acting Director of Engineering and Technical Affairs at the Department of Buildings.

At the outset, I want to recognize the work of this Committee and especially your leadership, Chairman Gennaro, whose efforts have greatly contributed to strengthening wetlands protection and restoration efforts and improving the environmental quality of Jamaica Bay. We also appreciate your willingness to provide us with extra time to complete the draft wetlands strategy and prepare for this hearing. We welcome the opportunity to work with the Council on wetlands issues, and we look forward to an ongoing dialogue about the protection and restoration of the city's wetlands.

Since 2002, the Bloomberg Administration has made the largest commitment to improving our waterways and waterfront of any administration in New York City's history. We have invested \$8.9 billion (and counting) to reduce discharges and to improve harbor water quality, and the water in New York Harbor is cleaner now than at any time in the last century. This investment in water quality infrastructure has set the stage for ecological recovery, including wetlands, which control flooding, buffer storm surge, and provide important habitat for wildlife and fish. Wetlands are an important component of PlaNYC's strategy for a greener, greater New York. That is why the Bloomberg Administration has worked with state and federal partners to invest over \$74 million to restore or to create over 175 acres of wetlands.

Much of the city's natural waterfront consists of wetlands. Despite the significant loss of historical wetlands, New York City is still home to many critical natural areas in Jamaica Bay, Staten Island, and along Long Island Sound. The total area of the city's wetlands is not well known, but existing maps indicate that the range is between approximately 5,600 acres to a little

over 10,000 acres. Although many of the city's wetlands have been fragmented or degraded, many continue to provide important ecological, economic, and social benefits.

In my testimony today, I will address the four laws related to wetlands that the City Council has passed since 2005. These include Local Law 31 of 2009, Local Law 21 of 2009, Local Law 71 of 2005, and Local Law 83 of 2005.

### **Local Law 31 of 2009 – New York City Wetlands Strategy**

Local Law 31 of 2009 requires the completion of a wetlands strategy for New York City. The City released a draft of the wetlands strategy for public comment on January 18, and we will accept comments on the draft until February 18. We will edit the draft strategy to incorporate public comments as appropriate before releasing a final wetlands strategy.

The draft wetlands strategy builds on several other planning and policy efforts undertaken in recent years by the City. These include the *Jamaica Bay Watershed Protection Plan*, released in 2007; the report of the Wetlands Transfer Task Force, released in 2007; the *NYC Green Infrastructure Plan*, released in 2010; *Vision 2020: New York City Comprehensive Waterfront Plan* and the *Waterfront Action Agenda*, released last March; and the PlaNYC Update, released last April. We thank the City Council for their leadership on these critical sustainability efforts.

The draft strategy also recognizes the important role of our state and federal partners and seeks to advance efforts already underway in collaboration with multiple agencies, including the New York State Department of Environmental Conservation (DEC), the Army Corps of Engineers, the Port Authority, the National Park Service, and the U.S. Environmental Protection Agency. We are also grateful for the valuable work of many non-profit organizations and community groups who also pursue efforts related to wetlands protection, monitoring, and restoration.

The draft wetlands strategy establishes a goal to achieve no net loss of wetlands. But the City also recognizes that addressing the quantity of wetlands in New York City does not provide a clear enough picture. The strategy also establishes the goal to improve the quality of the city's remaining wetlands and maximize their ecological functions to the greatest extent possible.

To achieve our goals, the draft wetlands strategy establishes a framework to address four key areas: protection, mitigation, restoration, and assessment.

First, we will strengthen wetlands protection efforts. The draft wetlands strategy lays out several initiatives to improve the public management of wetlands parcels, which includes the transfer of more City-owned parcels to the Parks Department as recommended by the Wetlands Transfer Task Force. I will speak more about this when I discuss Local Law 83 of 2005.

We will also seek to acquire vulnerable privately-owned sites. In the last ten years, the Parks Department has acquired almost 300 acres of wetlands. DEP has also acquired 325 acres of significant wetlands and adjacent areas for the Staten Island Bluebelt and is planning to acquire

an additional 195 acres over the next 30 years. The City will work with local, state, and federal partners to evaluate opportunities for additional wetlands acquisitions. Specific attention will be given to the privately-owned small freshwater wetlands parcels that are not protected by state or federal regulations.

Also to increase protection, the Department of City Planning is currently undertaking a process to revise the Waterfront Revitalization Program, last updated in 2002. The WRP is the City's regulatory program for balancing potentially competing interests such as economic development, natural resources protection, and public access on the shoreline. As we update the WRP in the coming year, we will designate additional sites of ecological importance, offering greater protection to these resources. The process to update the WRP will be underway throughout 2012. Proposed revisions to the WRP will go through public review and approval.

Second, we will improve wetlands mitigation by partnering with state and federal agencies. When the filling or development of wetlands is permitted, applicants in New York State are typically required to mitigate those impacts through the restoration or creation of wetlands at the site of the disturbance or at a nearby location. In an urban setting, it can be difficult to achieve the goals of development and environmental restoration on a single parcel due to a lack of available space for on-site mitigation. This system usually leads to sub-optimal outcomes as it often encourages restoration projects that are small, expensive, and of lesser habitat value.

The City has formed a working group with DEC and other key stakeholders to evaluate changes to mitigation policy and create clear, transparent, and scientifically-backed guidance. The City will also develop a mitigation banking or in-lieu fee mechanism for public projects. These are strategies for undertaking restoration projects that can then provide "credits" to multiple projects that require mitigation, at one or more locations carefully chosen and approved in advance by regulators. Both mechanisms provide numerous benefits over the current system by consolidating funding into larger projects that produce economies and ecologies of scale.

Third, we will continue our efforts to restore wetlands in New York City. In the next three years, the City will work with state and federal partners to invest over \$54 million at 17 sites to restore and enhance over 58 acres of wetlands and adjacent habitat. This includes projects at Meadow Lake in Queens; in Brooklyn at Paerdegat Basin and in Marine Park; salt marsh island restoration in Jamaica Bay; in Staten Island at Freshkills Park; and in the Bronx at Pugsley Creek, Soundview Park, and further upstream along the Bronx River.

We will also partner with the Army Corps, the Port Authority, EPA, DEC, and other regional partners to complete the *Hudson-Raritan Estuary Comprehensive Restoration Plan* and seek federal funding for implementation.

Finally, we will assess the city's wetlands to fill critical knowledge and data gaps. Pursuant to the requirements of Local Law 31 of 2009, the City produced preliminary wetlands maps as well as a technical paper explaining the methodology used to develop these maps in September 2010. After further refinement of preliminary maps and field verification, we will work with DEC

to explore opportunities to update their wetlands regulatory maps. We will also develop a wetlands research agenda, evaluate the conditions and ecological functions of existing wetlands, and study the impacts of climate change and sea level rise.

In addition to the important commitments made in these four areas, this draft wetlands strategy also advances the City's understanding of the quantity and ownership of small, unprotected freshwater wetlands. A policy paper released by the Administration in 2009, titled *New York City Wetlands: Regulatory Gaps and Other Threats*, found that while existing federal and state regulations protect New York City's tidal wetlands and its large freshwater wetlands from threats related to development, freshwater wetlands smaller than 12.4 acres are not protected by state law.

According to the National Wetlands Inventory, which is the best existing source for wetlands quantity data, there are approximately 635 acres of freshwater wetlands in New York City that are not mapped and regulated by DEC. Of these properties, approximately 457 acres are owned by public agencies and 106 acres are privately owned.

These 106 acres of privately-owned wetlands represent less than 2% of all wetlands in New York City. Therefore, since 98% of the city's wetlands are protected by State or Federal regulations or are under public ownership, we believe that the City's time and resources are best spent improving public management of wetlands, transferring additional wetlands recommended by the Wetlands Transfer Task Force, improving coordination with the State on protection efforts, and working with our partners to restore valuable wetlands. We have determined that the benefits of creating a new local wetland protection ordinance or a local permitting scheme to protect a relatively small number of wetlands would not outweigh the costs of establishing and enforcing a new regulatory regime.

#### **Local Law 21 of 2009 – Coordination between DOB and DEC**

Local Law 21 of 2009 requires coordination between the Department of Buildings and DEC before the approval of construction documents for development on land comprising DEC-regulated wetlands or coastal erosion hazard areas. This law ensures that environmental review takes place and helps to protect against the loss of wetlands.

In July 2009, DOB issued a Buildings Bulletin to the public establishing the process and guidelines for meeting these new requirements. As part of this process, DOB flagged over 59,000 Building Identification Numbers, or properties, that contain DEC-regulated wetlands or coastal hazard areas within their Building Information System.

Applicants seeking a permit within a DEC-regulated wetland or coastal hazard area must verify whether their new construction or alteration impacts such regulated areas. Where construction will not impact a wetland or coastal hazard area, a registered design professional or a licensed land surveyor must certify that the proposed work is outside of the regulated area prior to approval. Or the applicant may submit to DOB a "jurisdictional determination" issued by DEC

that states that the project is outside of the regulated area prior to approval. If the applicant's new construction or alteration is a category of work that requires compliance with Local Law 21 of 2009 and is in a regulated area, the applicant must submit the applicable DEC permit prior to DOB approval.

A DOB plan examiner will mandate required items such as a wetlands map certification, a DEC jurisdictional determination, or a DEC permit when the flagged Building Information Number shows up in DOB's Buildings Information System. Failure to self-report by the applicant on a flagged property should not allow an application to receive a permit without providing the necessary required items.

### **Local Law 83 of 2005 – Wetlands Transfer Task Force**

Local Law 83 of 2005 established the Wetlands Transfer Task Force and charged this group with inventorying City-owned, non-parkland properties that contain wetlands and determining the technical, legal, environmental, and economic feasibility of transferring additional wetlands to the jurisdiction of the City's Parks Department for additional protection.

The Wetlands Transfer Task Force completed their work by issuing a report in October 2007. More than 1,000 City-owned properties totaling approximately 700 acres were assessed; many of which contained only remnant or historic wetlands. The Task Force recommended the transfer of 82 City-owned wetlands properties to the Parks Department and the study of an additional 111 "special review" properties for transfer.

As of December 2011, the Parks Department had assessed all of the "special review" properties. Nine properties, for a total of 96 acres, have already been transferred to the Parks Department. Parks has also initiated requests to transfer eleven additional parcels, for a total of 98 acres. When these additional transfers are complete, a total of 194 acres out of 628 acres, or 31%, of the parcels recommended for transfer to Parks or designated as "special review" will be protected as City parkland.

The remaining parcels recommended for transfer to the Parks Department require further action, such as boundary surveys, signing and securing property, removing existing debris, and performing other clean-up work at the sites, which are still currently managed by other City agencies. The City has placed a hold so that no City-owned wetlands properties can be transferred without the knowledge of the Parks Department.

The feasibility and timing of future transfers will depend on a variety of legal, regulatory, and resource availability constraints. The City will continue to evaluate opportunities to complete the necessary improvements that are required for future transfers to Parks to occur.

The Wetlands Transfer Task Force also recommended that 76 of the City-owned freshwater wetlands properties on Staten Island, totaling about 12 acres, be transferred to the DEP

Bluebelt Program. 62 of those properties, or about 80%, were officially transferred in October 2011. Of the remaining 14 properties, DEP will seek jurisdiction for nine of them.

Of special note are three properties at Arlington Marsh on Staten Island. The Administration remains eager to complete these partial transfers; however, as indicated in the recommendations of the Task Force, the project to expand the New York Container Terminal calls for related work to occur that will affect the adjacent properties. The City has recently reaffirmed its intent to complete the transfer of Arlington Marsh to the Parks Department in both the *Waterfront Action Agenda* and the *Working West Shore 2030* plan.

### **Local Law 71 of 2005 – Jamaica Bay Watershed Protection Plan**

Local Law 71 of 2005 required the creation of a comprehensive plan to improve the quality of Jamaica Bay. The City released the *Jamaica Bay Watershed Protection Plan* in 2007 and issued updates in 2008 and 2010.

We have made great progress implementing the *Jamaica Bay Watershed Protection Plan*. In February 2010, we reached an agreement with DEC, the Natural Resources Defense Council, and other environmental groups under which we will dedicate \$100 million to install new nitrogen control technologies at certain wastewater treatment plants in Jamaica Bay and another \$15 million for marshland restoration projects. These investments, made in concert with \$95 million the City had already committed for nitrogen upgrades in Jamaica Bay, will reduce the amount of nitrogen entering the Bay by approximately 50 percent.

In May 2011, the City officially turned on the new \$404 million Paerdegat Basin Combined Sewer Overflow (CSO) Facility in Brooklyn. The retention facility will prevent up to 50 million gallons of CSOs during heavy rain from being discharged into Paerdegat Basin, a 1.25 mile channel that is connected to Jamaica Bay. But grey infrastructure projects are only part of the solution. We are also making a transformative \$1.5 billion investment in green infrastructure that captures or detains stormwater before it can enter and overwhelm the sewer system. We will design, build, and maintain stormwater source controls, or small installations that control stormwater where it meets impervious surfaces. These investments, paired with targeted cost-effective grey infrastructure, will reduce combined sewer overflows by 40% citywide.

The City is also undertaking many wetlands restoration efforts in Jamaica Bay. Using \$15 million in Federal stimulus funds, we are restoring 38 acres of wetlands and grasslands near the DEP CSO facility in Paerdegat Basin. In Marine Park in Brooklyn, we are restoring White Island through shoreline stabilization, invasive species removal, and planting of marsh grasses. These projects are in addition to recently completed restorations at the Elders Point salt marsh islands and Gerritsen Creek at Marine Park.

Since 2002, the City has invested \$37.4 million to reclaim more than 440 acres of environmentally-sensitive land adjoining Jamaica Bay and plans to restore nearly 100 additional acres. As part of the nitrogen reduction agreement, the City will invest \$15 million for salt marsh



restoration projects in the interior of Jamaica Bay. The City will leverage this investment in the bay's wetlands by applying it as a local match to programs paid for with Federal funds, which could net an additional \$30 million in funding for Jamaica Bay marshland preservation projects. In 2012, we will work with our partners to restore 30 acres of salt marsh at Yellow Bar. In addition, the City and State will be the 100% funding sponsors for the sand placement on two additional salt marsh islands, Black Wall and Rulers Bar.

In addition to these significant investments in water quality improvements and salt marsh restoration, the City has also accomplished many other milestones in the *Jamaica Bay Watershed Protection Plan*.

The City has completed ecological restoration projects that evaluate the feasibility of using oysters, ribbed mussels, and eelgrass as natural filters in the Bay.

At the request of the City and DEC, in October the EPA designated the majority of Jamaica Bay as a "No Discharge Zone," which bans boats from discharging sewage into the bay.

The City is also adding seven new monitoring stations to the Harbor Survey Program, increasing the total from 65 to 72 citywide. Of the four new Jamaica Bay sites, there are two at Fresh Creek and two at Bergen Basin, and there will now be 24 testing locations in Jamaica Bay, up from 13 in 2010.

Finally, the City has continued to collaborate with regional partners to better understand the science of the Bay, and in October held the second *Jamaica Bay, State of the Bay: Past, Present and Future* symposium at Brooklyn College.

Thank you for the opportunity to share information about the Administration's efforts to protect and restore New York City's wetlands. We would be happy to answer your questions.

# Zimmerman & Associates

January 31, 2012

Councilman James F. Gennaro  
Committee on Environmental Protection  
New York City Council  
250 Broadway  
New York, NY

Resolution T2012-4231 "Support of the State Attorney General's position that the court should enjoin the Delaware River Basin Commission from issuing regulations governing natural gas development until the Commission prepares a draft environmental impact statement."

Dear Councilman Gennaro:

On behalf of my clients, Damascus Citizens for Sustainability and NYH2O, I am writing to express our appreciation for your sponsorship of Resolution T2012-4231 and our strong support for this legislation. It is imperative for all New Yorkers and this great city that the City Council provide strong support for the National Environmental Policy Act (NEPA) lawsuits filed by the New York Attorney General, my clients, and several other environmental groups seeking to compel the Delaware River Basin Commission (DRBC), the U.S. Army Corps of Engineers and several other federal agencies to prepare a comprehensive environmental impact statement under NEPA before the DRBC decides whether to allow natural gas development in the Delaware River Basin.

At a status conference hearing last December in the NEPA case, the presiding judge asked the Corporation Counsel representative in attendance at the request of the court if the City planned on filing an amicus brief in support of the AG's and environmental groups' consolidated cases. The Corporation Counsel's representative indicated that they did not plan at that time on filing an amicus brief but would provide to the court a copy of the comments they were planning to submit on the revised draft Supplemental Generic Environmental Impact Statement (SGEIS) that the New York State Department of Environmental Conservation (NYSDEC) had published for comments.

With respect for the Corporation Counsel, the City's comments on the SGEIS are irrelevant to the questions before the federal court in the NEPA cases. The SGEIS is prepared to comply with a state statute, the New York State Environmental Quality Review Act (SEQRA), in connection with decisions by NYSDEC about gas development regulations that would be

## **Zimmerman & Associates**

applicable across New York. Compliance by the State of New York with SEQRA has nothing to do with compliance with a federal statute, NEPA, by DRBC, the Corps of Engineers and other federal agencies in connection with regulation of gas development in the Delaware River Basin.

It is important for the City of New York to advocate for compliance with NEPA by the agencies involved with the Delaware River Basin. Maintenance of the highest water quality for waters in the Delaware River Basin is of paramount importance to the water supply system for New York City.

But protection of the high water quality of drinking water in the City is not the only public health issue that must be fully examined in an EIS prepared under NEPA. The natural gas that will be produced from the Marcellus shale in the Delaware River Basin will contain elevated levels of radioactive radon gas. Under current transportation plans, this radioactive natural gas will be delivered to the gas distribution system in the City before the radioactive radon can decay to a level that is comparable to current low radon levels in gas now distributed to homes and apartments across the City. Radon levels up to 100 times current exposure levels may be reached in kitchens with gas stoves throughout the City. The gas can be treated to reduce the radon to safer levels, but unless this is done (and there are no current plans to do so) there could be tens of thousands of additional cancer deaths per year from Marcellus gas radon exposure.

NEPA is specifically directed at major federal actions "significantly affecting the quality of the human environment." 42 U.S.C. 4322(c). The public health risk from such elevated radon exposures to millions of New Yorkers is without question something that will significantly affect the quality of the human environment. New York City has a tremendous stake in whether and how natural gas development takes place in every area, including the Delaware River Basin, where this activity will have environmental consequences for the City. Full compliance with NEPA will ensure that these and other critical environmental issues receive the "hard look" that NEPA requires before actions affecting our environment are taken.

Mr. Gennaro, we strongly support your proposed legislation on this important matter and urge your colleagues on the committee and in the full council to vote in favor of its enactment.

Sincerely,

Jeff Zimmerman

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/31/12

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Name: BUCK MOORHEAD

Address: 236 W 27 NYC

I represent: NYH20

Address: \_\_\_\_\_

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in favor  in opposition

Date: 1/31/12

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Name: ROBERT PIRAWI

Address: 245 W. 107th ST

I represent: ROSLINDEN PLAZA ASSOCIATE

Address: 4 IRVING PLACE NYC

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Date: 1/31/2012

(PLEASE PRINT)

Name: Bill Tai, Principal Environmental Planner

Address: 830 Fifth Avenue, NYC

I represent: Department of Parks

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

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THE CITY OF NEW YORK**

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in favor  in opposition

Date: 01/31/12

(PLEASE PRINT)

Name: Aaron Koch

Address: Mayor's Office

I represent: City of New York

Address: \_\_\_\_\_

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in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Bill Tai (DPR), Joseph Ackroyd (DOB), John McLoughlin

Address: \_\_\_\_\_ (DEF)

I represent: City of New York

Address: \_\_\_\_\_

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