

Voice of Gowanus 

BASELINES
for
Just and Sustainable
Development in Gowanus

Gowanus: Restoration First



New York's tragic history of importune development on canal waste sites must not repeat. Putting the toxic Gowanus house in order before rezoning action affords New York an opportunity to both demonstrate long-overdue good faith to citizen-victims in Brooklyn and prevent capacity overload and exposure to future generations.

By the 1950s, as the US Army Corps of Engineers ended regular dredging that kept the Gowanus Canal a commercial waterway, a century of seeping accumulation of chemical, physical, and biological poisons from private industry and direct sewage discharges had settled firmly into the sands and loams that once sustained fish, bivalves, wildlife, and area residents.

From then on, the foul deposits only grew as their effects compounded. While billion-dollar companies—even billionaires themselves—fussed and fought mandated actions, a historic neighborhood and waterway sunk deeper into contamination and filth. Decades of dereliction compounded by failed compliance with multiple, ongoing federal Clean Water Act (CWA) sewage control orders begun in 1992 ultimately forced a federal double-down with Gowanus Canal inclusion on the Superfund National Priorities List in 2010.

Normally, the hazard ranking that evaluates whether a site scores above the Superfund threshold of 28.5 points is based on four possible exposure pathways: groundwater, surface water, air, and soil. US EPA only analyzed one exposure pathway at Gowanus—surface water—and still the Canal scored 50, nearly twice the hazard threat needed for Superfund action.

CWA regulations have long prohibited designating the use of a water body for “waste transport or assimilation,” yet that very function continues as combined sewer overflows (CSOs) dump untreated waste from pipe and street during wet weather events.

But the neglected Gowanus neighborhood highlights NYC's other glaring green failure. In that fateful Clean Water Act year of 1992, 17.5% of NYC tax expenditures for housing went to the NYC Housing Authority (\$280.6M). By 2021, NYCHA support had been reduced to 9.5% of foregone tax revenue, while developer subsidies from the 421a program had engorged to \$1.7B, a first place 23% of all foregone housing tax revenue, with NYCHA (\$691M) and Coop/Condo abatements (\$655M) a far second and third. Even the Business & Investment Capital Tax Limitation only cost New Yorkers \$613M. Had neighborhoods been greened as much as developer pockets in that timeframe, NYCHA would be fully funded and Gowanus contamination would be gone by now.

The Toxic Legacy and missed investment opportunity in Gowanus is indisputable, but the future still holds a chance to make things right for both the current and most welcome future residents of this quintessentially New York neighborhood. The following baselines must guide cleanup and, later, rezoning so NYC can actually achieve its dual sustainable development green goals.

BASELINE #1

Before Rezoning: Dredging & CSO Tank Completion and Pathogen Restriction Required for Human Safety

NYC's multi-decade failure to restore a valuable waterway degraded into a poisoned cesspool bespeaks recalcitrance, if not functional defiance. Completing overdue, federally-mandated cleanup of the Canal and Uplands are required legal and good-faith predicates to any Gowanus rezoning.

A "black mayonnaise" of tar and toxins covers 10 feet of the Gowanus Canal bed, dangerous residues reach depths of 100 feet, and several inches of toxins (VOCs, PCBs and pesticides) are replenished by CSO outfalls from two sewage treatment plants undersized for wet weather flow. Adding users to this out-of-compliance sewage system risks further violations of law and damage to existing property.

New water standards limiting sewage pathogens must be imposed. Legally ordered dredging and tank construction must be completed before taking any zoning action that would inevitably increase sewage system users and overload.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

May 27, 2014

Daniel Greene
Senior Counsel
City of New York Law Department
100 Church Street
New York, NY 10007

Re: Gowanus Canal Superfund Site, Brooklyn, NY
Remedial Design Consent Order Negotiations

Dear Mr. Greene:

As you know, for a number of months EPA and New York City ("City") have been negotiating a consent agreement for the performance of certain Remedial Design ("RD") work for EPA's September 27, 2013 Record of Decision ("ROD") for the Gowanus Canal Superfund Site ("Site"). The City's description of the negotiations and its positions were set forth in its letter to EPA dated April 4, 2014 ("City Letter"). This letter responds to the City Letter, as well as adjustments to the City's positions since then. As described further below, EPA believes that these negotiations have reached an impasse.

Negotiation Process

The major components of the Gowanus ROD include dredging the accumulated contaminated sediments, capping the contaminated native sediments, excavation and restoration of the filled-in former 1st Street turning basin and Combined Sewer Overflow ("CSO") retention tanks to control contaminated solid discharges.

Nearly eight months ago on September 30, 2013, EPA issued a Notice for the Commencement of RD Negotiations and Demand for Past Costs ("Notice and Demand") to the various Potentially Responsible Parties ("PRPs") named therein, including the City, which had been notified of its potential liability in November 2009.

EPA believes that the City and National Grid are the two largest contributors, both by volume and duration, to the pollution in the Canal. National Grid is the successor to the owner/operator of three former manufactured gas plants ("MGPs") which actively disposed of coal tar into the Canal for over a century. In addition to its responsibility for cleanup in the Canal, National Grid



BASELINE #2

“Hard Look” Means “Cumulative Look”

Upzoning the Gowanus depends completely on whether the surrounding area’s already decimated air, land, and water assets are sufficiently restored to carry the intensified load from new development.

The Gowanus Superfund area straddles two overburdened sewersheds whose sewer overflows already violate clean water laws. Downtown Brooklyn, Atlantic Yards, and Governors Island buildouts will accumulate more non-compliant loading. NYC is also in airshed non-attainment, and both it and NYS now legally limit greenhouse gas emissions. Only a “hard look” under State EIS rules with full participation by federal and state oversight agencies (USEPA, FEMA, NYSDEC) can prevent accumulating development demands from illegally overloading already deficient air- and sewershed capacity supplies.

The EIS must include a full cumulative impact analysis of all development projects loading into the Owl’s Head and Red Hook sewage treatment plants, as well as projects loading conventional and greenhouse gas pollution into the shared airshed.

BASELINE #3

No Cleanup, No Justice

The Canal's decades of servitude as a legacy waste and sewage ditch have also condemned Gowanus Uplands, where barely restored coal-tar laden Manufactured Gas Plant (MGP) sites are unjustly targeted for low-income housing.

The legacy of Gowanus Environmental Injustice—including disproportionate exposure of communities of color and the poor to pollution; concomitant effects on health; and unequal regulatory and enforcement protections—remains at NYCHA and other sites, and would only be exacerbated by using MGP sites for low-income housing.

The Public Place Ploy is using low-income housing as a Trojan Horse to sneak unsound development loading onto an already overburdened and neglected neighborhood that first must be cleaned and restored. NYC can rectify a small measure of historic Gowanus Environmental Injustice by preventing low-income development on contaminated land.

Affordable Housing, whether new construction or rehabilitation, should be free of any toxic legacy or possible exposure, and never built on an MGP site.





BASELINE #4

Flood Control is the Highest and Best Use of Canal-side Land

The only thing worse than a poisonous Superfund Canal loaded with chemicals and sewage is a flooded Superfund Canal overflowing its banks and inundating the surrounding neighborhood with toxic muck.

The hyper-polluted coastal zones in NYC are mapped as dangerous flood zones by FEMA for a reason. Post-cleanup rezoning that creates parks, open space, and resilient Green Manufacturing capacity along Gowanus Canal-sides would pay multiple taxpayer dividends: recreation and open-space for residents; neighborhood flood control; open air, viewscales, and light for aquatic species rejuvenation; green jobs and products; and avoided re-release of residual contamination remaining in upland Superfund areas.

Taxpayers should not bear the risk and cost of residential buildout in a flood zone. Restored Gowanus Canal-sides are best used for flood protection, parks, recreation, and sustainable green jobs.

BASELINE #5

Who Obtains the Profits Retains the Costs

Post-cleanup developers will earn profits from sales, rent, and myriad income tax write-offs. Any Gowanus Rezone can and should collect full real estate taxes to fund protective cleanup maintenance and neglected NYCHA housing.

The low-lying NYCHA Wyckoff Gardens and Gowanus Houses face \$237M in unfunded capital repairs while working family taxpayers underwrite toxic Gowanus cleanups treated as “Brownfields.” Yet the “responsible” parties, like National Grid, are market capitalized at \$40B, and the **REBNY 1%** grow richer on exponential growth in 421a tax subsidies— all as NYCHA housing unjustly and unjustifiably deteriorates before our eyes. These costly corporate welfare programs demand reassessment of funding mechanisms to sustain both future redevelopment and community value.

Any post-cleanup Gowanus development should collect full real estate taxes to be earmarked as direct and supplemental NYCHA, Canal, and Uplands restoration funding.





Join the Fight for a Just and Sustainable Gowanus

Originally conceived as 12-story towers with 20% affordable housing, the **Gowanus Rezone** has hulked out into an 80-block towerization, flooding an already saturated market with out-of-scale, 22-30 story luxury towers imposed on yet another working class neighborhood.

- ***The Rezone is poorly conceived, premature, and uses the housing underserved as a craven tool for political ambition.***
- ***NYC needs to go back to the green drawing board and develop a sustainable and privately sustained zoning plan.***

Voice of Gowanus is a coalition of community organizations, activists and concerned citizens opposed to efforts to create an unhealthy environment for current and future residents of Gowanus with a premature and costly zoning plan.

We hold that securing the health and safety of the people of Gowanus and our NYC neighbors is the highest and best goal of future development—not securing developer donations.

VoG welcomes your support. Please read more and donate at: **[VoiceofGowanus.org](https://voiceofgowanus.org)**

