

GWAPP

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The Clean Point Energy, LLC Project is Inappropriate for One of the Most Environmentally Overburdened Communities in New York City¹

Preliminary Statement

The Greenpoint/Williamsburg community is currently one of the most overburdened in the nation. Along its Newtown Creek are 23 land-based transfer stations, a municipal marine transfer station, New York's largest water treatment plant and many private commercial enterprises. The southern part of the community is home to the Brooklyn Navy Yard whose operations include power plants, co-generation and many other uses. While living in this environment poses hazards not found in many parts of New York City, careful management of the Greenpoint/Williamsburg waterfront has brought an enormous opportunity to develop significant public open space across from the Manhattan skyline. This position paper is an overview of the Greenpoint/Williamsburg area, its environmental overburdening and the development of fair share mechanisms to help manage this burden. This paper also discusses how these mechanisms have directed the siting

This policy paper is part of a series issued by the GWAPP Policy & Planning Committee to express the community's opposition to the development of a power plant at the Bayside property on East River waterfront. This work is based upon the following works: Benjamin Miller, The Fat of the Land: The Garbage of New York - The Last Two Hundred Years (2000); Energy Committee of the New York Building Congress, A Matter of Urgency: New York City's Energy Supply Needs - A Policy Framework (January 2001); Barbara Warren, M.S., Taking Out the Trash: A New Direction for New York City's Waste (Organization of Waterfront Neighborhoods and Consumer Policy Institute/Consumers Union, May 31, 2000); Dr. Nancy Anderson, Ph.D. and Ms. Inez Pasher, From Measurement to Measures: Land Use and Environmental Protection in Brooklyn, New York (The International Symposium on Urban Planning and the Environment, Seattle, Washington, March 2-5, 1994).

of industry along the waterfront and how the proposed Bayside power plant conflicts with the State's long-term planning goals for this area. This paper concludes the Greenpoint/Williamsburg community is overburdened and the Bayside project will only further degrade its environment. More importantly, this paper also concludes that the State's open space and development opportunities at the Bayside site area precludes its use as a power plant.

Overview of Greenpoint/Williamsburg & Its Burdens

The Greenpoint/Williamsburg community is located on the East River waterfront. The community is home to large Hispanic, Polish, Hasidic and Italian communities. Spanish, Polish and Yiddish are commonly spoken and store signs are often in languages other than English. Historically, this community has been predominantly working class, with large pockets of poverty and many recent immigrants. According to 1990 census figures, the area had a residential population of 140,655 and an average household income of \$20,490. The most recent census shows that the area has grown by approximately fifteen percent over the last decade. Indeed, since the late 1980's, the community has experienced an explosion of urban renewal with thousands of young families, professionals and artists migrating from Manhattan, other parts of the United States and Europe to experience the more tranquil streets, riverfront views and neighborhood culture of Brooklyn.

The area is designated Brooklyn Community Board One by the New York City government. It is bounded by the East River from the Brooklyn Navy Yard north to the Newtown Creek and then to the west of the Creek as it winds its way inland eastward and then south on the border between Brooklyn and Queens. The areas adjacent to Newtown Creek, and inland, are significantly burdened by pollution from

numerous factories, municipal facilities and waste processing stations. The traditional manufacturing activities that formed the economic base of the Greenpoint/Williamsburg community have been replaced with waste transfer and sewage treatment facilities predominantly sited in a brownfield area adjacent to the Newtown Creek and away from the East River. Significantly, the prevailing breeze is from the southwest, meaning emissions from existing facilities blow away from the community. The proposed Bayside plant, on the other hand, is located south-west of the community and therefore will blow emissions directly into a densely populated area.

Facilities that contribute to the current over-burdening include:

1. 1. 23 land-based transfer stations. These stations mainly developed in the late-1980s when commercial tipping fees were raised at Fresh Kills. With the recent Fresh Kills closure, use of these facilities has increased local truck traffic by approximately 3,500 truck trips per day.
2. 2. Newtown Creek Water Treatment Plant. This plant is the largest sewage processing facility on the eastern seaboard. The facility is currently undergoing a multi-year/\$2 billion reconstruction. Both before and during this project, the community has been subject to noxious odors, especially during the summer months.
1. 3. A municipal marine transfer station. This facility process approximately 2,100 tons of garbage per day, which may increase with the development of the City's Comprehensive Solid Waste Plan.
2. 4. An major oil reclamation project. Exxon/Mobil is engaged in a multi-year clean-up of a 17,000,000 gallon oil spill dating back to

the late-nineteenth century. This underground spill exists under large sections of the community.

3. 5. Nuclear waste disposal. Radiac Corporation operates a facility to handle radioactive material used in hospitals and other health facilities.
4. 6. The Brooklyn Navy Yard. Defined in the Coastal Management Plan as a Significant Industrialized Maritime Area, the Navy Yard houses many commercial and industrial enterprises, including cement manufacturing and power and steam generation facilities.
5. 7. 4 power plants. These plants include: (1) the Hudson Avenue plant, which is the dirtiest in New York City; (2) a NYPA 44 MW generator (coming on-line within the next few weeks); (3) a 79.9 MW barge (due to come on-line in early 2002); and (4) a power generator at the Domino Sugar Facility. It should also be noted that the community is also bounded to the west and north by the Con Edison East 14th Street plant and several facilities to the North in Long Island City and Astoria.

In light of the foregoing over-concentration, the diverse Greenpoint/Williamsburg community has coalesced into an effective grass-roots movement with a sound understanding of urban planning, environmental science and the role of government and community participation in the development process.

Land Use, Environmental Protection & Fair Share Doctrine

The modern environmental protection movement is now almost four decades old. Its statutes and regulations set goals for environmental quality as well as for the protection of human health. Such control has been achieved by either banning certain substances or by setting ceilings on permissible emissions and concentrations of designated pollutants. For the proposed Bayside project, these pollutants will include sulfur dioxide (SO_x), carbon monoxide (CO), nitrogen oxides (NO_x), and particulate matter (PM 10 and PM 2.5), which are both recognized by the United States Supreme Court as known health risks. The Bayside project will result in an increase of emissions into the community. Moreover, it will introduce these emissions at a point where the prevailing winds will carry them directly into the community, compounding its already overwhelming incidences of asthma.

The ability to regulate local facilities is based largely on the zoning laws that originated in New York City in 1916. The Department of City Planning promulgates the zoning rules and conducts hearings for approval of certain proposed projects and zoning changes. Actual enforcement of zoning regulations is conducted by the Buildings Department. New York City Department of Environmental Protection (“NYCDEP”) regulations are referenced in Zoning Resolution performance standards, although it has been historically difficult to coordinate enforcement efforts between the Buildings Department and NYCDEP. One result of this legislative and regulatory disparity is the cumulative collection of environmental and quality of life threats for the Greenpoint/Williamsburg community. Another result has been residential conversion of many buildings in and around the Bayside site, which must be taken into account in determining the environmental compatibility of this project. These conversions have been a response to the

pressing need for housing in our area. While the zoning rules that govern Greenpoint/Williamsburg date back to 1961, and have left largely unchanged the 1916 regulations as it applied to the waterfront, these classifications are no longer appropriate for certain sections of the North Brooklyn waterfront, including the area around the Bayside site. As a result, the Bayside site is appropriate for adaptive reuse consistent with the State's coastal management objectives and the area's Special Mixed Use District founded in 1971. The Special Mixed Use District process established the development of both residential and light industrial uses on the same block in certain areas of Greenpoint/Williamsburg. This designation allowed for moderate density residential uses and manufacturing uses that meet M1 – light manufacturing/ high performance standards. Similar treatment for the Bayside site would be appropriate due to the presence of converted warehouses and residences directly adjacent to the property. Indeed, this treatment would be particularly appropriate in light of Texaco Refining & Marketing's agreement with the State to remediate the Bayside site.

Currently, the only existing regulations that attempt to introduce environmental considerations into the land use process are New York City's Environmental Quality Review and State Environmental Quality Review. These City and State laws require that individual projects be subject to certain discretionary actions and to undergo an environmental review. This usually takes the form of an Environmental Impact Statement that is specific to the project under consideration. While Article X of the Public Service Law does not require a State Environmental Quality Review, proposed power plants are subject to environmental review by the New York State Department of Environmental Conservation and other local, state and federal agencies.

The location of the Bayside site within the context of a State park, an open space inlet, a national historic site, a large residential conversion at the Greenpoint Terminal Market, the Greenpoint Historic District and adjacent residential uses makes it highly unlikely that a power plant proposed directly in the middle of this area will survive review. Moreover, it is important to take into consideration the proposed facilities relationship to McCarren Park and the many churches and schools in this immediate area.

The doctrine of “fair share” should also inform the State’s decision that the Bayside site is inappropriate. The New York City Charter Revision of 1989 sought to balance the burdens imposed on communities by the siting of noxious or undesirable public uses whereby no single community would be forced to absorb a disproportionate share of these uses. Called “fair share”, this legal principle is the only local law that addresses cumulative environmental quality concerns. Although “fair share” has been a welcome step, given Greenpoint/Williamsburg’s existing land use and zoning patterns, achieving a “fair share” distribution of environmentally burdensome facilities has been elusive. Given the increased burden on land-based transfer stations and the marine transfer station with the Fresh Kills closure, recently permitted power plants, the water treatment plant, DEP and DOS facilities and the area’s other burdens, “fair share” should be taken into account by the State in finding that the Bayside site is not a viable location for a power plant.

While Greenpoint/Williamsburg has retained a large M-zoned area, the city-wide trend has been to rezone land from M to non-M classifications due to the decline in manufacturing and the ever-pressing need for more housing. As a result of this trend, and other factors, the New York City Department of City Planning has recently called for legalizing warehouse dwellings directly adjacent to the Bayside site as well as large warehouse sections nearby. This process is consistent with the

development of the Special Mixed Use District in this area. In addition, it is also consistent with the State Coastal Management Plan, which calls for public open space running from the Brooklyn Eastern District Terminal (“BEDT”), through the Bayside site, through the Greenpoint Terminal Market, through the Greenpoint Lumber Exchange and up north to the mouth of the Newtown Creek.

Additional negative impacts will include the degradation of the State and New York University’s development of a university/community waterfront athletic facility and playing fields a mere two blocks away. Olympic organizers have slated this site for volleyball and archery in the 2012 games. The Bayside project will have a negative impact on open space and residential development proposed for the area directly to the north of the Bayside site at the Bushwick Inlet and the Greenpoint Terminal Market. The Bayside project is also not viable because it will preclude utilizing views of the Manhattan skyline for residential, commercial and open space development.

Conclusion

The Greenpoint/Williamsburg community has experienced robust urban renewal in the past decade. Despite vigorous economic growth, Greenpoint/Williamsburg remains one of the most environmentally overburdened areas in the nation. In addition to private industrial operations along the Newtown Creek and in the Brooklyn Navy Yard, the region contains the City’s largest concentration of waste transfer stations, a municipal marine transfer station, existing and newly permitted power plants and the largest sewage treatment plant on the eastern seaboard. The existing compromised quality of the ambient environment only serves to highlight the inappropriateness of the proposed Bayside plant. In addition, all of the existing facilities have been sited in a manner that has preserved

the East River waterfront around the Bayside site for redevelopment into residential and commercial uses that are consistent with significant economic and demographic revitalization. The proposed Bayside project is juxtaposed onto residences, public parks, schools, houses of worship, a landmark historic district and a national historic site. These uses are entirely inconsistent with a new heavy industrial facility, especially one that will thwart far more positive development that will better serve the long-term interests of New York State.