



Tuesday, December 13, 2016

To: NYC City Council Committee for Environmental Protection

RE: Public Testimony for Intro 1346-2016

Thank you for inviting S.W.I.M. Coalition to attend this hearing and testify on **Intro. 1346-2016**

Stormwater Infrastructure Matters Coalition represents over 70 organizations dedicated to ensuring swimmable and fishable waters around New York City through natural, sustainable stormwater management practices. Our members are a diverse group of community-based, citywide, regional and national organizations, water recreation user groups, institutions of higher education, and businesses.

We respectfully offer the following testimony:

- We support the proposed legislation which grants DEP the authority to develop new rules for reducing runoff from development/redevelopment projects in the MS4 areas of the city, however, are concerned that the City is being required to do the job without any additional resources.
- Regarding maintenance of stormwater management practices on private properties, we urge the City Council to ensure the legislation is robust enough to give DEP all the tools it needs to ensure adequate maintenance of these practices. We recognize the ability to take enforcement action in court against a negligent property owner is a useful tool. However, we also believe DEP should have the authority to enter onto a private property to perform maintenance if the owner is delinquent, and to collect expenses from the owner. Legislation should give DEP authority to take both types of actions.
- The bill requires the property owner to certify every five years, based on inspection by a "qualified inspector," that all post-construction stormwater management practices have been properly maintained. However, the definition of "qualified inspector" requires only expertise in erosion and sediment control, not in post-construction stormwater practices. We urge the City Council to more specifically require inspectors to have expertise in post-construction stormwater management practices. This is particularly important in New York City where many conventional erosion and sediment control measures may not be appropriate, thus, requiring expertise in other stormwater management practices, including various green infrastructure practices.
- Additionally, we request that City Council amend the bill so the post-construction section applies citywide. See section 24-550 of the bill: "This subchapter governs certain land development activities within the MS4 area." In contrast, note that a preceding section of the bill, which states the general "policy" underlying the bill, acknowledges that runoff from impervious areas "generates greater pollutant loadings to the city's separate stormwater and combined sewer systems."



We would like to take this opportunity to share some thoughts even though they are not directly related to the proposed legislation.

- We urge the City to expand the Green Infrastructure (GI) program, including the GI Grants Program, citywide so that GI becomes a tool to manage stormwater in MS4 areas. Expansion of GI is important not only for managing stormwater in MS4 areas but also in developing and implement Combined Sewer Overflow Long Term Control Plans for many of our waterbodies, whose watersheds often encompass both CSO and MS4 areas. A holistic, watershed-based approach to GI, rather than sewer-type based GI, is necessary for efficient uses of resources and for improving water quality.
- We also urge the 14 city agencies involved in the stormwater management program to fully cooperate with the DEP. Stormwater management, unlike wastewater or combined sewer management, requires actions by all city agencies that generate stormwater. Without the cooperation of the other involved agencies, the DEP will not be able to meet the requirements of the MS4 permit. We hope the City Council will indeed “monitor the operation and performance of city agencies” throughout this process so that the DEP, as the lead agency, can do its job properly and efficiently.
- Finally, as previously stated, we have concerns regarding the fiscal burden the MS4 permit and the expanded authority of the DEP places on the DEP and, thus, the water rate payers. We hope the DEP will re-evaluate the water rate structure to create a rate structure that is equitable in terms of affordability but also in terms of pollution generated (i.e., stormwater fee).

We thank the City Council Committee for Environmental Protection for empowering NYC DEP with the authority to implement and enforce the terms of the Permit and to specifically oversee and/or enforce requirements regarding activities that have the potential to contribute pollutants to stormwater runoff and the water bodies surrounding New York City.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Welch".

Julie A. Welch
Program Manager

On Behalf of the Stormwater Infrastructure Matters (S.W.I.M.) Coalition Steering Committee

Sean Dixon, Riverkeeper
Andrea Leshak, NY/NJ Baykeeper
Larry Levine, Natural Resources Defense Council
Michelle Luebke, Bronx River Alliance
Paul Mankiewicz, The Gaia Institute
Tatiana Morin, New York City Soil & Water Institute
Jaime Stein, Pratt Institute
Shino Tanikawa, New York City Soil & Water Conservation District