



Technical Assistance Services for Communities
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TASC WA No.: TASC-4-HQ-OSRTI
Technical Directive No.: 2.02 TD #2 Newtown Creek

Newtown Creek CAG Meeting Notes
May 21, 2012
6:00-8:00 PM
Dupont Street Senior Housing Community Room
80 Dupont Street, Brooklyn, NY 11222

Attendees (43 attendees, 5 US Environmental Protection Agency (EPA) staff, 2 facilitators)

Richard Allman
Leah Archibald, EWVIDCO
Ed Babor, Office of Congresswoman Carolyn Maloney
Lisa Bloodgood
Michael Brophy, Union Beer Dist.
Cara Cannella, Speak Easy Series
Rolf Carle
Sarah Durand, LaGuardia-CUNY
Will Elkins, North Brooklyn Boat Club
Lillit Genovesi, CUNY
David Glaser, Anchor QEA, LLC
Kara Grippen, Newtown Creek Group
Katie Hart-Brennan, DKCPR/Newtown Creek Group
Ted Gruber, LIC Boathouse
Tamara Gubernat, videographer
Thomas Gubernat, videographer
Katie Hart, Newtown Creek Group
Laura Hofmann, Barge Park Pals/NCA/NCMC
Michael Hofmann, Barge Park Pals
Christine Holowacz, GWAPP/NCMC
Ed Kelly, Maritime Association of the Port of NY/NJ
Ryan Kuonen, BK CB#1
Steve Lang, LaGuardia-CUNY
Liz Leaderman
Penny Lee, NYC Dept. of City Planning
Michael Leete, Resident
Anne Leonard, NYC College of Technology/CUNY
Eileen Mahoney, NYC DEP
James Maleady, Greenpoint Business Alliance
Joe Mayo, CDM Smith
Rich Mazur, NBDC/GWAPP/Greenpoint Business Alliance
Tyler McLeete, Resident

Deb Mesloh, LIC Partnership
Jan Mun, Newtown Creek Alliance
Phillip Musegaas, Riverkeeper
Holly Porter-Morgan, LaGuardia Community College
Vicki Shiah Trainor, Attorney, Sive, Paget and Reisel
Peter Spellane, NYC College of Technology
Jean Tanler, Queens Business Outreach Center/Maspeth/B2
Chris Tomasello, Reliant Consulting Services
Teresa Toro, Resident
Mitch Waxman, Newtown Creek Alliance
Kate Zidar, Newtown Creek Alliance
Wanda Ayala, EPA
Angela Carpenter, EPA
Nica Klaber, EPA
Caroline Kwan, EPA
Michael Mintzer, EPA
Walker Holmes, Skeo Solutions
Mike Hancox, Skeo Solutions

Welcome and Introductions

- Acknowledgements (Mike Hancox, Skeo Solutions): A thank you to Rich Mazur for providing the meeting space and coffee; to Teresa Toro and others for providing light refreshments.
- Filming of the meeting: Tamara Gubernat and Thomas Gubernat explained that they are creating a documentary about Community Board 1 in Brooklyn and would like to film the CAG meeting and use the footage in their documentary. They asked if anyone in the room had objections to the filming of the meeting. No objections were expressed.
- Explanation of agenda: Mike Hancox explained that the question and answer period after the presentation by the US Environmental Protection Agency (EPA) would be more tightly facilitated than past CAG meetings have been, for the purpose of getting as much out of the meeting as possible. If time remains at the end of the presentation and Q&A period, the CAG may pose questions on the CAG's list that EPA's presentation has not answered. If time does not allow this to happen, the steering committee will discuss what questions remain during the next steering committee conference call.
- CAG membership: Walker Holmes (Skeo Solutions) explained how to become a CAG member, for those in attendance who are not currently members but would like to join. The CAG membership page on the CAG website explains the process.
- Welcome: Kate Zidar welcomed everyone to the meeting, asked for everyone's help with continued outreach about the CAG, and asked for introductions (name and affiliation – listed above).

Ratification of CAG Leadership and Documents

- Steering Committee: All attendees were given a list of the current Steering Committee members. Teresa Toro made a motion to ratify the proposed steering committee members; Kate Zidar seconded the motion. All in favor, no opposed.

- Co-Chairs: Christine Holowacz made a motion to ratify Kate Zidar and Ryan Kuonen as co-chairs; Rich Mazur seconded the motion. All in favor, no opposed.
- Operating procedures: as stated in the draft operating procedures document, the steering committee will ratify the operating procedures. Regarding the operating procedures, a CAG member asked for clarification on the "health experts" mentioned in second paragraph: "[The CAG's] members represent a diverse cross-section of key stakeholder interests, including... health experts..." The group agreed that such health experts would be ideal CAG members, and while the membership does not yet include health experts, perhaps the group could reach out to potential members with expertise that would be useful to the CAG.

EPA Presentation

- Wanda Ayala introduced EPA's presentation on Newtown Creek and the Superfund process by explaining that this is the first of many discussions; while EPA cannot answer every question during this CAG meeting due to time constraints and because the Superfund process at Newtown Creek is only in the early stages, they are always available to the public. Questions may be posed at the end of the presentation, and the PowerPoint presentation slides will be available both on the EPA website¹ and on the CAG website². The presentation outline was as follows:
 - Newtown Creek Overview (Nica Klaber)
 - Relevant Government Laws, Oversight, and Jurisdiction (Angela Carpenter)
 - The Superfund Process (Angela Carpenter)
 - Newtown Creek Remedial Investigation/Feasibility Study (RI/FS) process (Caroline Kwan)
 - Current RI/FS status of Newtown Creek (Caroline Kwan)
 - Community Involvement (Wanda Ayala)
 - Questions (Facilitated by Mike Hancox)

Questions for EPA

Note: The narrative below is a summary of the question and answer period, divided into general topic areas. Neither the questions nor the answers are intended to be exact quotes from either the CAG members and observers or EPA staff.

- *Health assessments: How does the human health assessment mentioned in the presentation relate to the New York State Department of Health's (NYS DOH) Public Health Assessment (PHA)?*

A public health assessment is conducted by the Agency for Toxic Substances and Disease Registry (ATSDR) through cooperative agreement with NYS DOH; this is standard at National Priorities List (NPL) sites and is conducted separately from EPA's Superfund activities. The PHA is different from the human health risk assessment described in the presentation, which is part of the Superfund process. The human health risk assessment, described in the presentation, is part of the remedial investigation process and is not epidemiological; rather, it looks at impacts of contamination at the site on potential site users to assess current risk. The human health risk assessment is conducted by EPA, not NYS DOH. The basis for taking action through Superfund is that there is a risk to a

¹ <http://www.epa.gov/Region2/superfund/npl/newtowncreek/additionaldocs.html>

² www.newtowncreekcag.wordpress.com/resources-2/

human population in excess of what the statute says the risk range should be. This risk is determined based on reasonably anticipated future use at the Site. When a CAG member noted that recent public meetings with ATSDR are not going very well, EPA noted that there is substantial confusion about what a PHA is and what it means. Usually, people want to know is if their health is or will be impacted by the site. However, the answer to this question is not clear because the data set (the sampling and testing at the site) is not complete. EPA is in the process of doing the sampling; EPA will provide data to ATSDR, and then the PHA will be updated. Unfortunately, the name of the PHA is misleading. EPA suggested that in the future, the CAG might consider planning a meeting about the human health risk assessment, what it is, and what role it plays in the Superfund process. EPA suggested that the CAG confer with Skeo Solutions about the information the CAG wants about risk and health assessments, put together a list of agencies, and provide this list to EPA in order to arrange a future CAG meeting at which the CAG can ask risk and health assessment questions.

- *Risk: After EPA completes the ecological survey, air monitoring, risk determination, etc., is it possible that the agency might conclude that there is no risk?*

EPA cannot guarantee any conclusions, but an outcome of no risk is very unlikely and does not seem to be a realistic expectation based on EPA's preliminary investigations thus far. The human health risk assessment will look at which types of people (residents, construction workers, trespassers, swimmers, etc.) might be in contact with contaminated sediment and the pathways for contamination to travel from the sediment and into people. EPA noted that Superfund is concerned with chemicals, not pathogens. EPA is looking at long-term human health risks; however, if EPA discovers anything along the way that presents imminent risk, Superfund also includes a provision for emergency response capabilities.

- *Aerators and health risks: What are the health risks when the aerators in Newtown Creek are turned on?*

Air monitors have been active when the aerators are turned on. Disturbance of sediment occurs, but EPA is not aware of problems at this point. Community members are concerned that if aeration is done from the bottom of the creek, this could aerate pathogens from sewage bacteria. The air sampling done by the city did not test for pathogens in the breathing zone. The monitoring points are at fixed locations nearby in the neighborhood, on street level. A CAG member noted that workers are exposed every day at English Kills, as there is an active tug barge at the end of the navigable waters. EPA responded that the human health risk assessment will look carefully at commercial and industrial users/workers. In Newtown Creek, the situation is a bit different than usual because of the nature of the creek. A typical assumption might be that a person works approximately 250 days a year, 8 hours per day; certain respiratory rates appropriate for physical labor would be used to calculate exposure, and risk assessors can give other pathways and risk drivers. It is important to determine which scenarios are most accurate so that the remedy addresses the right risk. Commercial, industrial, and recreational uses will be studied, and possibly residential.

- *Contaminant testing: What contaminants will EPA test for in the Remedial Investigation (RI)?*

Essentially all contaminants (including dioxin), except pathogens (due to the way that the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is

written, EPA cannot test for pathogens). The air sampling currently being conducted will establish a baseline prior to remediation.

- *Combined sewer overflow (CSO): Does EPA have plans to consider CSO discharge in the sampling?*

Yes, this will be included in Phase II. EPA will be looking at the contribution of CSO outfalls for contaminants; the current plan is to look at the sediment mounds beneath outfalls. Some of the lessons learned at Gowanus will guide the process moving forward. In the CAG's March 13, 2012, letter to EPA, the CAG requested that the CSO sampling be more rigorous than at Gowanus. A CAG member asked if the CSO sampling will be done before the dredging by the city. EPA's goal is to get samples of the area both pre- and post-dredging. EPA plans to coordinate closely with everyone who is doing work on the creek.

- *De minimis settlements: Businesses who are primary property owners are having a hard time getting insurance and credit. Can EPA issue comfort letters that these businesses can take to their banks?*

EPA is conducting a very thorough search for potentially responsible parties (PRPs). The site has been heavily industrialized since the 1800s, which means the industrial history is extensive, and many of the PRPs no longer have a presence on the creek. At this point, EPA's enforcement office is still gathering information. Because it is so early in the process, there may not be much comfort that EPA can give. However, as issues arise, EPA is happy to meet with companies to see if there is anything that EPA can do or say to assist companies in their continuing business operations. EPA is very mindful that this is a significant maritime industrial zone, and the agency wants to see businesses continue to operate and thrive. When the RI has progressed, and when EPA has more knowledge about contamination, EPA might be in a better position to offer comfort letters. A CAG member pointed out that banks are not in a risk-taking mood and are looking for any excuse to not write a mortgage or refinance a property, and that banks currently will not touch anything adjacent to the creek. At this point, EPA will help to address problems on a case-by-case basis; concerned organizations and businesses should bring questions about specific owner/operators to EPA.

- *Communicating about sampling activities: Faculty and students at LaGuardia Community College are doing sampling in tidal zones where EPA is not focusing. Can these faculty and students collaborate with EPA?*

Yes. Wanda Ayala is the portal; the CAG and community members should contact her and she will get information and questions to the remedial project managers and other members of the site team.

- *Field investigation: How big is the field investigation?*

The exact size is hard to describe because EPA is conducting sampling in so many different strata, which translates into over 1000 sampling locations. The work plan and the quality assurance/quality control (QA/QC) plans are on the EPA website for Newtown Creek and on the CAG website. Ultimately, all of the data will be available to the public.

- *Air sampling: What is the nature of the air sampling?*

The air sampling does not include particulate matter. The samples are taken over 24-48 hour periods in canisters near the creek and also at background locations farther from creek. The sampling is an iterative process; EPA will see what the data show in the

baseline results, looking at other areas of New York City. EPA does not want to do invasive testing work that will stir things up before the baseline is established and documented. Normal business operations should continue during this time. A CAG member asked if it will be obvious to residents and businesses when the testing is taking place. EPA responded that all people with canisters placed on their property will have fact sheets describing the sampling process; EPA is aiming for no impact to residents. If people have questions about a potential sampling activity, they should contact Wanda Ayala. She will figure out who is conducting the activity in question, regardless of whether the entity performing sampling work is federal, state, city or Riverkeeper (these are the four entities most likely to be conducting sampling).

- *Early results: Are any previews of the sampling results available?*

The preliminary assessment/site investigation showed high metals and copper, polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), and other contaminants, but EPA does not have new analyses yet.

- *Technical Assistance Grants (TAG) and Technical Assistance Services for Communities (TASC): When can/should the CAG start to think about applying for these assistance grants?*

EPA suggested that the CAG confer with Skeo Solutions and look at the existing reports for the site to determine whether the CAG currently needs assistance interpreting data. There will be many reports, and the CAG should use technical assistance wisely. TASC assistance may be easier for the CAG to use than TAG, because TAG requests may take five to six months to process. When using TASC, the CAG should be very specific with its requests; after one request is completed, the CAG can put in another request. EPA will be very open with all of its communications. This site will have lots of reports and data, and the CAG can contact Wanda Ayala and/or Caroline Kwan to ask questions about what reports are coming, what the reports are intended to communicate, and whether they are worth using technical assistance to interpret. Wanda Ayala is the acting Region 2 TAG coordinator and TASC coordinator; the CAG should contact her about interest in these resources. Public comment periods might be a good time to use technical assistance help. The workplan addendum for groundwater will be coming out this summer. EPA suggests that the CAG wait to engage with that document until it is in a draft final form; TAG or TASC resources can then be used to look at EPA's interpretation of the data. EPA will always be happy to discuss with the CAG which documents might be worthy of technical assistance.