

Newtown Creek Community Advisory Group (CAG)

August 22nd, 2018

Caroline Kwan
Stephanie Vaughn
Mark Schmidt
Michael Mintzer
U.S. Environmental Protection Agency
290 Broadway
New York, NY 10007

Comments on Baseline Ecological Risk Assessment (BERA) Draft

Dear EPA team,

After review of the latest version of the draft BERA, feedback from our TASC technical advisor and review by the CAG technical committee we offer the following itemized concerns and comments for consideration in finalization of the BERA.

1. Executive Summary

The executive summary of the BERA does not clearly summarize the findings of the risk assessment nor directly identify the contaminants of potential ecological concern (COPECs) and their role in generating unacceptable risk. The executive summary should clearly state the risks in a method that is reflective of the content within the report and clear to the readers.

2. Sources

- A.** The BERA draft does not sufficiently outline sources of COPECs. While there is some emphasis placed on CSO, runoff and municipal discharges, the report does not properly address additional historic and ongoing sources, including eroding shorelines, groundwater seeps, and bulkheads leaking petroleum related products. Because an effective remedy will largely rely on identification of pollution sources, we believe a full list of potential COPECs and their locations must be added to the BERA.
- B.** In Section 3.1.1, the draft BERA states that non-aqueous phase liquid (NAPL) can cause direct physical effects to benthic macroinvertebrates from fouling but does not evaluate any physical effects from exposure to NAPLs (gasoline, oils and tars). There are no maps showing coal tar or NAPL seeps, or any areas contaminated with NAPLs in the study area. We would like locations of coal tar and NAPLs to be clearly shown in the BERA report. In addition, we would like to see if additional evaluation of physical contact with NAPLs is necessary to assess ecological risk.

- C. The draft BERA does not mention the ongoing ebullition sampling in the creek. The results of the ongoing ebullition sampling will likely impact the BERA and should be clearly outlined within the report. A 2009 paper regarding ebullition within Bangor Landing addresses this issue.¹
- D. There is significant mention of confounding factors, but they are not examined with the same scrutiny as COPECs. We believe the same standards should be applied when examining all causes of ecological risk. Additionally, we have issue with the “Unresolved Complex Mixture” that is referenced in the BERA. If suggested as an important cause of ecological risk, then a proper identification, study and assessment of the source needs to be included.

3. Lower Passaic River Sampling Area (LRPSA)

Comparing tissue concentrations to LRPSA CBRs results in estimates of more risk than comparing to Newtown Creek CBRs. The difference between the Newtown Creek CBRs and LRPSA CBRs is not explained in the draft BERA report. The report should clearly explain the differences and what they mean in relationship to the Remedial Investigation.

4. Reference Areas

The draft BERA indicates that Westchester Creek is the most appropriate reference area for comparison to Newtown Creek. Section 10.7.5.1 of the draft BERA states that the species richness and diversity of Westchester Creek, an industrial and CSO influenced waterbody, is closer to that of the Study Area than the other three Phase 2 Jamaica Bay reference areas. We have concerns that comparison to a similarly impaired water body will only serve to downplay ecological risks at Newtown Creek and that comparison to a healthier area is more appropriate.

While we are eager to see the Superfund cleanup of Newtown Creek progress, we firmly believe that key documents like the BERA need to be as thorough as possible in clearly examining and understanding the risks posed by chemical contamination and how it might impact potential remedies of the Creek. We encourage the EPA to fully consider all comments received on the BERA, including those from outside agencies such as NYSDEC, NOAA and USFWS.

We thank you for your consideration and look forward to your response.

On behalf of the technical committee and general Community Advisory Group,
Willis Elkins and Ryan Kuonen
CAG Co-Chairs

¹ EBULLITION-FACILITATED TRANSPORT OF MANUFACTURED GAS PLANT TAR FROM CONTAMINATED SEDIMENT
EUGENE L. MCLINN* and THOMAS R. STOLZENBURG
RMT, 744 Heartland Trail, Madison, Wisconsin 53717, USA
SETAC Press, 2009.