

Newtown Creek Community Advisory Group (CAG)

TECHNICAL MEETING SUMMARY

July 15, 2020 | Virtual Meeting No. 4

Summary of Presentations and Discussion¹

Questions and discussion regarding the material presented are included in bullets in the sections below.

- *Presenter responses are in italics.*

BRIEF SITE UPDATES

Caroline Kwan, USEPA Region 2, provided the following site updates:

Operational Unit	Update
OU1	<ul style="list-style-type: none">• Report has been received and is being reviewed by the whole team. It should be finished by the end of the summer.• Bioaccumulation and sediment transport modeling for OU1 is still happening.
OU2	Still working through the process, specifically on the responsiveness summary.
OU3	Still awaiting CSTAG comments from the meeting on April 29, 2020 to proceed on next steps

Questions & Comments

- **Regarding the OU3 comments from trustees' groups, EPA, and other agencies, will they be publicly available and if so when? Will the written comments be shared with the CAG?**
 - *EPA: CSTAG comments will be available. The Trustees also provided comments during their presentation and NOAA did verbal comments. We are waiting for written comments on the OU3 FFS report and will follow up on this.*

NAVIGATION, DREDGING, AND SUPERFUND

Per CAG request, Lisa Baron, USACE- New York District Project Manager, presented on USACE's role in Newtown Creek remediation. She provided the context of having a similar experience on the Lower Passaic and expressed gratitude to EPA for facilitating a technical support role on the Superfund Remedial Investigation/Feasibility Studies (RI/FS). Ms. Baron then reviewed the overarching role of the USACE, highlighting that the regulatory role and program stretches back

¹For additional detail of the presentations, refer to the slides found at:

<https://newtowncreekcag.org/presentation-slides/>

to the 19th century. In particular, that the program's authority and action rests within Section 10 and 14 of the Rivers & Harbors Act (RHA), as well as the legislative action by Congress required by RHA Section 408 to change the depth of a federal channel. She then explained that USACE was asked to do a commercial navigation analysis of Newtown Creek and provided further details on the scope and purpose of that work. She concluded by giving an overview of the next steps in the analysis, which included waiting to hear from New York City as a user. Following this, USACE plans to synthesize their data and then examine what is the reasonably anticipated use, how it relates to the future authorized channel depths, and determine whether anything can be deauthorized or modified. The process would then conclude with finalizing a draft report and ensuring accuracy with the relevant users.

To view USACE's full presentation and recording with detailed information on Navigation, Dredging, and Superfund, visit the [Newtown Creek CAG website](#). The questions asked by CAG members after the presentation follow **bold** with answers in *italics* and additional CAG commentary on that question in regular text.

Q&A

- **There is commercial activity where there is sufficient operating depth.**
 - CAG member: Historically, there has been a huge gap in what USACE has done to keep authorized depths. If there are physical conditions for folks, we have to be careful about how we characterize "deauthorized". These are classified as inactive because the current conditions don't allow it, but some users might still want it. We should engage with NYC Economic Development and look at the potential distribution businesses using water-born commerce.
 - USACE: *We are waiting to hear from the city, if there are future plans for that growth, they will tell us, and this is what we're waiting for. If we know that no one is going to use it in the end, that is when, and only when, a whole deauthorization occurs.*
 - CAG member: Department of City Planning has a draft study for their goals of the north Brooklyn industrial area, and I also want to share that there are people that have creek access that might be able to use this (Cooper Recycling would use barge, but channel depth/bridge prevents).
 - CAG member: I am supportive of using the creek as a waterway. We have a tremendous ecosystem of opportunity in the upper tributaries of our creek. We need to think on a broader sense that incorporates the commercial and the natural. Once we do this, then the community of residents and workers will find an incredible use of the creek for education, recreation, and spiritual uplift. So many people have been precluded from using the creek.
- **Does USACE have resources to invite public comment from the commercial public to see if they would be interested in properties if the adjacent channel were dredged to the appropriate depths?**
 - USACE: *It depends on what kind of activity they are looking at. If it has to do with future use, contacting me [Lisa] is important to get that info in the report. This is so*

we know who is looking at improving their facility where they can reuse the river as a water transportation mechanism.

- **Curious how recreation-oriented traffic is considered? The bathymetry survey from the ops team past bayside has pictures of non-commercial vessels. How is this quantified and reflected in the navigational analysis?**
 - *USACE: We make the assumption that the depths are much greater than what a recreational vessel would need. It is inherently taken care of unless there is a flagging of more commercial transportation systems. Channel depth is based on future use of a commercial user (we cannot justify greater depths based on recreation).*
- **If the interior reaches were de-authorized that would obviously affect a number of potential properties and users.**
 - *USACE: “Authorized” means that the USACE will be responsible for maintenance. If there is no commercial use in the segment, then we look at the economics and if it is something that we cannot justify, we default to “why”, which is the big issue on the deauthorization and being able to ensure maintenance.*
- **Does the anticipated water rise over the next 30 years impact the current considerations on depth? What does it mean for these authorizations?**
 - *USACE: The depths are 23ft or 20ft at that moment in time, it all relates to mean low water depth. So, it gets better with time for the users to have additional water. However, once authorized it is based on the draft of the vessel. I will follow up on the specifics of the impacts of SLR on depth.*
 - *CAG member: You can do less dredging and if you maintain 23 ft to the surface of the water the channel itself will not change.*
- **EPA:** We would like to reiterate that one of the next steps here would be the USACE hosting a commercial users meeting. This is something that we EPA would help facilitate, keep in mind there will be additional opportunities.

DEC ANNUAL UPDATE ON UPLAND SITES

Ian Beilby, NYCDEC Division of Environmental Remediation Chief, provided the CAG with an update on observations from last year, as well as answers to more recent questions that had been posed regarding specific projects on the Update Agenda (these can be found in the full presentation slides on the [Newtown Creek CAG website](#)). Mr. Beilby then provided an update on the NTC Upland Process. DEC’s role is to ensure that facilities or components considered adjacent to the Creek are not sources of contaminants once an in-water remedy is being conducted. After all, a dredging or capping project being re-contaminated is detrimental. Mr. Beilby concluded by noting that EPA and NYCDEC are still considering and working out how everything will be best achieved.

To view DEC’s full presentation and recording with detailed information on the Annual Update, please visit the [Newtown Creek CAG website](#). The questions asked by CAG members after the presentation follow **bold** with answers in *italics* and additional CAG commentary on that question in regular text.

Q&A

- **Regarding the Pratt site, is there any estimation of the plume size, or how much product has seeped into the creek over the years?**
 - *DEC: Geologic cross sections have indicated that it is not generally a source of NAPL to the creek. Where the seep was occurring at the bulkhead there was concern that there may be infrastructure providing a conduit by the product. There is not an estimate of volume of product*
- **Regarding the National Grid site, I feel like there is a real need to have larger community engagement on that site given that it is going through the IR process, is massive, and located near residential (smaller streets and public housing) with a lot going on and other unknowns. For the tank removal, where would this be and has there been a lot of monitoring/survey work along the bulkheads? Are there any updates on what's happening on the shoreline side?**
 - *DEC: There are 7-8 tanks planned for removal. I do not know much. We initially thought there were a couple of tanks, but there ended up being more. The locations would be in the workplan documents that are available to the public. It is a state superfund site, so there are community notification requirements on significant IRMs and remedies. These should be going out to the public through various distribution networks.*
- **Regarding the National Grid site, do you have any idea on the depth of coal tar contamination associated with that site? Is there any monitoring done by the state regarding migration of petroleum products in the water?**
 - *DEC: There is a well that indicates and has had products in the past on the pier location close to English Kills (this is recoverable). The depth is well below the bottom of the creek – it is 50-60ft below (it is deep). There has been very little observance of free product in the banks side of the pier. We recognize there is a significant observance of various materials in the turning basin, but origin of this material is illusive, and some does appear during ebullition events. I have seen construction details of that structure and it is difficult to employ any traditional investigation techniques.*
- **Are techniques being developed? Are there monitoring wells there?**
 - *DEC: Not to my knowledge. There are wells on the eastern/southeast portion of the property (there are a lot of wells). These details are in the various docs (RI report will have a summary of this information).*
- **Regarding the Manhattan Polybag site, can you confirm NAPL is observed as an effect of the tides? Are you seeing any flushing of the NAPL out the back side?**
 - *DEC: Contaminants are less dense than water, so when the tide is low, they are driven away from the uplands and are allowed by gravity to seep from the lower surface water conditions. As the tide comes up, you have the surface water in the creek and see it more on a monthly basis when have a lower tide cycle. This is a site-by-site occurrence. There is no “flushing” mechanism (tides are not driving any kind of NAPL migration).*

- **Some are brownfield and some are state superfunds. Who initiated the brownfields sites registrations? NYS or the property owners?**
 - *DEC: This is an application process. We do not go out and look at brownfields to add to the registry, it happens if someone wants to develop a property.*
 - *CAG Member: On the brownfield sites that have been asked to be registered, you have to indicate some kind of development or else they wouldn't have asked for it.*

NCG CSTAG RESPONSE

Tom Schadt from Anchor QEA provided an overview of the NCG comments to the CSTAG response. He explained that the overall OU1 remediation timeline is a long and therefore starting at OU3 would facilitate remediation. He underscored that action now would provide large benefits to an early understanding of monitoring, operations, and how this initial monitoring and learning would inform the overall OU1 site remedy. He noted some other ancillary benefits to swifter remediation including access to funding for restoration, and an opportunity to complete the remediation more swiftly to avoid missing access to these funds that are timebound. He acquiesced that it was probably not for NTC Group to decide on benefits, but that there were many things they were interested in learning from the OU3 site. He further highlighted that it was not unusual to take a piece of a project and get it going. He reiterated that the plan for OU3 was well-within Superfund guidelines and provides the opportunity to learn about the more complex upstream system. Mr. Schadt concluded by reassuring the CAG that NTC Group would not pursue such a path if were perceived as unsustainable.

Q&A

- **How soon would this cleanup start? I would love to see it start as soon as possible. As a developer on the creek it would give me incentive to go ahead and develop my site.**
 - *NCG: We would like to see construction in 2022. The process through the EPA would allow this.*
- **Please address why the CAG should take your review of the effects of OU3 over NYS's doubts about the usefulness of that project (addressing DEC comments)?**
 - *NCG: COPC concentrations are increasing as you go upstream, we agree with this. Don't disagree as you get up past 1 mile and further, things get more complex. It is a challenge to understand what is creating these higher concentrations, or if it could be due in part to the turning basin and the upper end of the creek. Taking some action, getting a clean surface, and doing capping/dredging will better allow us to understand these questions. We've modeled using sophisticated techniques and get results that indicate it would stay clean. We are comfortable with data on ongoing sources, and interactions and that what is built and done will be sustainable. The time and resources are available to do this, we think OU3 would not impede OU1 and that it will keep its*

current pace. We don't see this impeding it and feel like we'll have a better OU1 product at the end of the day.

- *NCG: Regarding Benthic Toxicity: The whole issue of this in the system is complex. We did a lot of tests throughout the system and what we saw was a lot of benthic toxicity at Creek Mile 2. When we looked at the lower 2 and more chronic endpoints that EPA feels are better for decision making, we saw that results from 28-day survival of test organisms either on an absolute basis. We did not see evidence that PAH basis were at a large enough concentration to cause toxicity. OU3 polygons are more driven by PCBs than other COCs. PCBs are more significant in the system in terms of bioaccumulation. Our focus is on bringing those concentrations down to have a positive effect on fish and crab tissue concentrations.*
- **It seems like there is some reticence to look at sources of petrochemical contamination coming from above OU3.**
 - *CAG Member: The Manhattan Polybag site shows that NAPL migrates to the surface water at this location at low tide, there are Morgan Ave sheens, and the training basin is seeing this migration, but the source is unknown. Furthermore, a major source of contamination coming off of National Grid is not being monitored. As the tide goes out there is less pressure on the bottom sediment and so gasses escape and bring NAPL to the surface. Ebullition is a natural occurring phenomenon, but if there is heavy petrochemical contamination, then we see ebullition surfacing the contaminants of concern. The model does not take into account all the data that we don't know. I think this is very dangerous, and if you proceed with action on a model that is not based on empirical data collection with petrochemicals, then you'll have an inadequate action that draws time and materials from OU1, which then would have to be compensated.*
 - *NCG: I understand the concern about the source of the sheens on NTC Anchor QEA or Newtown have taken them seriously. Maybe you're not aware of the studies that have been done and got split up in an effort to get the RI done. The public does not see a lot of the data to come out of the studies until the FFS is ready. We have done a tremendous amount of work on Newtown Creek with respect to NAPL. The sheens don't just manifest and form NAPL and sediments, a lot comes from pipe too. You mentioned the accuracy of the models. When we have looked at the long-term effectiveness of OU3, we have not found plausible scenarios where it would deem the remedy ineffective (\$80 Million cost of the remedy). We have done a very diligent job. We are intending of spending upwards of \$80 million.*
- **Is the Creek so different from many other river superfunds that we have to determine the best remediation actions independent of what has been discovered at other locations? Is there a uniqueness/lack thereof?**
 - *NCG: It is unique because it is so urban and complex.*
- **Can you remind us how deep the draft of the navigation channel would be throughout the lower 2-mile reach of Newtown Creek upon completion of proposed OU3? How**

does that depth compare to the currently authorized navigation channel? What would it take to remove the cap and dredge deeper if that were later deemed necessary?

- *NCG: The cap would be a sand cover that could be removed to greater depth. It would be dredged and handled much the way the underlying sediments would, which helps to see magnitude/depths.*

Other Items, Next Steps, Reminder of Next Virtual CAG Meeting

Following the evenings speakers, the discussion then turned to next steps and planning for the September 16 CAG meeting. The following items were proposed for consideration by the SC as September agenda items:

- OU3 & FFS and Early Action Update,
- OU2 Record of Decision and response to comments
- OU1 Risk Assessment

The meeting adjourned at 8:45