

Newtown Creek Community Advisory Group (CAG)

TECHNICAL MEETING SUMMARY

March 17, 2021 | Virtual Meeting No. 8

Summary of Presentations and Discussion¹

Questions and discussion regarding the material presented are included in bullets in the sections below. *Direct responses from EPA are in italics.*

US EPA UPDATES ON OU2 AND OU3

Operational Unit	Update
OU1	<ul style="list-style-type: none">• Continuing RI Report review• Modeling report will be coming in Spring 2021• Part of the FS phase will be reviewing some data reports and investigations that have been completed; data evaluation reports are also being reviewed• Next steps: development of Preliminary Remediation Goals (PRGs)• Currently identifying well locations throughout the Creek for the shallow lateral groundwater characterization• Working with New York State to coordinate on the Uplands sites; EPA has been meeting with DEC weekly on various issues
OU2	<ul style="list-style-type: none">• EPA is continuing the deliberative process on their Superfund review of the NY DEP LTCP
OU3	<ul style="list-style-type: none">• EPA sent comments, and CSAG recommendations to the Newtown Creek Group in late December 2020,• EPA provided comments to NCG on draft FFS January 2021 and NCG provided responses last week• EPA is working on revising the FFS Report and should be receiving a revised copy late April/early May and will then return the FFS to CAG

The questions asked by CAG members after the presentation follow **bolded** with presenter answers in *italics* and additional CAG commentary on that question in regular text.

OU1 Questions

- **How are you coordinating with DEC? Also, what is the procedure and how do you envision incorporating Uplands into the analysis?**

¹For additional detail of the presentations, refer to the slides found at <https://newtowncreekcag.wordpress.com/presentation-slides/>

- *EPA: Over the years EPA has done evaluations of sites we're aware of, especially those under DEC purview, and discussed them to ensure EPA interests, as well as DEC's are being met. EPA is trying to progress discussions and we want a good relationship to evaluate the different sites and see if there are concerns that EPA has that can be relayed to DEC.*
- *DEC: DEC spoke about this today, and New York State has a lot of information, too. There are many sites on the shoreline and part of our job is to evaluate the Uplands impacts from the creek.*
- **How would these sites get folded into a Superfund review?**
 - *EPA: This is one we want to speak about at length, we have been working on this for a number of years, and we are trying to put more focus on it. The RI Report includes a list of the evaluations of hundreds of Upland facilities adjacent to the Creek or nearby. What we are doing is reviewing the existing data from the state and the status of each of those properties (i.e., is there any ongoing cleanup and where does it stand; is it implemented; does it need to be implemented?). As a first cut, EPA is trying to determine which might still be contributing a significant amount of recontamination. After identifying significant offenders, EPA will work with the state to figure out how to address it. Whether or not this will be in the ROD remains to be determined. EPA would not want to hold up the ROD for the DEC site review process. The sites that are determined to be significantly contaminated and need a remedy would need to be addressed prior to the full remedy of the site. If we are aware that something might re-contaminate, we would address pre-cleanup. Big picture is how EPA is looking at it. This is a huge question and EPA appreciates the coordination we are getting from the state at this point.*
- **The Conceptual Site Model (CSM) is being developed in the absence of the data available regarding extent, location, amount of current contamination. How are you developing a model without understanding how the contaminants are affecting the water body?**
 - *EPA: I wouldn't necessarily say that because we have a lot of data. What we are assimilating into the decision-making process, is to look at the data in combination with the cleanup goals. We are getting to the point in the process where we have preliminary data. The modeling part of this is one line of evidence, and the data form the primary basis of our decisions. EPA has sampled many of these ongoing sources.*

OU2 & OU3 Questions

- **What the heck is taking so long? 10+ years seems like enough time to produce a ROD. What should I tell my friends?**
 - *EPA: That is a great and fair question. This is a very complex site, there are lots of inputs (i.e., the water moves, its tidal, etc.). It takes collection and evaluation of data to try and figure out what EPA is being told. What we are talking about is a billion-dollar decision that no one wants to make lightly. If we make the wrong decision, or a partial decision, then there would be the risk that we would need to*

go back, which we ultimately can never eliminate. However, it is finding the balance to make the best decision.

- *EPA: This is something EPA hears at a lot of Superfund sites. The case with this site, when compared to a lot of other bodies, is it is difficult to understand why it is taking so long. Each site is different, and the complexity of a site necessitates us finding out more information and questions that we need to answer at each stage of the Superfund process. We are doing just enough to get these questions answered, and if we do not get answers, we have to keep looking for them. We are starting from ground zero with Newtown Creek. We would like to move this along, but we also do not want to make any critical errors in our analysis. It is taking a lot of time, but it is also appropriate and thorough for the site and in keeping with the timeline of other complex sediment sites.*
- **When will we get to a ROD for these OUs?**
 - *EPA: It will take longer than you want, but shorter than you expect. This is a question we get a lot at Superfund sites, unfortunately the science and law does not allow us to cut corners. We have to do this methodically; this is how EPA is approaching the analysis of the conditions at the site. Regarding the complexity of this site, I have been at EPA 20+ years and this is widely considered the most complex sediment site in the country.*
- **Timeline for OU2?**
 - *EPA: There is no timeline. We cannot say.*
- **The more complex the site, the more data you need. There has been a massive amount of data on NAPL by contractors, but there is none of that data in the RI. We see no scientific basis for denying that data as a foundation of the CSM, we should use all the sources of data that we have.**
 - *EPA: These data are in the Remedial Investigation.*
- **As you are moving through the process, can we factor in the increasing footprint of FedEx/Amazon? As we're moving to warehousing and shipping around the creek there are new opportunities, as well as pitfalls, that would not necessarily fall into the OUs. Is there a way to factor in changing conditions of the site?**

NATIONAL GRID AIR PERMIT APPLICATION AND RELEVANCE TO THE SUPERFUND SITE

Willis Elkins, CAG Chair, provided the CAG with a quick update regarding the National Grid site. He explained the relevance to the Newtown Creek CAG was because so much of the CAG's work has been a small, dedicated group of workers. However, he emphasized that the National Grid pipeline expansion is an issue that has garnered attention from a larger audience, especially those who have yet to be engaged regarding the issues Newtown Creek faces.

Mr. Elkins then shared that there would be 4 days of public testifying about the pipeline expansion and increasing use of fossil fuels. He invited everyone to submit comments at the following site: <http://www.newtowncreekalliance.org/say-no-to-national-grid-air-permit-and-expansion/>, and encouraged CAG and community members to feel free to testify and share the opportunities to comment with others.

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- **Are you collating responses to the questions?**
 - DEC has not responded yet.
- **How does the National Grid site, and the current plans, affect the Uplands conversations with DEC?**
 - *EPA: If we are talking about any site, even once a remedy is selected, there will be long-term maintenance for the site, there will be 5-year reviews, and there will be change usage all along the uplands. This is something that, as things change, we will incorporate the updates. Superfund is flexible enough to accommodate new conditions.*
 - *DEC: To be honest, this is in a different division, it is not my forte. However, the DEC is involved and as any property evolves, we would be involved not only in remediation, but with the Divisions of Air and Natural Resources. I am not specifically knowledgeable of the air discharge. I want the folks in this group to feel like they are heard, so maybe we can connect offline. I can speak about the remediation; National Grid is a state superfund project, and it is PRP-funded. This is certainly a component, and it has its own remediation as well as impacts to the creek and will have its own ROD. DEC is having a conversation about this week and how it relates to the impact to the creek. Currently on this upland site there are two OUs, one is in design, other one is investigating still*
- **Would EPA come out publicly against the National Grid plans so as to limit its effects on the site?**
 - *EPA: I will take this question back to management*

CAG-ONLY SESSION: OU1 REMEDIAL INVESTIGATION DRAFT COMMENTS

Agency staff and PRP representatives were invited to sign-off from the meeting while the CAG and interested community members went into a closed session to discuss the OU1 RI comments. The Technical Committee introduced the CAG's Skeo consultant, Karmen King, and presented some context on the purpose of the RI, which is to characterize the nature of the hazard. CAG Chair Willis Elkins also reiterated that the PRPs are those who write the report explaining the state of the contamination they are responsible. Following this, the Technical Committee provided a basic overview of the larger issues, and when through each of the nine comments for the CAG and community members to provide preliminary comments and feedback.

The Technical Committee recorded the feedback provided during the closed session, set the timeline to be finished by the April CAG meeting, and would ask for a written response from EPA by a specific date.

NEXT STEPS

Upcoming CAG Meeting Dates (proposed)	April 21, 2021
	May 19, 2021
	June 16, 2021