

# TECHNICAL MEETING SUMMARY

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April 20, 2022 | Virtual Meeting No. 19

## Summary of Presentations and Discussion<sup>1</sup>

A full recording of the meeting is available here: <https://youtu.be/vNgYvUbgPc>

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

### WELCOME & REVIEW OF CAG PROCESS

Pat Field, CBI Facilitator, welcomed CAG members, led an overview of the agenda, and reviewed the Superfund process related to the site.

### NAVIGATIONAL DEPTHS AND NEWTOWN CREEK

Lisa Baron, US ACE New York District project manager, gave a presentation on the Newtown Creek Commercial Navigation Analysis. The Creek is a Federally Authorized Navigation Channel and is divided into 13 reaches with authorized depths ranging from 23 feet at the confluence with the East River to 12 feet at English Kills. US EPA is required to consider future navigational use of the Creek while evaluating alternatives during the Remedial Investigation/Feasibility Study (RI/FS) process. US EPA contracted US ACE to conduct a commercial navigation analysis in support of the RI/FS.

In addition to informing the Superfund investigation and development of remedial alternatives (including potential dredging and capping), the analysis also identifies opportunities for deauthorization and/or modification to the authorization of the federal channel through future legislation (Water Resource Development Act [WRDA] of 2022).

Among the activities completed as part of the commercial navigation analysis were:

1. Review of construction and maintenance dredging history
2. Review of operational information (inventory, commodities, vessels, trips/drafts, etc.)
3. Berth-by-berth analysis (September 2019-present) and conversations with tug operators, NYC DOT, and Long Island Railroad
4. Determination of reasonably anticipated future use and development of recommendations

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

US ACE is finalizing its report and has been in discussions with NCG. Ms. Baron noted that there may be changes to the report for Dutch Kills based on the new owner of USC-Nycon's future use.

US ACE's recommendation would be to maintain 23-foot authorized depth to Allocco Recycling's berth (A1, A, B, C<sub>A</sub>), which could be modified to 20-foot pending further coordination with Allocco Recycling.

Reaches (in brackets) that could be modified are:

- 20-ft to Metro Fuel (C<sub>B</sub>)
- 18-ft to Greenpoint Ave. Bridge (C<sub>C</sub>)
- 18-ft to end of Turning Basin for Kinder Morgan (D, E<sub>A</sub>, G<sub>A</sub>)
- 16-ft to Empire Metal Trading (E<sub>B</sub>, H, J<sub>A</sub>)
- 14-ft to TNT Scrap (J<sub>B</sub>)
- 12-ft to Bayside Fuel (J<sub>C</sub>, K<sub>A</sub>)

Reaches that could be deauthorized are:

- Northern half of Turning Basin (E1<sub>B</sub> and G<sub>A</sub>)
- Maspeth Creek (F)
- Reach I
- Reach K<sub>B</sub>
- Dutch Kills (L), which could instead be modified to 12-ft

There is also a proposal to deauthorize portions of the Turning Basin which are not currently being used.

Outstanding items and next steps include:

- Future coordination with Allocco Recycling to determine modification of the authorized depth to 20-ft, pending determination of approval of the DockNYC RFEI granting a use and occupancy permit and subsequent resolution of a property dispute with NYC
- Determination of whether Dutch Kills can be deauthorized or modified, based on decisions by the new owner of USC-Nycon (Vulcan Materials) and coordination with to remove or repair LIRR freight bridges based US Coast Guard decisions
- Congressional deauthorization and modification of the federal channel in WRDA 2022
- Finalizing and public release of the report

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

- **What does deauthorization mean?**
  - *US ACE: Deauthorization means that the waterway would no longer be a federally authorized channel and would not have the opportunity in the future for US ACE to*

*maintain the waterway. If the waterway is deauthorized and the City or State deems there to be future use, then they can maintain or dredge it. Otherwise, nature would take its course and the waterway would typically silt in.*

- **The City has classified most of the shoreline of the creek has been classified as Significant Maritime and Industrial Area (SMIA) and a Priority Marine Activity Zone in city zoning. Newtown Creek is one of the few waterfronts in the city dedicated to maritime activity, for which water depth is a big factor. Is this explored in the analysis?**
  - *US ACE: We are aware that NYC Planning is trying to bring in new users and have been working closely with the City. It is difficult to determine reasonably anticipated future use with nothing on the forefront, but we have been working with the City to understand the probability of certain future uses. There may be the desire to keep everything authorized.*
  - **Compromise is important, and perhaps the Turning Basin is an area that can be readdressed.**
- **In your conversations with Maspeth Recycling, they suggested that they want to do barging at their current location. However, I believe they are looking at another site closer to the Grand Street Bridge, though there has been some back-and-forth with the state over permitting and deauthorization.**
  - *US ACE: I will pursue this matter further with them.*
- **In terms of process, what is EPA's role?**
  - *US EPA: US ACE are the experts – we have an agreement with them to do the work, and so we rely on them to do this work. Once they have completed the report, we will review the findings. The report has multiple uses, including providing information from interviews with commercial users and providing information for the WRDA.*
  - *CBI: It appears that EPA needs US ACE's analysis to proceed with the Feasibility Study and cleanup, but US ACE does not rely on EPA's activities in their analysis.*
  - *US ACE: One of the reasons that there has not been any maintenance or dredging in the Creek recently is because it is an NPL site. We would not want to proceed with maintenance until a remedy is in place. It will be important for EPA to consider the navigational depths when deciding what the depth of the cap should be (if that is part of the remedy selected).  
The authorization language that we recommend goes into the WRDA and we hope that the language as enacted matches our recommendation. Our report "backs up" our recommendation to Congress. The congressional language from their drafting of the bill goes to US ACE Headquarters, then to the district. The district will outline the implications on their program and whether they agree with the language and depths proposed. This process helps to ensure that Congress does not change the depths in a way that US ACE disagrees with.*
- **In Dutch Kills, groups and schools in Long Island City have been working do obtain access to the local estuary for boating and environmental restoration. We believe this would be a great location for restoration of a salt marsh wetland. The vision of shoreline access and wetland restoration would be in contrast to the plans of the property owner, who often dumps aggregate materials onto a small patch of NYC DEP-created wetland. US ACE's definition of "users" is telling. US ACE consulted with Vulcan (one of the property owners**

in Dutch Kills) but has not consulted with the community, including LaGuardia Community College? There are also 2 massive rusting scuttled barges – why have they been allowed to stand?

- *US ACE: We are by no means prioritizing commercial use, but at the moment that is what the law requires. We were tasked with doing a commercial navigation analysis. For other waterways, we have prepared a companion outline for municipalities and other future land use plans (which often includes restoration). Recent funding has supported Hudson Raritan Estuary ecosystem restoration projects, and WRDA 2020 has authorized future spin-off feasibility studies (including for Newtown Creek). Such a study could inform future coordination for a Trustee restoration with a non-federal sponsor (after remediation).*
  - **What would be the weight of Vulcan vs. community interests in decision-making?**
  - *US ACE: It is not within the scope of the analysis to look at contradictory needs. That would be for EPA to consider when making their informed decision*
  - **Is there any precedent for a WRDA stipulating restoration of a waterway?**
  - *US ACE: That could be done as a future direction/authorization from Congress, but such the limiting factor for such a direction would be the authorized channel depth in that area (which could itself be modified).*
- **All this will have an impact on clean up and future use. The process is moving quickly, particularly to get it into WRDA 2022. We want to get it right. Would reduced dredging requirements in turn reduce the burden on PRPs? How can we ensure that dredging is sufficient and not just a concrete cap?**

**We do not see a guarantee of restoration of these channels. It is hard from my organization's perspective to support moving forward without that guarantee. We want to see the tributaries restored.**

- *US EPA: At this point in time, we have not selected a remedy. We would look at all the remedial alternatives through the feasibility study process, and from those alternatives would identify risks to human health and the environment which would drive the remedy. We would seek to ensure that the remedy selected is protective of human health and the environment. We tasked US ACE with developing a factual report that can drive the development of alternatives*
- *CBI: Would the remedy depth take into account contamination levels and future restoration?*
- *US EPA: We want the remedy to be protective (e.g., minimal recontamination from movement of water through sediments in areas either capped or dredged). We would need to establish what the preliminary remediation goals (PRGs) are for the site in order to be answer that question in more detail.*
- *CBI: Without a guarantee of restoration, the community feels uncertain about the outcome. It seems like we have to let the process play out.*
- *US EPA: We have identified that there are risk drivers at the site and that a remedy is needed. We do not know at this point in time what that will look like, but we will develop and assess a range of alternatives.*
- *US ACE: From the standpoint of maintaining a navigation channel, the navigable depth is a minimum. EPA will need to select a remedy that does not impact the*

ability of US ACE to maintain the navigable depth. In terms of guaranteeing dredging, once the Creek is cleaned up and there is a cap, US ACE would do an annual evaluation based on economic needs and usage of the channel. US ACE would dredge based on the needs, bathymetry, and future usage at that time.

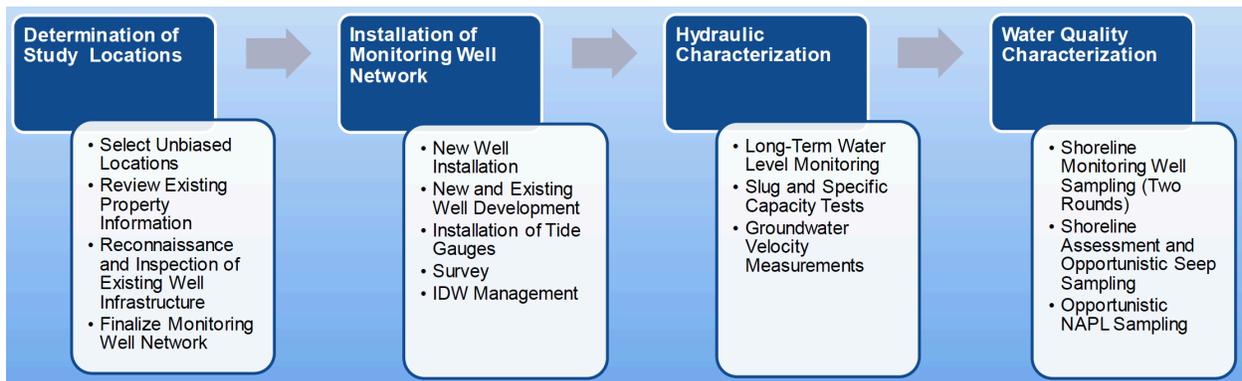
- **How do you avoid puncturing while maintaining a navigational dredging program around a Superfund cap?**
  - US ACE: That is a concern that we would discuss and iron out with our operations division. There is a factor for “over-dredging”, i.e., a buffer between the navigable depth and the cap depth. Those negotiations between US ACE operations division and EPA have not yet taken place, but that is a topic for the future.

### FEASIBILITY STUDY UPDATE

Rupika Ketu, EPA Region 2 remedial project manager, provided updates on the shallow groundwater investigation as part of the Feasibility Study. The investigation has the following objectives:

- Improve characterization of shallow lateral groundwater flow and contaminant loading to the study area, including discharge of contaminants of concern (COCs);
- Improve the Conceptual Site Model (CSM) for shallow lateral groundwater flow and contaminant discharge to the study area; and
- Provide critical information regarding the shallow lateral groundwater flow characterization to support decisions for the Feasibility Study (FS).

The investigation will follow 4 phases, outlined in the image below.



There are 32 initial shoreline study locations, at each of which 2 shallow water table wells will be installed. An additional deeper well will be installed at 20-30% of locations.

Hydraulic characterization will include:

- Hydrogeologic testing (slug tests and specific capacity tests)
- Groundwater velocity measurements (heat pulse flow meters and passive flux meters)
- 1 year of continuous water level measurements via transducers

Groundwater quality characterization will include:

- Groundwater sampling – 2 rounds in winter and spring
- Opportunistic shoreline seep sampling
- Non-aqueous phase liquid (NAPL) sampling (if encountered)
- Sampling for COCs consistent with the Remedial Investigation (RI)

EPA has held workshops with NYS DEC, NYC DEP, and NCG, and have received feedback for incorporation into the work plan. The tentative schedule is as followed:

- Late May 2022 – mobilization
- Summer 2022 – installation of monitoring wells
- Fall 2022 – hydraulic characterization
- Winter 2022-spring 2022 – groundwater quality characterization

The schedule is subject to change based on access. The data from the study will be presented in a Data Summary Report and will be incorporated in the FS.

Caroline Kwan, EPA Region 2 remedial project manager, shared that EPA has been having difficulties identifying a staging location for equipment for the study. CAG members shared addresses of empty lots that could be used as staging locations.

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

- **Are rising sea levels being considered in this study? I am curious about how rising sea levels impact the way groundwater moves.**
  - *EPA: We will have transducers in the ground for one year, so we will see anything if it is recorded.*
  - **This information may be valuable for other Superfund sites, like the [Meeker Avenue Plume](#) (which straddles the Brooklyn-Queens Expressway).**
  - *EPA: Our staff have overlap with the project teams for Meeker and we will be in close coordination.*
- **I am curious about the number of monitoring wells around the National Grid property. There may be the potential to incorporate existing data for upland properties from NYS DEC data sets.**

## 29<sup>TH</sup> STREET BULKHEAD UPDATE

Hector Garcia, Long Island Railroad senior director of external affairs, gave a brief update on activities on 29<sup>th</sup> Street in relation to the collapsing bulkhead. LIRR sent NYC DOT a draft proposal for jersey barriers to prevent parking on the street. NYC DOT is also expected to add signage.

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- ***CBI: Is there a plan for longer term re-stabilization?***
  - *LIRR: There is not yet a long-term plan. LIRR is not in the business of maintaining streets so we would like to defer to NYC DOT on that matter.*
- **Are there plans to restrict truck traffic into the street?**
  - *LIRR: I am not sure. We would need to collaborate with NYC DOT on that matter.*
- **I do not think that jersey barriers, with static multi-ton loads, will help the situation. Orange bollards might be better. This is a dangerous situation – at least 5-10 feet around the bulkhead has been undermined.**
  - *LIRR: If the situation were to become dire enough, we would have to cut off traffic to 29<sup>th</sup> Street. We would defer to NYC DOT on that matter since they are the expert in roads.*
- **29<sup>th</sup> Street is at the rear of LaGuardia Community college, and many students walk and park along the street feet away from where the bulkhead is collapsing. The situation is very unsafe.**
- **Has there been an engineering analysis to determine appropriate weight and stability?**
  - *LIRR: Our analysis comes from a report done a few years ago. We have not done another analysis.*
- **We want LIRR to step up and lead in this situation?**
- **Once the immediate public safety issues are addressed is there a process for how the community can engage in long-term restoration?**
  - *LIRR: It is to be determined. That would require some capital dollars. We can acknowledge it as a need and add it to our list of priorities for investment. A future capital program would be the way to address long-term restoration.*
- **What is the threshold for road closure? How bad does it have to get?**
  - *LIRR: I do not have expertise in engineering, but from my experience with rail usually NYS DOT or some other authority issues a safety flag that needs to be addressed immediately. The road would be closed until that issue is addressed.*
  - *CBI: Would LIRR or NYC DOT be responsible for closing the road?*
  - *LIRR: It is our property, but we found a 1992 memo from the Corporation Counsel where the City determined that they would maintain the road as a public space on behalf of the property owner. NYC DOT is the professional with roads so they should determine whether the road should be closed.*

#### **ONGOING INVESTIGATIONS OF RECENT OIL SPILLS & UPDATE ON SEEP SAMPLING**

Heidi Dudek, NYS DEC project manager, shared updates on recent oil spills and sampling of seeps. The upland site evaluation is still ongoing, and NYS DEC will share an update over the coming months. NYS DEC is also looking at 4 sites for more immediate action:

- 200 Morgan Avenue
- Manhattan Poly Bag
- Kinder Morgan (already a NYS DEC site)

- Cipico Construction (potential shoreline NAPL seep)

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- **Have there been any updates on the Pratt Oil Works site (in Queens)? NYS DEC was supposed to be monitoring the bulkhead on the site.**
  - *NYS DEC: I do not have any information on that site but can get back to you on that.*

#### NEXT STEPS

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|--|---------------------------------|
| <b>Upcoming CAG Meeting Dates (proposed)</b> | May 18, 2022                    |
|  | June 15, 2022                   |
|  | July 20, 2022                   |
|  | September 21, 2022              |
| <b>CAG Items to cover at future meetings</b> | Update from the Trustees        |
|  | Update from NYC DEP on the LTCP |