Newtown Creek CAG Meeting
Wednesday, October 1, 2014
7:00 PM - 9:00 PM

Attendees
Approximately 55 Attendees (sign-in list included in Appendix).
Including:

- Elected Official representatives from offices of:
- Representatives of Newtown Creek Group, the Potentially Responsible Party (PRP) representatives:
- Government Agency representatives: US Environmental Protection Agency (EPA and NYS Department of Environmental Conservation (DEC)
- Journalist from NYU

Introduction

- Welcome by Mike Schade and Ryan Kuonen, CAG Co-Chairs.
- Agenda:
    1. Update on petroleum dumping in Newtown Creek (Willis Elkins).
    2. Update on Boat Tour of Newtown Creek with Anchor QEA, LLC, the contractors conducting the remedial investigation/feasibility study (RI/FS) for EPA (Mitch Waxman).
    3. Presentation and Discussion with U.S. Environmental Protection Agency (EPA) on Phase I results and Phase II sampling plan summary (Caroline Kwan and Joseph Battipaglia).
- Reminder that all CAG information is stored on the CAG website: www.newtowncreekcag.wordpress.com. Attendees interested in learning more should sign up to receive updates from the blog.

1. **Petroleum Dumping in Newtown Creek – Willis Elkins, CAG steering committee member and program manager for Newtown Creek Alliance, and Randy Austin, Chief Spill Prevention & Response Programs, Region 2 – Environmental Remediation Division - NYS DEC**
    - A rainbow sheen on the surface of the Creek showed up originally at Pulaski bridge. An anonymous complaint brought it to the attention of New York State Department of Environmental Conservation (NYS DEC). They investigated it, found evidence of dumping, and identified the potentially responsible party (PRP) doing the dumping. Sampling results have shown that the sheen was caused by waste oil.
    - Randy Austin with NYS DEC also spoke about the incident.
        - Randy called it a great example of teamwork when the agency listens to public and the public communicates well with the agency.
        - He explained that the proper way to get attention of the agency is to call the New York State Spill Hotline. 1-800-457-7362. Randy teaches a course on the potential types of water quality issues, how to identify potential problems, and

what to do if you see something problematic. The CAG can contact him through Willis Elkins if the group is interested in the course.
    - The dumping incident is still being investigating so NYS DEC cannot discuss details. However, it is significant that this success came from citizen participation. NYS DEC cannot do its work without citizens' help. Eyes on the Creek are very helpful. Randy encouraged people to get past the attitude that the Creek shouldn't be looked at carefully. Active dumping is obviously still occurring, and it must be stopped. Call the hotline if you see a rainbow sheen, as this is an indication of a problem.
    - Penalty violations for dumping can go into six figures. The timeline for closing this case should be a couple more months at most.
- The press picked up the story – articles came out in the Brownstoner Queens, NYTimes, and NY Daily News.
- Mike Schade offered a special note of thanks to Willis Elkins and Sarah Durand for their roles in this recent Newtown Creek success story.

2. Anchor QEA Excursion – Mitch Waxman, CAG Member and photojournalist

- Mitch Waxman shared photos and a summary of a boat tour that some CAG members attended in September, which was organized by the Newtown Creek Group. Anchor QEA, contractors conducting the RI/FS for EPA, conducted the tour on one of the boats that is being used for sampling activities.
- On the tour, Newtown Creek Group representatives asked CAG members about their group's vision for the future of Newtown Creek. This should continue to be a topic of discussion for the CAG: what does the CAG want to see happen on Newtown Creek in the future?
- Mitch wrote an article with accompanying photos about the tour for the Queens Brownstoner. His presentation, adapted from the article, is available HERE.
- Visit http://newtownpentacle.com for more from Mitch about Newtown Creek.

3. U.S. Environmental Protection Agency Presentation – Caroline Kwan, Joseph Battipaglia, Wanda Ayala

- Caroline Kwan and Joseph Battipaglia, remedial project managers (RPMs) for the Newtown Creek Superfund site, walked through the RI/FS process in their presentation slides. Presentation slides are available HERE. The notes that follow offer brief summaries of discussion points; they do not attempt to replicate the content of the slides. **Questions and answers are included as they arose during the discussion, with questions in *italic* type and responses from EPA in non-italic type.**
- The remedial investigation (RI) is broken into two phases. Phase 1 activities identify locations of contamination and any locations that need further sampling to better understand the Site. Phase 1 has been completed. In Phase 2, data gaps identified during Phase 1are filled and estimates are made to determine current chemical loading to the creek. The RI ultimately identifies the nature and extent of contamination at the Site. This information is used in the Human Health and Ecological Risk Assessment to determine

current and future risks. Cleanup options will be determined based on the results from the risk assessments.

- Phase 2 RI started in May 2014 and is anticipated to be completed in Spring 2015.
- *Question: You mentioned sampling of blue crab and striped bass. Striped bass are a migratory fish; they come and go in NYC waterways. How do you take this into account?* Caroline Kwan explained that Chuck Nace, the ecological risk assessor for the Site, is the fish expert. Caroline further explained: we did not get enough reference areas for certain species. We are trying to make sure we accomplish our objective and we might have to go back next season. There are not a lot of fish in June and August and the migration path is specific.
- *Are you documenting the species that you're getting out of the canal? Is that public information?* There is no report yet. Species survey might be available before the RI is done. It will show how many birds, how many bass, etc. If your interest is in seeing the numbers and diversity of species, then yes, we may be able to get that to you. It is the chemical analysis that is not yet available for both the benthic and wildlife surveys.
- *Are you searching for contamination in vegetative life as well, such as seaweed and shoreline plants? If not, can academics/nonprofits play a role in sampling these?* No vegetation is being sampled, as 99% of the Creek is bulkhead.
- *Sampling vegetation seems like an important piece that EPA should look at. Bioaccumulation starts at the lowest trophic level. New York State Department of Health's (NYS DOH) Public Health Assessment used a reference for fish taken from the rest of New York harbor. If you don't know where the fish spent its whole life, is it going to be a thorough enough comparison? We should talk more about the specifics of the sampling program. We don't want to make same mistake DOH made, which was to say we don't want to test fish because they may not have spent their entire life there.* Some other fish are being sampled and they are resident.
- *Is there a reason why oysters are not included, just mussels? They can be used in restoration efforts to bring up water quality.* We are looking at bivalves as a representative of filter feeders.
- *I am shocked that you are not looking at vegetation – there are fruit trees that overhand the Creek, and people do consume fruit from these trees. Are subaqueous plants, algal mass, or fungus all not included?* We are collecting "critters." We will go back to Chuck Nace and the ecological risk assessment team to ask why vegetation is not included. The risk assessors both visited the CAG to ask about exposure pathways that might not be obvious. Fruit trees are new, and we will share this with them.
- *Are you collecting land-based cores? Where are you ending the testing?* "Upland" means all property alongside the Creek. We are installing ground water monitoring wells that bore down to ground water – the boring process requires pulling out a core of soil. The soil in these cores will be analyzed – there are seven locations. The site is defined as the Creek itself, bank to bank, up to the high water level. We are trying to look within the Creek to find where are the sources of contamination. All upland areas are dealt with by U.S. Army Corps of Engineers (USACE). Upland study will lead to another section of study that will look at the Creek and what is obviously going into the Creek. There are so many properties, and sampling upland properties will likely happen in the future.

- *Regarding air sampling, what would be the volatiles in oil?* Benzene, toluene and similar compounds. We tested for a full suite of volatile organic compounds (VOCs). Everything was below the NYC background levels.
- *So actually, you wouldn't say there is no air problem, just that there wasn't a problem when tests were done. Is there a way to design a program such that when there is a mini air event, it can be tested? These things we've been raising – a bit more on air, fish, oysters, fruit trees, etc. – is there room in the Phase 2 plan to add any of these things? Can we put together a letter? Or are you locked into the Phase 2 plan even given the questions posed tonight?* We just started caged bivalve work on September 15. If we feel that there is additional work that needs to be done to support the risk assessment, we can have the PRP implement it. We have a consent order to implement these studies; if we feel that certain data are needed to support the objective, we will have PRPs implement that additional work. It is ongoing, back and forth.
- *Can there be a dialogue with the CAG about it?* The Phase 2 work plan has been released and is on the EPA website. If you would like to review it, you can do so and let EPA know what you feel should be done in addition to the work outlined in the plan.
- Mike Schade suggested that the Steering Committee collect input and draft a letter from the CAG outlining the things they would like to see included in the investigation.
- Caroline Kwan acknowledged that the work plan is huge. She suggested that the CAG send their recommendations to her; EPA will then evaluate which of the recommendations is missing from the work plan. The criteria at hand are: Will it give us our objective; is it too far fetched? We can explain if our methods are sufficient or if they need to be changed.
- *There are mussel populations all over the Creek at different sites. You can compare different populations. Why put new mussels in the Creek now for 60 days rather than work with mussel populations who have lived in the Creek for their whole life. Also: are the tiny killifish being sampled for toxicity? They have their entire life cycle in the Creek and are so abundant – why not include these in the resident fishes? Earlier in this discussion we couldn't raise these issues – now we want to have input. It seems that PRPs and EPA are talking but the community isn't involved in the discussion.* The mussel approach has been used at other Superfund sites. Yes, killifish are included.
- *Is EPA in discussion with developers on the construction of bulkheads and its relation to Superfund?* USACE sends bulkhead restoration permits to EPA to review to make sure they are not impacting ongoing fieldwork at the Site. USACE is responsible for permitting bulkhead construction. *If developers were pressured on this matter of bulkhead restoration and wetlands, the benefits could be huge.* This is not under EPA's purview.
- *At Gowanus, EPA's response was the opposite – that developers have to work in accordance with the cleanup plan.* The Gowanus site is farther down the road; they have studies and data to support those requirements of the developers.
- *So at this point the answer is "no," but maybe in future?* Part of creating a CAG and having these meetings is so that we can converse on these topics. Please always feel free to give ideas and recommendations. Write letters; make phone calls. It probably seems like a bureaucratic process but we want to work with you. Don't wait for a CAG meeting

to talk to us. Send us an email or call. Reach out. Ask questions. Don't wait for the meetings to bring up concerns.

- *Is sampling being conducted inside and under derelict vessels?* That is a touchy subject because no one knows whose vessels they are. It is a jurisdiction issue and I can pose this to legal counsel.
- Regarding next steps, Caroline Kwan reiterated that rain events are needed in order to finish the point source sampling. In addition, they may have to go out again in the Spring to get benthic samples because there have not been enough in certain locations.
- *Will CSO (combined sewer overflow) sampling occur for flow and floatable bits? Or indicator chemicals? Can prescription/pharmaceuticals go on list? Can one sampling happen during spring melt? Tons and tons of salt on the roadways go into the Creek, and water coming out of the sewers is basically brine. The vast majority of heavy traffic flow structures get salted significantly; this gets dumped in the Creek through drains that never go to a sewer plant.* Salinity is included in the CSO sampling. The point source program (CSO, discharge, facility discharges, storm drains, roadways, WWTP (waste water treatment plant) discharge) includes about 30 locations. They will be sampled in multiple storms. Type, intensity of storm and how much rain are all variables that make a difference. NYC infrastructure is set up so that there are tide gates on sewers and water has to be collected above the tidegate to get water not influenced by the Creek. This requires that we work in the middle of major streets through manholes. We open the manhole, put down a pole with a tube so we can capture different levels of flows. We will do this over the duration of the storm, every 15 minutes. We will test for VOCs, semi VOCs, pesticides, salinity, chloride, sulfate, etc. – it is a comprehensive program. We do not intend to capture every outfall because that would be impossible. This sampling is more extensive than what was done at Gowanus. The Newtown Creek plan captures storms from beginning to end, whereas the Gowanus work plan calls for grab samples at one level. We are doing multi-level sampling and different events. During any one event there will be eight locations sampled. We need at least 24 personnel for each rain event.
- *New development at the mouth of the Creek will hold around 6,000 people. Only 5 acres of open space are being provided – by city plan they need to provide 15. They are in debt to the community. Are they part of plan?* This is not under EPA's purview.
- *Are you aware of any pre-permitted solutions from New York City Department of Environmental Protection (NYC DEP) for stormwater infrastructure to be built that is already in the works and would happen regardless of the Superfund plan?* NYC DEP is conducting long-term planning that will be implemented, including the aeration activities that are going on now. EPA is coordinating with NYC DEP to ensure that the activities being conducted by each agency do not conflict. The City is also a responsible party, so information gets shared with them.
- *It seems that NYC DEP rushed to get ahead of any EPA-informed design process at the Gowanus site to deal with stormwater. Can we get information from NYC DEP now about plans in the pipeline?* NYC DEP visited the CAG last spring and those representatives would be able to answer that question.
- *At Gowanus, EPA said that cleaning up CSOs and addressing stormwater is a prerequisite to cleanup.* We still have a lot of study to do at Newtown Creek, and we cannot assume that the water bodies are the same. First we need to identify any upland

sources of contamination. If we see a threat to the environment or the public, we will issue an order to land owner/company to study the area in question now.

- *What is the cost of Phase 1 and Phase 2?* The PRPs have spent $35 million thus far. The point source program price tag is $5 million. EPA bills the PRPs for our time. Approximately $40 million is estimated but could be more because we have a few years to go on the RI/FS.

Next Steps/Follow Up

- The steering committee will develop a mechanism for gathering CAG recommendations and ideas about the sampling plan and getting that information to EPA. Options briefly discussed include:
    - Website/blog post can invite questions/comments – CAG members could submit feedback/recommendations/questions via email by a certain date.
    - Google document with multiple authors, in order to track edits and authors, and allow headings and important categories of comments to evolve.
- Volunteers who would like to help synthesize tonight's discussion and communicate CAG feedback to EPA can contact Mike Schade.
- The next meeting will be in a few months. Stay tuned to the CAG website for the announcement. Steering Committee is meeting soon to plan the agenda.

APPENDIX
List of Meeting Attendees

Alice Baker, Resident
Alison Cohn, North Brooklyn Boat Club
Ardy Keranchi, Resident
Ben Huff, NYC DEP, North Brooklyn Boat Club
Bess Long, Save Greenpoint
Bill Tai, NYC Parks
Brittany Hamilton, TIG
Caroline Kwan, USEPA
Charles Yu, LIC Partnership
Chris Raymond, Brooklyn Rod and Gun
D. Zipan
Debra Mesloh
Devin McDougall, Sive, Paget, and Reisel
Elena Granado, New School
Emily Mijatovic, Office of Assemblyman Joe Lentol
Eric Park, Resident
Erica Pajerowski, North Brooklyn Boat Club
Erik Baard, Harbor LAB
Gaynor Cole, North Brooklyn Boat Club
Jan Mun, Newtown Creek Alliance
Janet Dickerson, Connective Strategies
Jean Tanler, QBOC, MIBA
Jens Rasmussen, North Brooklyn Boat Club
Jessica Podkavcki, NAG
Joanna Klein, NYU Sherp/Scienceline
Joseph Battipaglia, USEPA
Korin Tangtrakul, Pratt Institutue
L. Lesley
Lacey Tauber, Office of Council Member Antonio Reynoso
Leah Archibald, EWVIDCO
Leanne Bazzetta, Resident
Lisa Bloodgood, Office of Councilman Rick Levin
Liz Barry, Public Lab
Louis Kleinman, Metropolitan Waterfront Alliance
Marc Laraia, Connective Strategies, Newtown Creek Group
Mark Brinda, Newtown Radio
Matt Dundas, Resident
Mike Schade, Center for Health, Environment & Justice (CHEJ), CAG Co-Chair
Mitch Waxman, The disaffected
Noah Kaufmann, LIC Roots
Patterson Beckwith, North Booklyn Boat Club
Penny Lee, DCP/Queens

Peter Spellane, NYC College of Technology
Rich Mazur, North Brooklyn Development Corp.
Ryan Kuonen, BCKB1, CAG Co-chair
Sarah Durand, LaGuardia Community College
Sean Dixon, Riverkeeper
Stephanie Vevers
Steve Lang, LaGuardia Community College
Timothy DeMeo, NYS DEC
Tyquana Parsons, Connective Strategies
Vincent Bonorni, North Brooklyn Boat Club
Walker Holmes, Skeo Solutions
Wanda Ayala, USEPA
Willis Elkins, North Brooklyn Boat Club and Newtown Creek Alliance