

Newtown Creek Community Advisory Group (CAG)

TECHNICAL MEETING SUMMARY

January 28, 2021 | Virtual Meeting No. 7

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.*

CAG REVIEW OF 2020 & BRIEF SITE UPDATES

Pat Field, Consensus Building Institute (CBI) CAG Facilitator, provided a brief overview of the CAG's work in 2020, he recapped major 2020 activities, including (but not limited to):

- **Developing CAG comments and presenting to the CSTAG on OU3**
- **Developing CAG comments on the Proposed Plan for the Combined Sewage Overflow (CSO) discharges into the Creek by NYC's stormwater and sewage system**
- **Due to Covid-19, meetings went virtual, and a result participation in monthly CAG meetings increased from approximately 15-20 in person, to 50-80 participants online.**
- **Covering of a number of additional issues around cleanup and the Superfund process per CAG request**

Gowanus & OU3:

EPA provided short updates on the status of two sites. One regarding a recent incident in the Gowanus Canal, and the other pertaining to OU3 of the Newtown Creek site.

Operational Unit	Update
Gowanus Barge Spill	<ul style="list-style-type: none">• This is an ongoing investigation; so far, 850 metric tons of material dredged from the northern reaches of the canal RTA 1 were unintentionally dumped into the canal• EPA released the following update regarding the Gowanus Barge spill incident that took place the weekend of January 23, 2021.
OU3	<ul style="list-style-type: none">• On 1/5/2021 EPA submitted comments on draft FFS report to NCG (group of PRPs) for the site; will get back to us in February 2021 with their responses

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

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

Questions on Gowanus

- **Do you know where exactly the dredged material came from?**
 - *EPA: This is material that was dredged from the northern reaches of the canal RTA 1 (area from the northern most portion of the canal).*
- **Was there a sheen visible from around the barge, and do you know what caused the hole? Do you know if the incident was a result of negligence yet? What penalties with Cashman face, if any?**
 - *EPA: There were no observable sheens, but EPA does not want to give a direct answer on the lack of sheen or not as the investigation is continuing. EPA will have a more accurate reflection of what ended up in the water body once we conclude the investigation. At this time, it is not known what caused the hole. It was more of a shearing and the contractor and we are going to try and figure out what caused the damage to the vessel.*

Questions on OU3

- **Can you share the comments with the CAG?**
 - *EPA: we agreed to evaluate the efficacy of conducting an early action for the lower 2 miles; they needed more info to support the potential action from these comments; next step is to make a decision; need to check if we can share the comments.*
- **Is there a concern as to when there would be a determination on this, especially if OU3 review takes a long time?**
 - *EPA: Timing was to think if we could do an action prior to selecting a remedy for the entire site. The longer this takes the less helpful it will be in that respect.*

NYCDEP UPDATE ON THE LONG-TERM CONTROL PLAN:

Mikelle Adgate, NYC DEP Senior Advisor for Strategic Planning, presented an update on OU2 and the Long-Term Control Plan (LTCP), specifically to provide the CAG with a fuller understanding in terms of the timeline as it relates to LTCP milestone dates, as well as detailing where DEP is in the design process. Ms. Adgate reviewed the key components of the LTCP, provided a brief overview of the history of deep rock tunnels, and then shared that there were multiple options for design and constructions. She then detailed the status of the tunnel noting a schedule had been approved for June 2025, May 2028, August 2030, and completion of the tunnel occurring in June 2042. She highlighted that the most critical things were design funding being finalized and ensuring that even with the challenges happening from a budgetary perspective, that the design funding was considered a part of the budget. She then underscored that DEP was still on track to meet the LTCP schedule and once approved the LTCP would be at

least a 72% reduction from the starting point. Ms. Adgate closed by highlighting the community engagement work that was taking place, in particular that NYCDEP was reaching out to other large-scale urban CSO tunnels to explore and learn how to do public engagement on this type of project. NYCDEP is envisioning a dedicated public affairs staffer, regular social media updates, and events to keep the community updated as the work progresses.

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- **This might be left field, but has the NYCDEP ever explored wind/tidal pumped storage towers or higher elevation tanks? Not only to retain storm water, but to monetize it as a way of retaining potential energy (gravity) for electricity generation?**
 - *DEP:* We did consider storage options but I do not recall anything related to electricity production. While we do have experiences with alternative energy production, for this project the goal was about storage and getting increased flow.
- **Looking at that new pump station image, I am wondering if there is a 1% for Art element to the whole larger project? Under the LIE could use some love.**
 - *DEP:* *DEP is talking with Alicia West about opportunities to increase access to the arts. We also would like to have our infrastructure look nice, and it is something that we take seriously. I will get back to you about the allocation percentage for the arts.*
- **When do you want to start talking about your NYC charter requirement on some community benefit? This is another one like the nature walk, that if we get interpretive with it, we could accomplish a couple of DEP's goals at the same time. This is convo that we want to have and one you are required to have. Yes, we'll be talking about 1% for Art.**
 - *DEP:* *Got you. We hear you.*
- **I assume the tunnel replaces a holding tank and the possible use of holding tanks? What I am talking about is the DEC-approved LTCP. Has EPA approved the use of the tunnel?**
 - *DEP:* *I defer to EPA. This is a complicated situation. The LTCP is designed and submitted to the state under the Clean Water Act (CWA) and this is a CAG for Newtown Creek under Superfund (CERCLA). In order to make sure that whatever project goes forward is sufficient for the LTCP under the CWA, we've worked with DEC and EPA to have a separate OU. We can go over this another time. At this point, EPA has released a proposed plan, but has not issued a ROD on the project. However, we are under order by the state to go forward with the project regardless because we do not want to be out of compliance. There is money invested because we do not want to miss our DEC milestones, so there is that portion that still needs to be resolved.*
- **EPA turned down the tunnel request for Gowanus, so what is the difference between Gowanus and Newtown Creek?**

- *DEP: The Newtown tunnel has always been the primary recommendation for this particular LTCP; this was our recommended plan. In the case of Gowanus, I wouldn't want to speak to EPA's decision to not to allow that change. It was a change and is a completely different process, and it does not quite make sense to compare them. For this particular water system, to reduce the CSO, this tunnel allows us to do it in a way that one CSO tank would not have. We feel confident that the tunnel proposal for Newtown Creek was the right one. The state agreed, approved it, and gave us enforceable milestones. The alternatives we evaluated and discussed in the LTCP. We are proceeding forward with what the state has approved.*
- *EPA: We responded the request to use a tunnel instead of the tank September 20, 2019 is on the EPA webpage this is available for the CAG to review.*
- **Gowanus EPA has authority to keep DEP on track after DEP requested a delay for the superfund remedy. There are a couple reasons that the CAG opposes OU3, the work is going on any way and nothing will change the CWA timeline under the state if EPA doesn't approve OU3. The CAG does want the tunnel, but if OU3 is approved and EPA does not have authority to enforce, we are going to have a problem. EPA will have a problem, and the CAG is going to have a problem. We want this to be settled with the right ROD and time of the ROD so that the Creek will be protected in the long-term.**
 - *DEP: Even when our LTCPs are approved, these conversations would continue to be iterative and so many decisions are being made and happy to come out and provide updates. If the CAG wants to send them in advance so we can make sure we have the right team, this would be helpful.*
- **Are such tunnels always built for specific purposes or to allow multiple users to piggyback on the same boring project (transit, data cables, etc.)?**
 - *DEP: Most tunnels are built for specific purposes because of particular needs (the CSO tunnels will be very deep and very large and designed to convey the huge amounts of water collected).*
- **EPA Superfund/CERCLA on microplastics (in the case of tires, thermoplastics) -- "The toxicity risk from ingesting microplastics and Persistent Organic Pollutants that cling to them, or from consuming prey that has consumed microplastics, requires further study. EPA believes it may be a contributing stressor to the sensitive species in some of the worlds' most valuable ocean and coral ecosystems. EPA is taking action under CERCLA to assess and mitigate this threat to the environment and human health." I should note that it might be useful to examine 1) how much microplastics from erosion are impacting the waterway and 2) how future regulation over what materials are used in tires might alleviate that impact?**

OU1 REMEDIAL INVESTIGATION BRIEF PRIMER, PRESENTATION, & PANEL DISCUSSION

Stephanie Vaughn, EPA Region 2 Program Coordinator, provided the CAG with a brief overview of the OU1 Remedial Investigation (RI). She presented that EPA had shared the RI with the CAG

Steering Committee in December, then provided an overview of purpose of the RI, its primary goals, a brief history of Newtown Creek itself, and then reviewed the various sections of the RI report (with the caveat that the final Fate and Transport RI modeling and related revised sections were not yet included). She then provided some of the key technical comments that had been made during the RI process and their resolutions, as well as the subsequent steps that had taken place during the remedial investigation. She underscored that the remedial investigation's purpose was to determine if there was sufficient data to begin the remediation process. Ms. Vaughn then reviewed EPA's next steps, which included the PRPs revising the report based on EPA's submitted comments. She invited the CAG to provide their comments. She emphasized the fully revised report would not be available until November (when the modeling would be included). She also encouraged the CAG and community to reach out to the EPA team about the understanding the RI report, particularly if there were any topics, technical questions, or other comments for the EPA team to address.

Following this brief primer, the EPA team then provided an overview of the RI Report document and appendices. They highlighted key elements that had been improved and shared the outstanding issues from recent comments. The CAG Steering Committee then asked questions (see below), and shared that they would be doing a comprehensive review of the RI Report and providing EPA with comments.

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

- **Are the "East River Solids" and "Resuspension" arrows in that graphic to scale? Or "to scale"?**
 - *EPA: The conceptual site model figure is not to scale.*
- **Regarding the estimate of chemical loading, what will the "field investigation" look like?**
 - *EPA: The groundwater field investigation will include the installation and/or sampling of monitoring wells.*
- **Why was the focus of the RI on surface sediments was the focus and why subsurface wasn't done from a risk perspective?**
 - *EPA: The way EPA conducts risk assessments is based on exposure. We look at the bioavailability of the sediments and we typically look at the top 1-2 ft. For Newtown Creek, the top six inches was determined to be the bioactive zone. Once there is a cleanup goal based on that risk, then it is possible to determine to what depth the contamination will need to be addressed. If it is determined that this needs to be adjusted to go below six inches in order to address the contamination, then EPA will do so, and this protocol would apply to any site.*
- **It always been my understanding that when you find upland sources of NAPL or other products, EPA investigates and then DEC gets it for enforcement. In terms**

of lateral ground water flow, is this the same process when you discover point sources?

- *EPA: It is too early in the process to answer that question. First, EPA needs to determine if there is an issue, and then if there is one, we figure out under what authority it needs to be addressed. We are actively working on resolving the upland source issues both from a technical standpoint and how these will be addressed.*
- From my perspective, much of the shoreline of the creek is not real land. SO much is artificially created, what is upland and what is an area with fill that has soil and concrete on it. Wondering how we can consider what's upland?
- **During the discussion of Gowanus it was mentioned that the toxicity of the sediments increased closer to National Grid plants. Could you address the issue of contamination from the National Grid site?**
 - *EPA: First, there was a specific question about how the risk assessments are conducted and I do not want to give the impression that we would only address the top 6 inches. We would address the extent of contamination for the short/long term. Whatever is necessary is the depth that would be addressed. Second, the RI focuses on the nature and extent of contamination, so we investigated the entire creek, and this included areas adjacent to the National Grid facility. We are evaluating all of these data. The contamination from that facility would be addressed, which brings me back to something that was said earlier about the Uplands. What we are focusing on now is the Newtown Creek itself. What we are looking for is contamination in the creek and ongoing sources of contamination to the creek.*
- **Was 1,4 dioxane ever considered?**
 - *EPA: EPA was looking into this when looking at VOCs, we hadn't seen much of this, so further down the line we did not look for it as much.*

NEXT STEPS & ACTION ITEMS

Upcoming CAG Meeting Dates (proposed)	February 17, 2021
	March 17, 2021
	April 21, 2021
CAG Items to cover at future meetings	NYC DEP LTCP Update (March/April)
	Sharing comments on OU3
	1,4 Dioxane included in the RI?
	Role of EPA Superfund/CERCLA on microplastics

The meeting adjourned.