



**Remedial Investigation Report - EPA Response to CAG Comments  
Newtown Creek Superfund Site  
Queens and Brooklyn, New York City  
September 15, 2021**

# RI Overview Refresher

- Thus far, focus has been on the **Remedial Investigation** portion of the Superfund process
  - Majority of data collection complete
    - Determine if sufficient data exists to characterize site contamination
    - Provide the technical basis for alternatives development, Feasibility Study and Remedy Selection/Record of Decision (ROD)
  - Human Health and Ecological Risk Assessments approved in June 2017 and September 2018
    - Determine risks posed by the site to human health under current and reasonably anticipated future land uses
    - Determine if there are unacceptable risks to ecological receptors exposed to contaminants at the site
    - Determine if there is a basis to take action under CERCLA
  - Third draft Remedial Investigation report submitted in June 2020
- Next step is to continue development of the **Feasibility Study** portion of the process

# Primary Goals of a Feasibility Study

- ◆ Review the Remedial Investigation Report and Risk Assessment(s) to summarize and refine:
  - The media and areas of a site that pose an unacceptable risk and/or exceed appropriate standards
  - The Contaminants of Concern at a site
- ◆ Determine **Remedial Action Objectives** that focus on reducing unacceptable risk and Preliminary Remediation Goals based on acceptable levels of risk and exposure
- ◆ Develop **remedial alternatives** that will achieve the Remedial Action Objectives and achieve Preliminary Remediation Goals for a site
- ◆ Conduct a formal **evaluation and comparison of remedial alternatives** to form the basis for EPA to propose its preferred remedial alternative for a site to the public, for review and comment

# CAG Comments on the RI

- ◆ As we stated in our transmittal email – there were several categories that we saw the CAG comments falling within:
  - comments that were focused on concerns that might be more appropriate for the later stages of the remedial process (Feasibility Study, Remedial Design, etc.)
  - comments we felt were addressed as part of December 2020 EPA comments on the RI Report transmitted to NCG
  - comments that we did not technically agree with
  - comments that we agreed with
  
- ◆ The full CAG Comments and EPA Responses are available on the CAG and EPA websites.

**CAG Comment #1A:** The RI Report mischaracterizes current public use and access to the creek. Currently public use includes an increasing demand for recreational use of the creek, anglers are currently using the creek (despite warning signs displayed), and educational use.

**CAG Comment #1B:** Legacy toxic contaminants in the creek are preventing further recreational use of the creek.

**CAG Comment #1C:** The CAG is concerned that risks to these sensitive receptors will not be accounted for in the RI Report and remediation plans.

**CAG Comment #1D:** The CAG demands that the Superfund pollutants be removed, not left where they are. Our goal is for Newtown Creek to be an enjoyable resource for all. The CAG outlined its twelve vision principles for Newtown Creek in 2016. The CAG therefore urges that EPA modify the RI Report to account for current use of the creek and acknowledge the community's future expected uses.

**CAG Comment #2A:** The focus of the RI report is on surface sediment; there is insufficient characterization/sampling of NAPL and PAH contamination at depth.

**CAG Comment #2B:** The CAG would like to understand the extent of contamination in reference area subsurface sediments, which seem to have been completely overlooked.

**CAG Comment #2C:** The CAG is requesting that additional figures be added to the RI report that include concentration contours for clarity.

**CAG Comment #2D:** 15cm signifying surface sediment is not appropriate for Newtown Creek.

**CAG Comment #2E:** The RI did not collect enough subsurface sediment data in heavily polluted areas of the site, and where subsurface contamination was found, the RI Report downplays potential migration of the contamination by stating that migration is limited due to sorption processes.

**CAG Comment #2F:** The RI Report should not point to the proposed remedy of natural attenuation. The RI Report is not the place to suggest remedies. Any purported remedy selection should be removed from the RI Report and left to future steps in the Superfund process.



**CAG Comment #3A:** NAPL is largely unanalyzed and further investigation is warranted at Newtown Creek as was conducted at Gowanus.

**CAG Comment #3B.1:** NAPL is underestimated in the RI Report. Sheen should be recognized as NAPL and sampled. Ambiguous language is inappropriate for use in the RI Report and should be removed.

**CAG Comment #3B.2:** A standardized, technical method to specifically evaluate the presence of NAPL was not utilized for determining the presence of NAPL in the Phase 1 sediment cores. Therefore, this should not be used as a basis for NAPL presence interpretation in the RI Report. Data gaps are not addressed in the NAPL Distribution Study because sheen continues to be unrecognized as NAPL. No chemical analysis of NAPL composition was performed.

**CAG Comment #3B.3:** The NYC NAPL study contained NAPL analysis and systematic seep studies that should be used to counter the NAPL investigation and the conclusions made in the RI Report. In comparison, National Grid data was used in the RI Report, while the NYC data was not. Additionally, NAPL mobility data was not included for CM 2+.

**CAG Comment #3B.4:** The RI Report does not attribute contamination to historical COC sources and discounts uplands as a potential source of contamination. Request that EPA perform investigation to attribute pollution to historical sources.

**CAG Comment #3B.5:** Uplands should be addressed, potentially through a separate operable unit because data in the RI Report do not fully inform a determination of potential ongoing sources from adjacent properties.

**CAG Comment #3B.6:** Clarification needed on missing information or inconsistencies with information presented regarding the Impact of Recent NYC Navigational Dredging on Surface Sediment Chemical Concentrations.

**CAG Comment #3B.7:** The aeration system is aerosolizing contaminants, potentially impacting recreational users or workers near the aeration pipes. This needs to be evaluated in the risk assessment. Air quality and surface water monitoring was not performed to evaluate this pathway.

**CAG Comment #3B.8:** Sufficient data from seeps was not collected to provide justification for conclusions made in the RI Report. Data was also not collected to characterize unlawful industrial stormwater and other discharges.

**CAG Comment #3B.9:** Data was not collected to accurately model CSO discharges (to capture the difference between dry and wet weather) because not all reaches were sampled before, during, and following wet weather.

**CAG Comment #4:** The use of unprotective benchmarks derived by Newtown Creek Group should be removed. Including “critical body residue” and “lowest observed effect concentration.” All suggested benchmarks or targets suggested by Newtown Creek Group should be deleted from the RI Report.

**CAG Comment #5:** The RI Report should include CSMs for each tributary to Newtown Creek.

**CAG Comment #6:** CSM should account for future use and future conditions.

**CAG Comment #7:** The COCs driving the RI Report analysis are too narrowly circumscribed.

**CAG Comment #8A:** Reference areas used for comparison in the report as highly polluted and in need of cleanup. Comparison to these reference areas will undermine the Newtown Creek cleanup and fail to meet the community's goals for the Creek.

**CAG Comment #8B:** The RI Report says the Phase 2 reference areas were selected because “they exhibited generally lower levels of contamination in surface sediment than other reference areas” (p. 550). This is incorrect and should be deleted.

## Next Steps:

- ◆ Revised RI Report Anticipated in Fall 2021
- ◆ Continue work on Feasibility Study components including the development of Remedial Action Objectives and Preliminary Remedial Goals
- ◆ Shallow Lateral Groundwater Study development ongoing

**Questions?**