

## Newtown Creek CAG DRAFT COMMENTS—USACE-HATS

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RE: Call for public comments on the 2022 *NEW YORK-NEW JERSEY HARBOR AND TRIBUTARIES COASTAL STORM RISK MANAGEMENT FEASIBILITY STUDY*

Dear Mr. Wisemiller,

We thank you and your colleagues for extensive work on the issue of storm surge barriers and for inviting public comments on the feasibility study. Below are issues of concern raised by members of the Community Advisory Group (CAG) for the Newtown Creek Superfund. The Newtown Creek CAG is a diverse group of local stakeholders including residents, property owners, public health experts, and government representatives who have an interest in the cleanup of Newtown Creek. They regard the fate of toxic Creek sediments and contaminated shoreline substrate under hydrodynamic forces introduced by a storm surge barrier, as well as the effect of the barrier on community efforts to increase public access and habitat restoration along the Newtown Creek shore.

Our comments are summarized below and their discussion follows:

- 1) The proposed barrier gate opening narrows the mouth channel by 60-70% of its current width. As a result, average flow velocity through this narrowed opening would be expected to be greater than its current value at the mouth channel. Outflow current velocity would be expected to decrease progressively more peripheral to the opening as the outflowing current hits the barrier wall and is forced into a lateral flow towards the opening. Contaminated benthic sediments will be redistributed as a result of these changing hydrodynamics.
- 2) Increased flow velocity through the gate opening may be insufficient to sustain the current volume of water moving into and out of the waterway with the tides. With reduced tidal flux, increased volumes of retained water and decreased mixing of Creek and East River water bodies can be anticipated.
- 3) Closing the barrier gate because of storm surge could occur in association with heavy rainfall. If gate closure cannot be timed with the neap tide, or if the neap tide is already higher than normal, then a massive volume of runoff and a rising water table could flood neighborhoods around the Creek instead of draining into the East River. Resulting retention of highly contaminated water could increase human health risk.

4) Current modeling to determine appropriate remediation protocols under the Superfund effort are based upon existing dynamic interactions between the waterway, the surrounding water table, and the waterway's drainage system (surface run-off and point source). If the nature of these interactions change, then EPA models developed under the remediation feasibility study would no longer accurately reflect existing conditions and, therefore, no longer be suitable.

5) The proposed storm surge barrier plan prioritizes protection of the built industrial shoreline of the Creek over efforts to restore wetland habitat and public access to the shore. Extended retention of water with low/negligible salinity and/or heavy sediment load within the intertidal zone could decimate its expanding ribbed mussel population and populations of other invertebrates within the aquatic community here. It is not clear how fish and bird populations will be affected by any dramatic alteration of the waterway's hydrodynamics and disruption of ecological function.

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Discussion of Comments:

1) The storm surge gate can be expected to dramatically alter water flow velocity differentially between central and peripheral regions of the main waterway. How these different rates of flow alter sediment distribution is a critical concern because of sediment resuspension and contaminant transport<sup>1</sup>. We are also concerned that both the narrowing of the mouth and potential high velocity currents near the structure will create adverse impacts and navigational conflict for the various types of recreational and commercial waterway users (tug boats, barges, municipal tankers, human powered vessels, sailboats, motorboats, research vessels, etc) that frequently transit between the East River and Newtown Creek.

2) Any change in water retention throughout the tidal cycle would impact the intertidal zone. It is possible that mean high and low tide heights will be altered. This is a critical issue for efforts to restore intertidal biota by developing suitable habitat. Such efforts have already been initiated, and a major goal of the CAG is to significantly expand salt marsh restoration throughout the Creek. Additionally, changes to flood/ebb tidal velocity and mean tide levels could alter lateral groundwater transport, and by association NAPL transport throughout the system.

3)CSO events already regularly compromise minimally acceptable water quality standards. Changes in water retention due to gate closure risk increasing incidences of nutrient pollution, hypoxia, pathogen exposure with high tide flooding. Specific neighborhoods are already subject to flooding during extreme high tides. Additionally, changes to mean tide levels could alter lateral groundwater transport, and by association NAPL transport throughout the system.

4)The EPA is currently conducting a lateral groundwater study that could be made moot by severe alterations in hydrodynamics. Given the proximity of the Meeker Ave Plume, Greenpoint oil spill, numerous upland Brownfields, and the EPA's nascent understanding of groundwater transport in the area more generally. Therefore, it is prudent for this CAG to reject the notion that this issue may be solved by integrated groundwater/hydrodynamic modeling alone, without more information regarding the process by which USACE and EPA will coordinate their efforts to determine risk to the community and ecosystem.

5) To our knowledge, there has never been such a large engineered change to an aquatic Superfund site independent of remedial action. The proposed plan has severe implications for community-led efforts to revitalize Newtown Creek's local ecology and public access, soften its shores, and ensure it is a focal point for coastal resilience.

In conclusion,

With so much public interest and safety resting upon this issue, it is imperative that all stakeholders in the area must be engaged. These proposed infrastructure changes may detrimentally alter remedial action options available to the EPA at Newtown Creek and Meeker Ave, as well as potentially compromise the effective management of Clean Water Act/Clean Water Rule standards.

**Therefore, we believe it is unacceptable for USACE to move forward with planning a storm surge gate at the mouth of Newtown Creek until both agencies have come forward with policy specific to Newtown Creek that addresses our concerns both empirically and communicatively.**

The CAG also requests that the USACE and EPA initiate a public forum for Newtown Creek specifically, whether at scheduled CAG meetings or another public forum, for the purpose of communicating directly to the community about how the respective agencies are reconciling incongruous details related to HATS planning at Newtown Creek, and the ongoing CERCLA investigation, planning and remediation.

Ultimately, the CAG is concerned that despite public comment on the proposed project, the reasoning and factors deciding the fate of the Creek will be tied to this decision making process between the USACE and EPA, and that this dialogue will be unclear to the public-which would be a clear violation of the the mandate that the EPA is under to communicate transparently with the public under CERCLA, and our right to know. The CAG is resolved that the goals and responsibilities of USACE to coastal resiliency and the EPA's responsibility to CERCLA and remediation more broadly are both inherently concerned with reducing risk to people and the environment, and that the novel overlap of these processes at Newtown Creek can serve as a beautiful opportunity to model community involvement and agency collaboration in solving for a issue that it likely to become more frequent as cities around the country must take steps to adapt, restore, and thrive in the coming century.

Sincerely,

Newtown Creek Superfund Community Advisory Group