

Newtown Creek Draft Assessment Plan

NEWTOWN CREEK NRDAR TRUSTEE COUNCIL

MARCH 28, 2024



Department of
Environmental
Conservation

Overview

- Natural Resource Damage Assessment and Restoration
- Draft Assessment Plan
- Public involvement



What Is Natural Resource Damage Assessment and Restoration (NRDAR)?



Photo credit: NOAA



A process undertaken by Trustees to determine:

- **Injuries to natural resources and service losses due to releases of hazardous substances or oil**
- **Appropriate amount and type of restoration needed**



Implemented under Federal statutes and regulations



NRDAR occurs in addition to cleanup/remedial activities



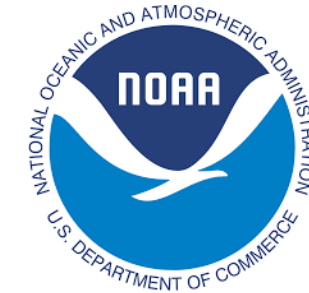
Goal is to compensate the public for natural resource losses

Who are the Newtown Creek NRDAR Trustees?

U.S. Department of the Interior
Fish and Wildlife Service



National Oceanic and
Atmospheric Administration



New York State Department of
Environmental Conservation



Department of
Environmental
Conservation

What is the NRDAR Process?



What is the Damage Assessment Plan?



Newtown Creek Natural Resource Damage Assessment Plan

Draft | March 1, 2024

Prepared by:

Newtown Creek Natural Resource Damage Assessment Trustee Council:
National Oceanic and Atmospheric Administration
New York State Department of Environmental Conservation
United States Department of the Interior, U.S. Fish and Wildlife Service

With assistance from:

Industrial Economics, Incorporated (IEI)



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- Purpose:
 - Conduct assessment in a systematic manner for a reasonable cost
- Describes:
 - Approach for injury determination, injury quantification, and damage determination
 - Plan for gathering and analyzing information (existing data and primary studies)
 - Coordination with the remedial process, potentially responsible parties
 - Communication with the public
- May be modified as additional information becomes available

What is the Trustees' approach to the assessment?

- Focus assessment
 - Area, resources, resource services, contaminants
- Maximize use of existing data
- Consider studies to address data gaps
- Includes three phases:



What area
will be
assessed in
the NRDAR?

Footprint of Newtown Creek and associated shoreline



What are the natural resources in Newtown Creek?

Estuarine habitat, supporting both in-water species and species that use Newtown Creek (e.g., feeding, breeding, resting)

Examples:

- Surface water
- Sediment
- Benthic invertebrates (amphipods, blue crabs)
- Fish (mummichog, striped bass, Atlantic menhaden)
- Birds (spotted sandpiper, double-crested cormorants)
- Mammals (racoons)



What are the natural resource services at Newtown Creek?

People use Newtown Creek for recreational activities and to enjoy being in or near a natural environment

Examples:

- Fishing
- Crabbing
- Boating
- Kayaking
- Nature Walk

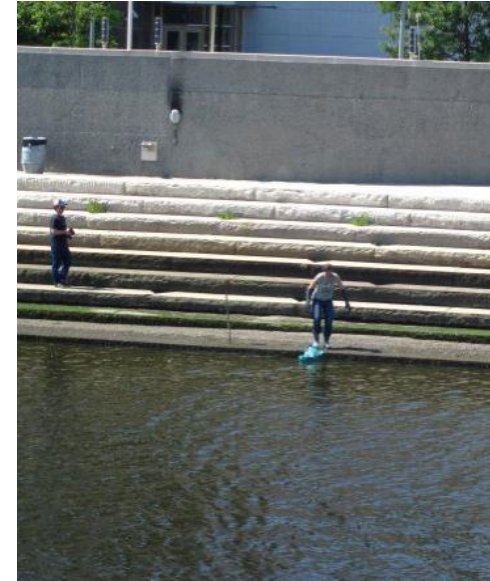


Photo credit: NOAA

What is the Trustees' approach to injury determination?

- Pathway
 - Connection between contaminant release and resource exposure
- Confirm exposure
 - Initial focus on PAHs, PCBs, copper
- Injury based on NRDAR regulations
 - Includes injury from remedial actions

Regulatory Definition of Injury (CERCLA)	Newtown Creek Injury Example
Exceedance of a standard/criteria	Sediment contaminant concentrations exceed sediment quality guidelines
Existence of consumption advisory	Fish and crab consumption advisory
Change in organism function, ecological community, or ecosystem function	Reduced growth and survival of benthic invertebrates exposed to Assessment Area sediment

What is the Trustees' approach to injury quantification and damage determination?

- For injured resources:
 - Determine baseline (condition that would have existed had contaminants not been released)
 - Identify level of services provided by injured resource over space and time
 - Measure reduction in services relative to baseline
 - Estimate time required for injured resources to return to baseline

Ecological

- Quantity of services lost
- **Damages** = projects and/or cost to restore/replace an equivalent quantity of services in the future

Human Use

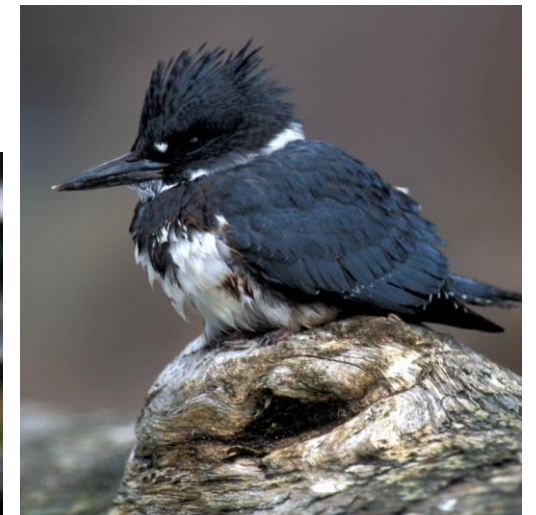
- Quantity of diminished or forgone trips or connections
- **Damages** = lost value for those impacted activities/connections

What activities are the Trustees planning?

- Prioritize evaluation of existing information
- Identify data gaps and determine whether additional studies are needed. Consider factors such as:
 - Nexus to injured resources/lost services
 - Technical feasibility and cost
 - Utility of result for injury quantification and damage determination
- Implement studies in phases



Photo credit: NOAA and USFWS



What activities are the Trustees planning?

- Examples of potential analyses and studies
 - Trustees may not implement all potential studies in the Plan, and/or may identify other studies as the assessment progresses

Resource/Resource Service	Example Analysis or Study
Fish	Review existing fish exposure and toxicity data Review existing fish life history and habitat use information Assess fish exposure and toxicity to address data gaps if needed (e.g., field/lab)
Remedial Activities	Review existing information on remedial activities, evaluate impacts to Assessment Area resources/habitat
Recreation	Review existing outdoor recreational use data and Newtown Creek characteristics Conduct outdoor recreational use interviews and focus groups to address data gaps if needed

How can I be involved?



Photo credit: NOAA

- Trustees encourage public review and feedback on the draft Assessment Plan
 - **Written comments accepted through April 15, 2024**
 - Final Assessment Plan will incorporate comments as appropriate and include responses to all comments

How can I comment on this draft Assessment Plan?

Written comments accepted through **April 15, 2024**



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Electronic copy:

U.S. Fish and Wildlife Service:

<https://www.fws.gov/media/newton-creek-nrda>

NOAA:

<https://www.diver.orr.noaa.gov/web/guest/diver-admin-record/6837>

NYSDEC:

<https://dec.ny.gov/regulatory/nrd/major-ongoing-nrd-assessments>

Hard copy:

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Comments can be sent to:

NYS Department of Environmental Conservation
Natural Resource Damages Section
c/o Alicia Pasos
625 Broadway, 14th Floor
Albany, NY 12233-1500
E-mail: nrd@dec.ny.gov

How can I be involved?



Photo credit: NOAA

- Potential future opportunities for public participation may include review of other documents (e.g., study plans, restoration plans, proposed settlement agreements filed in court)
- Trustees intend to facilitate communication with the public and provide sufficient notification in advance of these opportunities

Other questions?



Photo credit: DelVecchio