Newtown Creek CAG Meeting
Wednesday, July 24, 2013
6:00 – 8:00 PM
LaGuardia Community College
31-10 Thomson Avenue, Queens, New York, NY

Introductions

- Ryan Kuonen, CAG Co-Chair, welcomed attendees to the meeting. She explained that the CAG's co-chair terms have ended and that the CAG needs a new co-chair. Kate Zidar's term as co-chair ended in June; Ryan will stay on as co-chair until December and can help to orient a new co-chair. CAG leadership will stagger every six months thereafter, with two co-chairs always in office. CAG members interested in leadership should contact Ryan or other steering committee members. According to the CAG operating procedures (please see the CAG website at the web address in header above for CAG documents), new co-chairs must be ratified at a full CAG meeting; this will likely take place at the next meeting in fall 2013. To start the meeting, Ryan introduced Wanda Ayala from the U.S. Environmental Protection Agency (EPA) Region 2 office.
- Wanda Ayala explained that EPA awarded the Technical Assistance Services for Communities contract; therefore, Skeo's support to the CAG will continue. She also explained that staffing changes at Anchor (EPA's remedial contractor) have affected delivery of remedial investigation (RI) information (originally intended to be shared with the CAG in June). Despite the delay, the timeline of the RI in general has not changed. Caroline Kwan, EPA remedial project manager for the Newtown Creek Superfund site, can attend a future CAG meeting to present and discuss information about the results of the investigation thus far.
- Wanda introduced Chuck Nace, EPA ecological risk assessor, for a presentation about ecological risk assessment (ERA) in the Superfund process. (EPA defines ecological risk assessment as "the process for evaluating how likely it is that the environment may be impacted as a result of exposure to one or more environmental stressors such as chemicals, land change, disease, invasive species and climate change".)[1] Chuck Nace presented the slides with the following comments and explanations, which are generally summarized below.

Presentation Notes

[Note: These notes are intended to accompany the EPA PowerPoint slides to which Chuck Nace referred during the presentation. These slides are posted on the CAG website in the "Resources" tab. Presentation notes below are not a transcript of the presentation; rather, they attempt to keep a record of the portions of the presentation during which Chuck Nace elaborated on the slide content in order to better explain the complex ERA process.]

[1] http://www.epa.gov/risk_assessment/ecological-risk.htm, accessed 7/31/13.

- There are many participants in the ERA process. EPA staff works with "trustees," the name used to describe the other federal agencies, state agencies, and other necessary entities (such as city governments, when appropriate) who work with EPA on the ERA.
- The ERA process has a total of eight steps and is divided into two named parts, Screening Level Ecological Risk Assessment (SLERA) and Baseline Ecological Risk Assessment (BERA). SLERA is the first part of the ERA, during which EPA determines if a risk to the environment exists as a result of contamination present at the site. a problem. The SLERA consists of Steps 1 and 2. If potential risk exists, EPA goes on to the second part of the ERA, the BERA, in order to calculate the ecological risk associated with the site. The BERA consists of Steps 3 through 8. [See presentation slides for a full explanation of the eight steps of the ERA process.]
- Throughout the process, there are established "scientific management decision points" (SMDPs), which provide an opportunity to reevaluate findings and make decisions about moving forward with the process.
- Newtown Creek is currently in Step 3, at the beginning of the BERA.
- At SMDP #2, stakeholders (EPA and trustees) will come together for a BERA workshop to review technical information and develop a plan for the next steps of the process. This workshop for Newtown Creek will occur in the next few weeks.
- At SMDP #3, stakeholders will come to an agreement on the BERA work plan, which describes the activities that will be done to determine the amount of ecological risk from the contamination present at the site.
- During Step 5 of the ERA, a field check is conducted to make sure that EPA will be able to carry out the activities in the work plan and that these activities will help move the process forward, or if changes are needed. At SMDP #4, these changes are documented.
- Step 7 of the ERA characterizes the risk more specifically. This characterization puts the risk into context, and is where they decide if there is unacceptable risk. There are some numbers in this step, but a lot of professional judgment must comes into play before EPA can interpret the data and make conclusions. ERA is not as straightforward as human health risk assessment (HHRA), which is more reliant on numbers, and determines whether there are unacceptable risks to human health from exposure to site-related chemicals.
- Step 8 includes the last SMDP and is primarily part of the feasibility study (FS) – Newtown Creek is currently in the Remedial Investigation (RI), which occurs before the FS. The results are ultimately finalized in the Record of Decision.

Questions and Comments from the CAG

- *At what point does EPA make comparisons with other data and how does EPA's information compare to existing studies?* During steps 6 and 7. EPA conducts literature reviews early on and does comparisons once all the data is in hand.
- *Does EPA take into account what should and shouldn't be present (such as populations of a species that an ecologist would expect to observe but are absent, or populations that are present but not expected)?* Yes, but if something is not present, EPA does not assume that contamination is the cause of the absence– habitat degradation or some other cause could be involved.

- *Does habitat degradation or opportunities to improve habitat play a part in the assessment?* The remedy focuses on getting rid of contamination. Concurrently, trustees are conducting a Natural Resources Damages Assessment, which assesses what damage has been done to the ecosystem and how can that be corrected.
- *What variables does EPA use to assess the health of a population?* EPA uses primarily tissue residue data (a measurement of the concentration of contaminants in an organism's tissue), as well as species numbers and distribution. Newtown Creek data on these variables will be compared to data from other areas. This is where the professional judgment mentioned above plays in.
- *On what do you base the idea of what "should be there"?* EPA uses information about fish, invertebrate, and bird species in regional waterways, and this gives an assumption of what should be in the Creek. Whatever field sampling EPA does for Newtown Creek, EPA will also do in background/reference areas in order to get additional data for comparison. EPA has not yet decided where the reference area will be. Currently, EPA is looking at 10-12 areas and gathering data; next they will decide how many are needed.
- *Can you determine whether fish in Newtown Creek have adapted to the contaminated environment?* This depends on the species in question. Some species may be impacted by sediment; others in the water column might be fine. There are tests available to determine if species have adapted to a contaminated environment. EPA will determine if such tests are necessary in the planning for the BERA.
- *How do you determine what contaminants you are testing? Do you use the same list of contaminants as the HHRA?* The list can be different because the ERA is looking at effects on different organisms. We have a list of chemicals from the SLERA that we know could be problematic. As we move forward with the BERA, we will look at these in greater detail and then look at other species and areas.
- *During field sampling, do you observe trends through the course of an entire year? (Fish and crabs do different things in different seasons)* Yes, we try to look at seasonal trends.
- *How do you test animals of small populations, such as only two great blue herons on the entire Creek?* We typically do not measure birds, raccoons, etc. Instead, we collect sediment and their prey items. This allows us to determine what the larger animals and birds may be eating and what they would be exposed to. Similarly, in order to determine what humans are exposed to, we do not actually test the humans. However, if needed, we could test the larger animals.
- *How long will the ERA process take?* The process is long. It will take six to eight months to get a field sampling plan ready to go, data collection will span one year (see comment above about observing seasonal trends), and a year of analysis and document writing.
- *What is the ultimate goal for water quality?* EPA is looking for a cleanup that will leave Newtown Creek in a better position and will not harm the animals and humans who live there.
- *Has an ultimate use been determined for after the cleanup?* David Kluesner from EPA Region 2 responded that EPA assesses the reasonably anticipated future land use (RAFLU) and works closely with the community to constantly gauge the decision. EPA wants to know what the community would like to see in terms of cleanup goals, as these will determine how the site can be used in the future, and needs public input. One

criterion in the National Contingency Plan is community acceptance. At this point, the Newtown Creek Superfund site is early in the "how clean is clean" process.

- *Is this a good stage to start voicing what we want in the Creek? We are already kayaking and canoeing in Newtown Creek and we want to swim in it.* Yes, this is the right time. Wanda Ayala noted that EPA Region 2's administrator, Judith Enck, has discussed the topic of future use with CAG members Philip Musegaas and Kate Zidar.
- *For better or worse, people are fishing, crabbing, etc. in the creek. There is current designated use, actual use, and these may differ. To determine the RAFLU, timeframe will have to be considered.* David Kluesner explained that when EPA develops cleanup options, EPA will look at the risk reduction scenarios in the ERA and HHRA. EPA will consider how long it will take to reduce the risk using each of the remedial alternatives. EPA will tell the community how long it will take and what are the consequences (such as disruption of river, cost of remedial action, etc.). The community will be asked many times, "Here are the benefits, here are the costs – what is your preference?"
- *When can the community give information to EPA (about future use, ecological trends, or any other relevant information)?* Throughout the process. From an ecological perspective, one goal that focuses on fin fish may be survival, growth, and reproduction of fin fish in Newtown Creek. Fishable, swimmable water is the end goal, but EPA cannot yet say when this will happen.
- *How much input does EPA have on the issue of combined sewer overflow (CSO) discharges?* EPA does not have much control over this issue, but Caroline Kwan is working with other agencies to do as much as possible. The EPA Region 2 administrator knows that this is a serious community concern.
- *Can community members attend the BERA workshop?* The workshop is for the agencies involved and stakeholders who are technical experts. Caroline Kwan should be asked if others with technical expertise can/should attend.
- *Regarding dissolved oxygen, how much will EPA take into account the aerators?* EPA will be collecting data and will characterize aquatic habitat. Changes in dissolved oxygen will be factored into the population dynamics in the system. EPA is not yet sure what kind of data is needed, so it is uncertain whether samples will be taken with aerators on and off.
- *Will the public have input on the decision to sample with blowers on and off?* The CAG and community are welcome to provide suggestions and EPA will take them under advisement. EPA encourages the community to share their questions, recommendations and concerns. EPA recognizes that the community lives and works here on Newtown Creek and that the community has valuable knowledge to share.
- *Would it be possible to use a blog format to not only offer comments but also to allow other interested community members to engage with, add to, and learn from those comments?* The steering committee can discuss the CAG website and its capability for this purpose during the next steering committee call.
- *Can you elaborate on the use of historical data?* EPA looks at historical data and asks, "Do we have enough? Is it adequate? Do we need more?"
- *Why doesn't EPA have authority over city about CSOs?* This is a question for legal counsel. David Kluesner noted that at the Passaic River Superfund site, EPA looked at the CSO issue. EPA conducted a lot modeling and looking at the contaminant load to

determine what may be coming out of the CSOs and whether it makes sense to move forward with remedy even with the ongoing CSO source. At Passaic River, it turned out that the CSO contribution was so minor that EPA could move forward with selecting the cleanup. EPA's clean water division works with cities on CSO issues. At Newtown Creek, EPA will likely go through a similar analysis that would involve taking measurements of outputs and in pipes during various flow rates to figure out what contribution the CSOs are making to overall contamination in the creek. Typically, EPA looks just at contaminants, not at bacteriologicals.

- *Does airborne pollution fall into your purview?* The HHRA collects air samples. This data could be used for the ERA if needed and possible. This will be part of the technical conversation. The ERA's main purpose is to see if there are unacceptable risks at the site. If there are, this gives EPA justification to do something about those risks. EPA focuses on the contaminants that are contributing the most risk and on what will move toward the end point of getting a remedy in place.
- *There are some interesting biodiversity niches on Newtown Creek that you might not expect. If EPA could share the field sampling plan, the CAG might have comments that would help.* The products of the BERA workshop will be publicly available and the draft documents can be commented on. Help with interpretation may be available if needed. If the CAG would like technical assistance, the CAG should contact Wanda Ayala.
- *Is technical assistance grant (TAG) money getting out to community groups?* We have heard of difficulties. David Kluesner commented that the TAG process is lengthy and cumbersome, with a cost share component and lots of paperwork. Technical Assistance Services for Communities (TASC) is another way for communities to receive technical assistance; this source provides services, not dollars. (For reference, the Friends of Gowanus group has a TAG.)
- *Can you elaborate on the Natural Resource Damages Assessment process?* This process is run through the U.S. Fish and Wildlife Service (FWS) and National Oceanic and Atmospheric Administration (NOAA). These agencies work with EPA and the ERA data – EPA tries to collect data that are usable for all agencies. FWS and NOAA conduct their own process for natural resources damages assessment and it does involve some public input. Representatives from those agencies may be able to come to speak with the CAG. The natural resources damages assessment process is long and typically lags behind the cleanup process. For example, the Passaic River site will select a remedy this year and the natural resources damages assessment is still in its infancy.
- *We are the CAG but we are not the community. Do you have benchmarks for community involvement?* Yes, EPA must meet specific requirements. The CAG brings interests together to discuss the site, but it doesn't take away from EPA going out into the community. Public meetings and/or public information sessions happen during public comment periods – whenever there is a big action in the project, such as National Priorities List listing, proposed plan for the cleanup, and at other times if the community or elected officials ask for a meeting, or if additional information needs to be shared. EPA held one of these meetings in Brooklyn early on. These meetings will be announced through elected officials, community boards, and other means of outreach.

Meeting Wrap-Up and Discussion of Next Steps

- Any questions for EPA should be directed to Wanda Ayala – she will make sure that the questions are directed to the proper member of the EPA site team.
- Next Steps:
    - EPA will share the ERA documents with the CAG when they are available (after the BERA workshop).
    - The CAG will include Caroline Kwan on a future meeting agenda so that she can share RI information.
    - The CAG steering committee will meet soon in order to discuss CAG activities, future meeting topics/agendas, website functionality and commenting capability, CAG leadership, and next steps.