



**Overview of Path Forward
Newtown Creek Operable Unit 1
Newtown Creek Superfund Site CAG Meeting
June 25, 2025**

Current Status of Newtown Creek Operable Unit 1

- OU1 Remedial Investigation/Feasibility Study (RI/FS) has been ongoing since 2011
 - Being conducted under an Administrative Order on Consent with the Newtown Creek Group plus New York City
- EPA has approved the OU1 RI, and human and ecological risk assessments, and additional FS sampling has been completed
 - We have a good understanding of the nature and extent of contamination and fate and transport processes for the entire creek
 - Contaminants of Concern have been established, and risk-based remediation goals developed
 - Draft Remedial Action Objectives for all of OU1 have been drafted
 - Record of Decision selecting an interim remedy for East Branch portion of OU1 signed January 2025
- We have agreed to develop an Adaptive Site Management Strategy for OU1
 - East Branch ROD approach is consistent with the ASM Guidance

Goals of Adaptive Site Management

- Describes how the Superfund processes will be assembled/used to address a site
 - Execute early actions (removal or interim) followed by a final action guided by an Adaptive Site Management Plan focused on evaluating progress towards and attainment of remediation goals.
 - Combines iterations of remediation and monitoring to:
 - Determine progress towards meeting RAOs and RGs
 - Inform Uncertainties
 - Make decisions on need for additional action
 - Describes the relationship between operable units and the use of interim actions to achieve RAOs and RGs.
- It is a long-term site management strategy

Path Forward Considerations

Question: How do we sequence the cleanup of the rest of OU1?

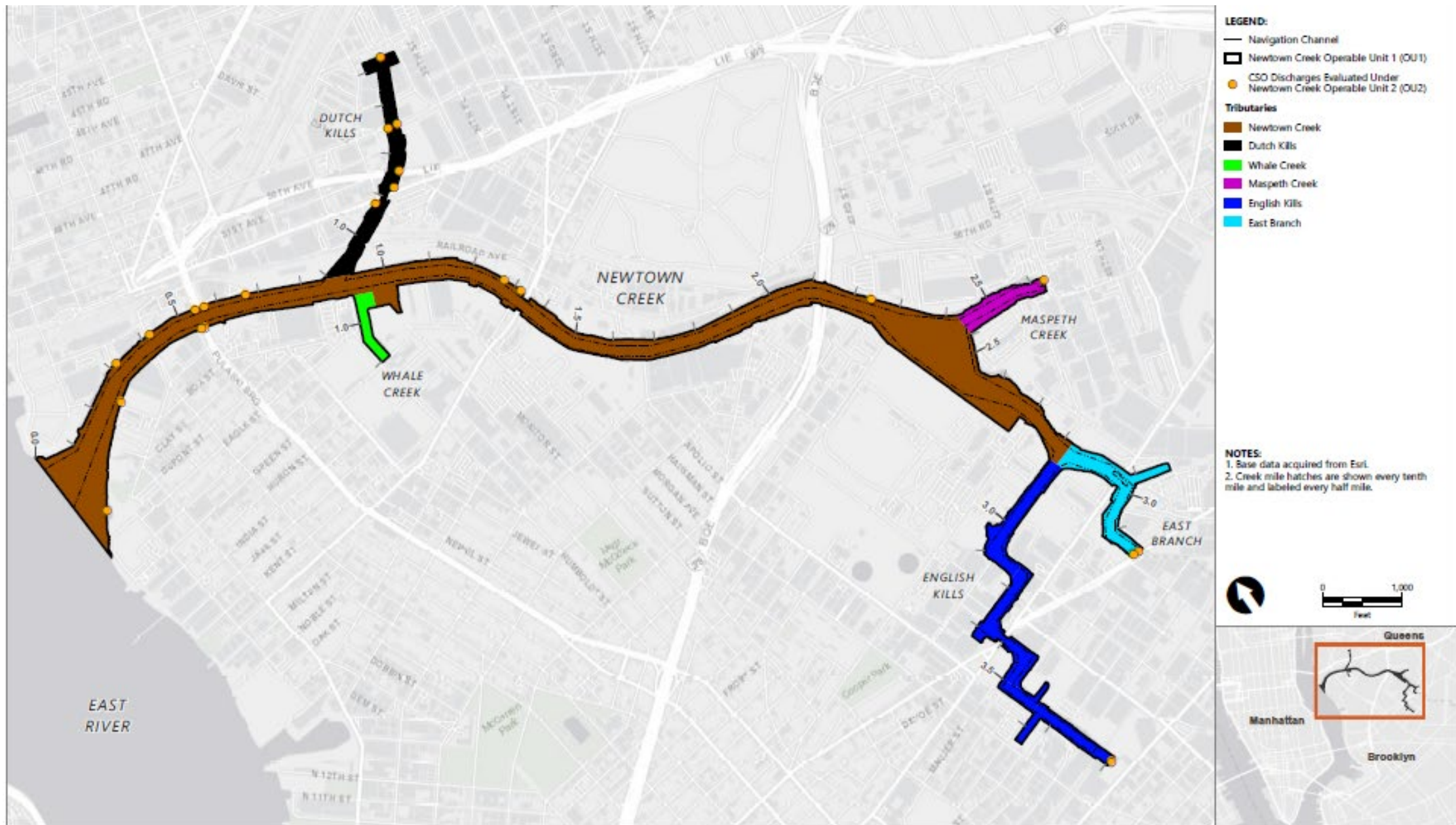
- Technical Considerations
 - For example, what order do we clean up the creek?
- Administrative/Enforcement Considerations
 - For example, how many more RODs?
 - Interim or final?
 - What enforcement instruments do we use?

Technical Considerations: What do we know?

- Contamination
 - Highest overall in Turning Basin and Tributaries
 - Bank-to-bank remedy likely needed in all tributaries and Turning Basin
- East River Tidal Influence
 - Strongest in CM 0-2, particularly 0 to 1
- Many Ongoing Sources to the Creek, including (but not limited to):
 - Point discharges (such as CSOs, MS4s, and other permitted and non-permitted discharges)
 - Largest CSOs present at heads of tributaries
 - LTCP – NYCDEP under order by NYSDEC to complete by 2042
 - Seeps and groundwater flow
 - Overland flow
 - Bank erosion
- Logistical Concerns
 - Bridges
 - Utilities
 - Navigation
 - Aeration

Administrative/Enforcement Considerations

- Time
 - Signing RODs takes time
 - Each ROD signed (interim or final) must have documentation to support it (e.g., a feasibility study or focused feasibility study)
- Cost
 - More comprehensive RODs result in larger decision documents
 - East Branch remedy alone is estimated to cost approximately \$250 million
- Coordination with Other Efforts
 - Upland Projects and Cleanup Actions
 - EPA is working very closely with New York State Department of Environmental Conservation
 - Long Term Control Plan
 - New York City is under order by the State to fully implement the plan by 2042
 - Navigation
 - Bridge and Infrastructure Projects



Initial ROD Sequencing Discussion

- On March 6, 2025, EPA provided an initial overview to the NCG and NYC, as well as NYSDEC, NOAA and FWS
- Presentation included a discussion of four “hypothetical” options for sequencing the cleanup of OU1 moving forward
 - Options ranged from 1 more Interim ROD followed by a Final ROD to 4 more Interim RODs followed by a Final ROD
 - The Interim RODs related to different portions of the Creek (for example, English Kills, Turning Basin, etc.)
 - The Final ROD would cover all of OU1
- The parties provided different viewpoints/opinions during the meeting
 - There is no “right” answer, it’s a balance

Follow Up Sequencing Discussion

- On June 18, 2025, EPA met with NCG, NYC, NYSDEC, NOAA and FWS again to further discuss path forward
- No overall consensus on best path forward, but general agreement on several points
 - Include all of OU1 in an interim, or several interim, RODs
 - Most parties prefer one more interim ROD for the rest of/most of the rest of OU1 rather than several smaller ones
 - General agreement that the RD and RA work should be sequenced through multiple enforcement instruments
- Rationale for one large interim ROD includes
 - Understand full extent of remedy sooner rather than later
 - Allows NYSDEC to prioritize/optimize its upland-related efforts
 - Maximize Participation of responsible parties
 - Stage / Stagger Financial Commitments
 - Continuous workflow may lead to efficiencies
 - Allows other interested parties to plan their efforts (for example, adjacent restoration efforts)

EPA's Path Forward for Operable Unit 1

- The Next Interim ROD will select a remedy for all of the remaining tributaries, the Turning Basin, and CM 0-2
- The Final ROD will be selected later in the process and, if necessary, will adjust and/or enhance the interim RODs.
- This approach will:
 - Address the majority of the contamination in the next decision document
 - Allow EPA time to assess the impact of remedial actions on portions of the Creek, and adapt remedial actions for the rest of the Creek as supported by the data.
 - Allow time for the LTCP to be implemented.
- EPA can make adjustments to this approach can be made as we proceed, if and when, necessary.
 - This is consistent with the Adaptive Site Management approach being utilized.

Path Forward for Operable Unit 1 (cont.)

- From an enforcement standpoint, EPA's intention is to sequence the RD and RA for the next interim ROD into smaller, more manageable pieces, with separate enforcement instruments for different portions of the Creek.
- Segmenting the work into multiple enforcement instruments should address both technical and financial concerns of the action
 - Allows time to adapt as work progresses
 - Allows funding to be sequenced
- EPA's PRP search efforts are ongoing.

Example of Options Considered and Path Forward

	Scenario	A	B	C	D
1	East Branch	ROD 1 (done)	ROD 1 (done)	ROD 1 (done)	ROD 1 (done)
2	English Kills	ROD 2	ROD 2	ROD 2	ROD 2
3	Maspeth Creek and Turning Basin	ROD 3	ROD 3		
4	Upper Dutch Kills	ROD 4		ROD 3	
5	Lower Dutch Kills, Whale Creek, and CM 0-2	ROD 5			
6	Whole Creek	Final ROD (revisit whole remedy)			

***The sequence of when best to conduct some portions of the cleanup work is flexible;
Upper Dutch Kills is shown as an example.**

Short Term Next Steps

- Develop general timeframes for Future FS(s) / FFS(s) / ROD(s)
- Determine process under which to develop FS / FFS for the next ROD – enforcement / administrative approach
- Revision of draft Sitewide Alternatives Memo for EPA review
- Develop formal Adaptive Site Management Plan
- Determine logical sequencing of remedial design and remedial action work in the Creek based on all technical and administrative considerations

Questions and Discussion