

Gowanus Canal Community Advisory Group  
Water Quality Committee  
June 6, 2011 – Meeting Summary

Attending: Katia Kelly, Eymund Diegel, Natalie Loney, Rita Miller, Steven Miller, Josh Verleun, Diane Buxbaum, Hans Hesselein, Ali Hussain, Ludger Balan, Terry Thompson, Philip Musegaas, Michelle de la Uz, Maryanne Young

Jeff Edelstein opened the meeting with a brief outline of the meeting agenda and a reminder that at this time, all CAG committees are open to new membership. Josh Verleun briefly reminded the group that Riverkeeper is willing to help the community with site-specific runoff complaints. There was some discussion of EPA's fiscal situation and the possibility of the CAG losing Jeff as a facilitator after October.

Six members of the committee were present at the beginning of the meeting, which constitutes a quorum, based on the Charter.

### **EPA's Feasibility Study (FS) Presentation**

In general, the committee members present were encouraged by the discussion about the ongoing Feasibility Study (FS) that was presented at the May 31<sup>st</sup> meeting of the full-CAG. Several were concerned about the poor turnout of CAG members, given the importance of the FS update. One member of the committee was interested in knowing more about the scenario that EPA introduced, in which the 4<sup>th</sup> Street Basin may be filled with dredged material from the canal. Another was extremely dismayed by the incongruity between the findings of EPA, DEC and DEP that continues to be revealed during the SF process. Of particular concern are the varying claims of pollution levels and cleanup strategies for upland sites.

Questions:

*Will National Grid share the data collected through the company's own water sampling of the canal CSOs —specifically, the data that describes the presence and makeup of other chemicals in the canal water?*

According to Terri Thompson from National Grid, the report was sent by National Grid to the EPA and the Health Departments and should be available from those agencies. There was an offer to post the report on the Proteus Gowanus website, should EPA be unable to post the report on EPA's website.

### **Real Estate Committee & NYC DCP**

The Department of City Planning (DCP) followed up on questions generated by the RE Committee and submitted by Jeff. Jeff spoke with Jen Posner on the telephone and is writing up the answers, which will be reviewed by DCP before being shared with the CAG.

## **DEC, DEP and MGP Sites**

Gardiner Cross at NYS DEC contacted Jeff with a request to attend the next meeting of the full-CAG to discuss the former Manufactured Gas Plant (MGP) sites. There was general agreement that having DEC give this update would be useful.

Discussion about the cleanup standards employed for the Lowe's site, now considered inadequate, focused on how the CAG can create new relationships with public agencies and officials to demand the best standards. Many in the group would like to have both DEC and DEP in the same room to answer questions from the group at the same time. The group understands that EPA has been meeting with the other agencies, as PRPs and partners in the SF process, but the CAG has not been a part of these conversations. There is a general perception that the agencies view the cleanup through different lenses, and that the community would like to see DEC, DEP and EPA at the same table along with the CAG.

Jeff proposed inviting DEC and DEP to the next full-CAG meeting, with DEC discussion of the MGP sites as the primary agenda item. DEP would be there to comment and/or answer questions regarding surface runoff from contaminated upland sites. All in the group agreed that discussion of CSOs and the Long Term Control Plan (LTCP) should be left off of the agenda for now, as there would not be enough time in one meeting to discuss both.

### *Questions:*

At the end of the Patterson Administration, the Governor claimed that the State "...may no longer participate in the SF program..." What does this mean? Does this impact the State SF and the Federal SF programs?

Given the known contamination of the Lowe's site and the flooding and runoff that occur there, how will the site be addressed in the future?

In the past DEC has not enforced its own existing laws, so can EPA take a role in forcing compliance? What is EPA's jurisdiction over this sort of issue?

The Public Place site has a collapsed sewer pipe on site, which has a direct SF implication and is the responsibility of the DEP. What is the status of this problem? Why wasn't it fixed by DEP before?

## **TAG and TASC**

The Technical Assistance Grant (TAG) is not complete at this time, but EPA expects that the paperwork will be processed within a couple of months and that the grant-based advisor will be chosen by then. The Technical Assistance Services for Communities

(TASC) does not provide funding, but rather provides an actual advisor, paid for by the EPA. The support available through the TASC program is more flexible than the TAG grant and has a quicker turnaround. The Technical Committee is meeting on June 23<sup>rd</sup> and would like to have EPA fill out the missing info needed for the group to request TASC assistance for the Feasibility Study (FS) phase of the SF process. Natalie Loney from EPA recommended that the group move on this request quickly, as the agency is expecting a new budget to be announced at the end of September with the end of the fiscal year.

*Questions:*

What does the CAG want the TASC advisor to do specifically? (this is required by EPA)

Can the CAG get TASC support now, and then again at a later date?

Can each committee choose a few issues for TASC assistance? Will there be a new person for each type of question or issue based on the technical expertise?

Does the CAG need to aggregate questions if the TASC support is not provided by a variety of assigned experts?

Can the CAG get more than one advisor at the same time?

*Next Steps:*

There was a motion that the CAG move forward to request TASC support now. The motion will need to go to the full-CAG before the next meeting and the questions for the technical advisor will need to be known then as well. All voted to approve the motion and the request for TASC support will be brought before the full-CAG.

**CSOs, LTCPs & Green Infrastructure (GI)**

Philip Musegaas from Riverkeeper discussed the City's Long Term Control Plans (LTCPs), GI Plan, Waterfront Plan, and the updated PlaNYC. He discussed the procedural process, under the Clean Water Act (CWA) that requires the city to address the stormwater runoff and pollution caused by CSOs. Riverkeeper and Natural Resources Defense Council (NRDC) filed a lawsuit years ago that resulted in a consent order under DEC. The consent order outlines a schedule of compliance that requires DEP to begin investing in upgrading the city's sewage infrastructure in 2011, develop Long term Control Plans (LTCPs) between 2012 and 2017, and complete the implementation of the LTCPs by 2030.

This traditional engineering solution consists of sewage treatment plants, holding tanks and other large-scale interventions and is called Grey Infrastructure. Typically in NYC, the costly Grey Infrastructure is only used in the event of large rainfall, thereby requiring lots of resources for little benefit. With GI, there is a known double benefit; the

infrastructure absorbs rainwater and also makes the city more livable, healthier, etc. Though Riverkeeper and the NRDC support GI, it cannot entirely solve the stormwater problem.

NYC DEP is currently working on LTCPs for the 13 watersheds (or sewersheds) including the Gowanus. The first draft for the Gowanus watershed has been completed, and the DEP has until 2030 to carry out the citywide LTCP according to the DEC consent order. The consent order requires the completion and implementation of all LTCPs to achieve a projected reduction of CSO discharges by 30 to 40% by 2030. According to the DEC consent order, these Grey Infrastructure improvements will cost between \$3-7 billion, based on projected cost, timelines and unknown variables. The Gowanus Watershed is ahead of many others, but there is no dedicated money for the improvements, though there is money in the budget for Green Infrastructure. Musegaas said that Riverkeeper and other groups are interested in shifting the approach, to find a solution that uses both Green and Grey Infrastructure. With a Grey and Green Plan, the City would save money, would green the city, and reduce pollution. He noted that just a few years ago, DEP absolutely rejected GI out of hand, so the agency is showing some signs of positive change.

#### GI Plan Challenges Discussed:

- The plan is a vision document with no details and no deadlines.
- The proposed reductions in CSO discharges by sewershed are not consistent with those outlined in the LTCPs
- There is no info on how the plan will be implemented sewershed by sewershed
- Plan has no legal backing, so how will compliance be enforced?
- The plan intends to address 10% of impervious areas (most on public property) in each watershed, so landscape may be a problem for the different watersheds.

Another concern for Riverkeeper is that DEP has gone to DEC seeking an amendment to the consent order, requesting 3-5 years to implement GI and to measure the success of the new plan in lieu of meeting the 2012 deadline. Additionally, the schedule for producing the LTCPs has fallen off or been pushed back. Finally, there has been no public participation so far – though DEP plans to involve the public on some level this year.

Riverkeeper, in wanting to support a mixture of Green and Grey Infrastructure, is interested in seeing DEP pursue a large-scale demonstration project, instead of the *ad hoc* projects now being supported. A large-scale project – perhaps a full city block in size – would allow the success of CSO reduction to be observable and measurable. The challenge is to not let the city backslide on water quality issues while implementing GI. Also, public participation should be a critical component moving forward.

#### *Questions:*

Can the CAG write a letter to DEP regarding the need for public participation, and to join the SWIM Coalition in trying to steer this process?

How were the geographic boundaries of the 13 watersheds determined?

Does the 30-40% reduction in future discharges take into account increased flows from new zoning, the new arena and new housing?

Is the 30-40% reduction a citywide or cumulative figure, meaning might Gowanus have a 10% reduction, while some other watershed might have 80%?

How can the CAG generate community-wide demand for grey infrastructure to be implemented in the Gowanus watershed?

What is DEP doing to address CSOs that pollute directly into the East River and harbor?

In the EPA RI, the agency identifies CSOs as being regulated by CERCLA. How does this impact the consent order?

How will the SF timeline (projecting FS completion by 2011 and a selection of remedy by 2012) impact the consent order?

Why does DEP's GI Plan address only some land uses and leave private residences out? Why not offer tax abatements to residential owners?

What would a plan for the combination of Grey and Green Infrastructure need to look like?

Does the 34% reduction expected once the Flushing Tunnel is complete bring DEP into compliance with the consent order? *A: No, but the Flushing Tunnel is a big part of the spending required.*

### **Green Infrastructure and the SF**

The EPA activities associated with Superfund are moving ahead, though it seems that the plans of DEP and DEC are ignoring that the SF is happening. The liability of the City, as a named polluter under the Superfund process, is not yet known. Recontamination of the waterway will be the primary concern, and the place of intersection for EPA and DEP regarding CSOs and GI. The FS will address recontamination, but it is not clear whether EPA will evaluate the GI Plan or the LTCP when considering how DEP will prevent recontamination.

#### *Questions:*

To what degree will EPA make DEP comply to prevent recontamination by CSOs?

DEP's LTCPs for the 13 watersheds, including the Gowanus, will take much longer to complete than the SF timeline that EPA is following. Will that be a problem? What can EPA do to speed along DEP's process?

How does the GI Plan impact the Gowanus?

Would the EPA pay for the installation of real-time CSO flow monitors as part of the cleanup remedy?

*Next steps:*

EPA is the heavyweight here, and the SF schedule is moving along quickly. Clarity from DEP on these issues would be beneficial to both EPA and the CAG. The committee would like to invite Cas Holloway to a full-CAG meeting to discuss CSOs and the interplay with the SF process.

One committee member suggested that the group invite DEP to the August committee meeting, giving the members time to assemble a list of questions that might yield new information from the agency instead of the expected information. Philip is willing to help the group generate a question list, and to be an ongoing resource. He recommends that the community get organized and put pressure on the city to comply with the consent order.

All members approved a motion to invite DEP to the WQ Committee meeting in August and then to the full-CAG meeting in September.

## **Other Business**

*Meetings*

The group is interested in recording all of the full-CAG meetings and making them available to members as well as the public.

*Facilitation*

The ongoing discussion of what can be facilitated by Jeff and EPA staff continued.

According to Natalie, GI and the DEC consent order are not related to SF, though the flow from CSOs is a SF issue. The CWA is not SF, but the flow and dispersion of CSOs is Superfund.

Though all discussions are necessary for educating the CAG and tying things together, the issue of facilitation and EPA involvement in discussions continues to be an issue. One solution may be to re-structure the meeting agendas, another is to encourage the formation of self-facilitating sub-committees to pursue some issues independently.

All agreed that some research and some education of the committees must occur in order for the groups to decide whether any particular issue is a SF issue. Also, there is a general sense that CAG members consider all of these issues to be interconnected, and while something like the CWA and reclassification of the waterway might seem to not be a concern of SF, the reclassification may impact the design of EPA's cleanup remedy.

*Questions:*

Given the enormity of the budget for the SF cleanup, how can the relatively minor cost of facilitation be at risk? As facilitation is so critical to the community, why can't this be a higher priority for EPA?

Can the CAG choose how to spend facilitation time?

What is the budget for facilitation?

What can EPA provide, should Jeff's work not be funded? What other tools are there?

What possible local resources exist to build capacity and provide facilitation support?

*Next steps:*

EPA expects a new budget at the end of the fiscal year and this may impact the funding of the CAG facilitation. Given this possibility, the group will need to formalize a plan for functioning and communicating without facilitation. One member proposed bringing the future of CAG facilitation before the full-CAG for consideration and to make this an agenda item.

There was some discussion of how the CAG will communicate with members, and whether a yahoo or google group needs to be formed. It was suggested that the Administrative Committee take up this issue.