Alternative Cleanup Plan for the Gowanus Canal
Gowanus Canal
Goals for the Alternative Cleanup Plan

- Superfund-quality cleanup with EPA oversight
- Expedited timeframe
- Make polluters pay
- Alternative Cleanup Plan addresses:
  - Canal sediment
  - Canal water quality
  - Land discharges
- Maximize existing investments & resources
- Minimize risk of stigma and disinvestment
- Transparent public process
NYC’s Ongoing Work in the Gowanus Canal

Water Quality Improvement Projects

- Modernizing the Flushing Tunnel
  - Improves water quality and circulation

- Up-size a pump station and replace force main to take CSOs to nearest WWTP
  - Reduces discharge of CSOs by 34%

- Dredging upper 750 feet of the Canal
  - Improve water quality and reduce odors
Under Water Resources Development Act (WRDA), DEP/ACOE are conducting Feasibility Study

- 50/50 DEP & Army Corps cost share totaling $5M (underway)
- Expected restoration recommendations include dredging and wetland creation
- Focus is on dredging prior to restoration work

Under Urban Rivers Restoration Initiative (URRI), gathering extensive data

- Joint initiative between EPA and Army Corps to coordinate remedial, water quality and environmental restoration pursuant to CWA, CERCLA, RCRA and WRDA
- Partnership designed to provide innovative remediation strategies and coordinate funding
- Gowanus is identified as 1 of 8 pilot sites under URRI
Why an Alternative Cleanup Plan?

- **Leverages on-going projects**
  - US Army Corps Partnership
  - DEP CSO and Dredging Work

- **Maximize incentives to get job done quickly**
  - Army Corps & EPA participation creates potential for significant federal funding
  - Provides incentive for polluters to participate

- **Collaborative process is faster and more efficient**
  - It is estimated that transaction costs (e.g. legal expenses) account for 17-33% of the total costs incurred by Responsible Parties under Superfund

- **No downside to the alternative, EPA can list at any time**
  - Pursuing alternative does not slow-down Superfund process if Canal is ultimately listed

- **Threat of Superfund Listing has had the desired effect.**
  - EPA should embrace alternative approach and help the City to implement it
Factors That Delay Superfund Cleanups

- Many RPs/multiple properties
- RPs of different sizes and contribution
- Extremely large costs for cleanup
- Long industrial history
  - Multiple owners and processes
- Common contaminants
  - Difficult to quantify
- Potential orphan liabilities
  - Companies out of business

- All of these factors exist at the Gowanus Canal
Federal Funding Sources for Gowanus Canal

Alternative Plan

- PRPs
- WRDA Cleanup Appropriations
- Superfund Cleanup Appropriations For Orphan Share

Cost of Gowanus Canal Cleanup

Only Superfund

- PRPs
- Superfund Cleanup Appropriations for Orphan Share
What is the Superfund Alternative Approach?

- Superfund Alternative approach is an official EPA program established in 2002.
  - EPA is using the Superfund Alternative Approach in lieu of Superfund listing at 45 sites around the country.

- Superfund Alternative approach follows the same investigation and remedial procedures and achieves the same level of cleanup.

- EPA project managers in other regions have found that the alternative approach can be a successful way to address waste site cleanup.

- Superfund Alternative should be given a chance at the Gowanus Canal.
What is the City’s Alternative Cleanup Plan?

- **Clean Gowanus Canal to Superfund standard. That means:**
  - Address Canal sediments
  - Investigate and Address Upland Properties
  - Stop Any Continuing Discharges

- **EPA Approves and is Engaged in all stages of Work**
  - EPA and DEC participate in and approve scopes of work
  - Potential EPA funding participation in early phases
  - EPA oversight through all stages of work

- **Cleanup administered by Federal & State agencies**
  - Uses existing Army Corps Partnership for sediment cleanup
  - EPA and Army Corps oversee all work through binding, enforceable agreements

- **Polluters and Responsible Parties pay for cleanup**
  - Voluntary Engagement by leveraging City Partnership with Army Corps
  - Potential federal funding creates an incentive to PRPs to participate

- **EPA lists Canal if not satisfied**
  - No time lost, investigation is ongoing
Alternative Plan Can Achieve a Cleanup Faster

**Alternative Cleanup Plan**
- EPA defers NPL Listing Joint Plan
- Draft FS and EIS
- Final FS and EIS
- Remedial Design Start
- Design End
- Remedial Action Start
- Remedial Action End

**EPA NYS Average**
- Site Proposed to the NPL
- Final NPL Listing
- ROD
- Remedial Action End

**EPA: Hudson River (1 PRP)**
- Site Proposed to the NPL (1983)
- Final NPL Listing
- RI/FS Start - Land
- ROD – Land
- Remedial Design Start - Land
- Consent Order – Land
- Remedial Action Start - Land
- Consent Decree – Land
- RI/FS Start - River
- Remedial Design End - Land
- Remedial Action End – Land
- Removal Action Assessment Start – Roger’s Island
- Removal Action Assessment End – Roger’s Island
- Removal Action Start – Roger’s Island
- RI/FS End – River
- ROD - River
- Remedial Design Start – River
- Expanded RI/FS - Land
- Consent Decree – River
- Consent Order – Floodplains
- Removal Action – Floodplains
- Remedial Design End – River
- RI/FS Start – Floodplains
- Removal Action Start – Floodplains
- Remedial Action Start – Floodplains
- Dredging Begin - River

**EPA: Passaic River (70+ PRPs)**
- Site Proposed to the NPL (1983)
- Final NPL Listing
- Consent Order - Lower Passaic RI/FS Start - Lower Passaic
- RI/FS End – Lower Passaic
- Consent Order – Newark Bay RI/FS Start – Newark Bay
- Consent Order – Extended Passaic RI/FS Start – Extended Passaic

- Remediation is Ongoing

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**Key**
- Yellow: Remedy Selected
- Light Green: Cleanup Complete

- Alternative Cleanup Plan timeline estimated by the Army Corps
- Average NYS estimate based on all 111 EPA Superfund sites
Alternative Plan Can Achieve a Cleanup Faster

**Alternative Cleanup Plan**
- EPA defers NPL Listing
- Joint Plan
- Draft FS and EIS
- Final FS and EIS
- Remedial Design Start
- Design End
- Remedial Action Start
- Remedial Action End

**EPA: Portland Harbor (>10 PRPs)**
- Site Proposed to the NPL (2000)
- Final NPL Listing (2000)
- RI/FS Start
- Administrative Order on Consent
- Notice Letters Issued
- Notice Letters Issued
- RI/FS End Expected
- PRPs begin engaging in allocation discussions

**Remediation is Ongoing**

Key:
- Yellow: Remedy Selected
- Green: Cleanup Complete

➤ Alternative Cleanup Plan timeline estimated by the Army Corps
New York City Experience with Hazardous Waste Sites

- NYS Superfund cleanups
  - 6 Hazardous waste landfills
    - 670 acres
    - >$500 Million
    - Including dredging of PCBs

- Industrial property cleanup programs
  - E-Designation Program (since 2000)
  - Local Brownfield Program (2009)
Potential Consequences of a Superfund Listing

- **Difficulty refinancing, securing loans and obtaining insurance**
  - Lenders may hesitate to finance a site next to a Superfund site because it may be difficult to quantify the financial liability risk involved.
  - Lenders may be willing to fund, but they would not take all of the risk and would charge a premium rate for the additional risks.

- **Superfund stigma and lower property value**
  - The majority of academic studies analyzing areas close to Superfund sites identified a decrease in property prices.
  - It is conceivable that the present value of the benefits of cleanup are mostly lost if the Superfund process is uncertain and subject to delays.
  - Courts have discounted property values by 20% to account for the stigma of a Superfund listing.
  - Superfund stigma is a factor considered by the NYS Board of Equalization and Assessment in its valuation of property values.

- **Disinvestment**
  - Traditional lending sources may favor of cleaner, easier sites.
Funding: Investigation & Cleanup

- **Phase 1: EPA currently has funding for the Investigation Phase**
  - EPA can spend money on Investigation activities immediately
  - The Canal does **not** have to be listed as a Superfund site for EPA to spend money on the Investigation Phase
  - Under the Alternative Cleanup Plan, the City and Responsible Parties would contribute additional resources to the Investigation

- **Phase 2: EPA does not have funding for the Cleanup Phase**
  - Cleanup requires litigation to secure Responsible Parties contribution
  - Cleanup requires Federal funding for the “orphan” share
    - EPA will have to obtain federal dollars to pay for the orphan share
  - There is nationwide competition for EPA’s remediation funds

- **Keeping the Army Corps and WRDA funding on the table at this point can help ensure that the Canal cleanup actually occurs**
Submit Comments to the EPA Docket by July 8th

- By email or phone to EPA's New York State Docket Coordinator Dennis Munhall
  - munhall.dennis@epa.gov or (212) 637-4343
  - Identify your comment by the Gowanus Canal docket number "EPA-HQ-SFUND-2009-0063" in your submission.

- On the web at Regulations.gov
  - Use the document number “EPA-HQ-SFUND-2009-0063-0001” as a keyword search.
  - Once at the document click on the “Send a Comment or Submission” link

- By mail
  - Identify your comment by the Gowanus Canal docket number “EPA-HQ-SFUND-2009-0063" in your submission.
  - Docket Coordinator, Headquarters
    U.S. Environmental Protection Agency
    CERCLA Docket Office
    (Mail Code 5305T)
    1200 Pennsylvania Avenue, NW
    Washington, DC 20460