

Policy Committee Meeting Minutes (DRAFT)

April 21, 2021

Participants

Policy Committee: Kati Angarone (NJDEP), Christopher J. Daggett (HRF), Javier Laureano (USEPA), Angela Licata (NYCDEP, NY-Government), COL Matthew Luzzatto (USACE), Vincent Mazzei (NJDEP), Walter Mugdan (USEPA), Phyllis Reich (City of Elizabeth, NJ-Government), Jim Tierney (NYSDEC), Chuck Warren (CAC), and Judith Weis (Rutgers, STAC)

Management Committee: Pinar Balci (NYCDEP), Rick Balla (USEPA), Lisa Baron (USACE), Meredith Comi (NY/NJ Baykeeper, CAC), Jason Fagel (NYSDEC), Marit Larson (NYC Parks), Tom Laustsen (NJHDG/PVSC), Jim Lodge (HRF), Jessie Murray (NOAA Fisheries), Rob Pirani (HEP), Evelyn Powers (IEC), Patti Rafferty (NPS), Clay Sherman (NJDEP), and Peter Wepler (USACE)

Others in attendance: Peter Brandt (USEPA), Elizabeth Butler (USEPA), Fran Dunwell (NYSDEC), Lingard Knuston (USEPA), Mark Lulka (USACE), Anne Rosenblatt (USEPA), Joe Seebode (USACE), Melissa Sinisgalli (NJHDG/PVSC), Shino Tanikawa (NYC Soil & Water Conservation District, CAC), and Anahita Williamson (USEPA)

HRF/HEP Office Staff: Elizabeth Balladares, Rosana Da Silva, Clay Hiles, Jonathan Kramer, Sara Powell, and Isabelle Stinnette

1. Introductions and agenda review

Chris Daggett opened the meeting and the agenda was reviewed. Chris thanked Clay Hiles for his time, effort, and service to HEP and welcomed Jonathon Kramer as the new Executive Director of the Hudson River Foundation.

2. Program Director's Report and Proposed FY 22 Workplan

Rob Pirani and HEP staff highlighted progress on the Action Agenda over the past year, and present the proposed FY 22 workplan activities to advance 22 priorities. This includes: pathogen monitoring in the Lower Raritan, continuing the expansion of culvert assessments in New Jersey, work with Battery Park City Authority and NYC Parks to advance habitat assessments and monitoring of living shorelines, provide small grants for In Your Neighborhood Events as part of the City of Water Day, and convening a workshop on climate-driven species shifts to inform seasonal dredging windows. The current budget estimate of \$700,000 of Clean Water Act Section 320 will support staff time with funding to some priority projects. This year, we are anticipating \$1,530,000 of leveraged funds including some mentioned grants confirmed and others that we are still waiting to hear on. Several federal and state opportunities are also options that we are working on to further extend funding for the region. Chuck Warren shared a statement from the Citizen Advisory Committee announcing the support of the FY 2022 Work Plan which aligns with the committee's priority to advance the Action Agenda and increase the support of citizen science. Jim Tierney stated that the Bronx River flows into the Long Island

Sound which receives significant funding. There may be an opportunity to leverage funding from that program to move joint initiatives forward.

Action: FY 2022 Workplan was approved, motioned by Chuck Warren, and seconded by Jim Tierney and Judy Weis.

3. Update: Harbor Deepening / Ecosystem Restoration Feasibility Study

Chris Daggett welcomed COL Matthew Luzzatto to the Policy Committee where he introduced himself to the committee. COL Luzzatto thanked HEP for comments to incorporate ecosystem services and resiliency on WRDA 2020 as it is something that has been advanced by the District. The broadening definition of what is infrastructure under the proposed Infrastructure bill could mean a significant amount of funding that could go to shovel-ready projects from the HRE CRP. He highlighted the extraordinary work by the staff at the USACE NY District which has seen 10 Chief's Reports approved in one single year and noted this would not have been possible without the support from HEP and its partners in the region. COL Luzzatto updated that they received approval to extend the timeline for the Harbor & Tributaries Study (typically a 3-year timeline) and will be working for congressional support and funding later this year, picking up where they had left off.

Lisa Baron shared that they are working with partners and currently awaiting appropriations in the FY 2023 budget to support several projects, including Stony Creek Marsh Island, Flushing Creek, Bronx Zoo & Dam/Stone Mill Dam, and Oysters at Naval Station Earle. With a signed Chief's Report, the USACE was able to add the Hudson River Habitat Restoration into WRDA. Lisa added that the potential funding listed by HEP earlier would be helpful to support further implementation of restoration projects. Judy Weis asked, when looking at longterm restoration, how will sea level rise be included? Lisa confirmed the Corps has looked at all the projections for sea level rise over the next 50 years to see what would be under water. The Corps planned and designed those projects to ensure that the proposed wetlands are still there. Mark Lulka added the Harbor Deepening Channel Improvements Navigation Study is now halfway to its next milestone for May 11, 2021. The study is in the same footprint as the previous Harbor Deepening, but to be dredged down to 55 feet with a dredge volume of 33.2 million cubic yards of material that could be used in a number of ways. Joe Seebode thanked the NY District team and partners for advancing the HRE CRP and noting that its authorization in WRDA means that these authorized projects, including pre-construction and engineering designs, are ready to go.

4. Moving Forward on Water Quality Goals and Standards

Chris Daggett outlined past efforts of HEP, from work on the Harbor TMDLs through to the efforts of the states and EPA on a shared roadmap. As we are nearing the end of the Action Agenda and considering how to respond to the the EPA Program Evaluation Letter, it is time for HEP and the partners to think about what are next steps are to revisiting water quality standards for shared waters. Chis welcomed key partners to discuss current efforts and the challenges to further discuss an agreement on a realistic path for HEP.

Kati Angarone shared that NJDEP supports having HEP work on these issues. But she recommends revisiting the specific on this action so HEP focuses on where it is uniquely positioned to work on smaller tangible, achievable objectives. It would be beneficial to work through the Water Quality Work Group to further identify achievable tasks that are supportive of this action. She also noted that NJDEP has reorganized their water and land use division to

take a watershed approach and reevaluating what they have been doing to learn from efforts around the country such as integrated watershed permits, climate change, and green infrastructure. She also emphasized that NJDEP has received and currently reviewing [LTCPs from all 21 CSO permit holders](#) with a price tag between \$2.3-2.8 billion in improvements and is working on new MS4 permits for December 1, 2022 for both Tier A and B.

Jim Tierney focused on NYS's financial commitment to water quality. He shared NYS has just renewed its budgetary commitment to a \$300 million Environmental Protection Fund and outlined the billion of dollars that had been committed to water infrastructure in the greater NYC area, including tertiary treatment for WWTPs. DEC issued an individual MS4 permit for NYC and currently working with NYCDEP on implementation. Since 1992, DEC has been working with NYCDEP on LTCPs which is nearing final compliance for water quality standards; 10 LTCPs have been completed which two current under review for a total investment of \$10 billion. In 2015, DEC upgraded and included more stringent standards for Class SD and I, adding *Enterococcus* standards for Class SA and SB, and most recently proposing [site specific FIBs for Class SD and I](#). Jim noted the previous discussions around the need for consistencies between the state's on standards and questioned whether conformity was truly needed to advance clean water goals.

Angela Licata shared that NYCDEP has made significant investments to achieve water quality goals, and these investments have paid off in improvements. While DEP recognizes that there is still more work to be done on stormwater, there is a serious law of diminishing returns when compared to earlier years of investment. Going forward they are focused on co benefits, such as connecting water quality and restoration efforts and through its Green Infrastructure program. NYCDEP has been very involved at the federal level advocating water rate payer assistance; we need to recognize that investments can't move forward if increased rates paid by low-income residents are the major source of funding. Angela noted that each waterbody is very different from one another and that we may need to look at individual characterization of each waterbody to get the most of the investments we make.

Tom Laustsen shared that the NJHDG had to scale back the 2020 harbor survey due to COVID-19 that impacted available staff and labs. The survey will continue in 2021 and the group is hopeful to get back to the normal schedule in 2022. NJHDG is currently reviewing their QAPP to determine sampling locations, particularly any new sites near CSO outfalls to track improvement over time as LTCPs are implemented. For its own LTCP, PVSC is planning to move forward with a bypass facility at the plant and are currently at a 60% design phase.

Walter Mugdan echoed the incredible amount of work that has been carried out, including the ambitious LTCPs in both states. Walter recognized that the low hanging fruit has been picked years ago, and while a lot of good work on water quality improvements are underway, this work does not speak to questions surrounding water quality standards.

EPA wants to continue to work with the states to achieve the CWA goals for primary contact uses where attainable, including looking at weather dependent recreational standards, but at some point people will have to bite the bullet and do a new UAA and adoption of variances will be required. But is not persuaded that the state partners want to work on standards now given that there is more interest in the implementing the LTCPs/MS4 permits and green infrastructure.

Walter posed the question to the Committee as to what is HEP's role on standards should be, including the possibility of revising the action if at this moment in time, the states are not willing to commit to this work..

Jim Tierney agreed: The action as written puts HEP in a position without authority and that the action should be revised. Jim stated that HEP would be helpful in continuing water quality trend analysis in addition to improving data collection. Kati Angarone seconded Jim's comment and added the HEP plays an important role in coordinating everyone together. Chuck Warren noted that while HEP is not a regulatory agency, when there is a bi-state issue, HEP is a good place to gain consensus and solve problems. Walter Mugden stated that HEP is a great place for candid conversations around standards in being facilitators, conveners, and providing resources on questions about standards, but recognized that regulatory conversations and decisions on these issues should stay between the states and EPA. Angela Licata agreed with everything that has been stated thus far, and added that HEP would be a great convener on where we are, how are we doing, and where do we want to go in terms of water quality. HEP's trend analysis and identification of data gaps is important. Angela asked if HEP could partner with an academic to do more data collection and analysis? Chris Daggett suggested HRF grant proposals along the needs of trends analysis could be one avenue. Walter noted that Long Island Sound went from \$4M to \$30M in funding, and asked how can the committee work together to pull additional funding together to support addressing the big picture questions. Tom Laustsen agreed with all comments made.

Joe Seebode supported the discussion and added that a number of the Corps projects will have incremental benefits in terms of water quality in the estuary. There may also be data that they collect on individual sites that can be made available to help add to the bigger picture. Peter Wepler added cleaner water does make it easier to restore sites and would like to engage further in conversations around urban restoration improvements and water quality benefits. Lisa Baron added, from the Restoration Work Group perspective, they are monitoring Enclosed and Confined Waterways as a specific Target Ecosystem Characteristic and such work could also inform the HRE CRP.. Peter indicated this is where HEP and partners can help, when the Corps is monitoring a site, defining how water quality frames the site it important and whether a partner could conduct water quality monitoring as this is sometimes out of the Corps priority. Walter added that there are billions being spent for Superfund efforts and alignment with monitoring these waterbodies is another opportunity for coordination.

Rob Pirani thanked everyone for their comments and that HEP does not want to get in the way of the work being done, but be helpful to the partners. Rob thanked Walter and the EPA R2 team for taking the lead in revising and communicating the Action Agenda change to HQ. Specific project ideas or other efforts that HEP can be supportive of will be worked and refined by the Water Quality Work Group.

Action: HEP staff will work with EPA R2 to propose a revision of this specific Action Agenda priority.