

Community Advisory Group (CAG) Meeting
Hudson River PCBs Superfund Site
Meeting Summary
Thursday, December 8, 2016
1:00 PM – 4:00 PM

Saratoga Town Hall
Schuylerville, NY

CAG Members and Alternates Attending: Rich Elder, Maureen Ferraro-Davis, Manna Jo Greene, Timothy Holmes, Abigail Jones, Edward Kinowski, Aaron Mair, Roland Mann, David Mathis, Althea Mullarkey, Lucas Rogers, Andrew Squire, Lois Squire, Julie Stokes.

CAG Liaisons Attending: Danielle Adams (Ecology & Environment), James Candiloro (NYS Canal Corporation), Mike Cheplowitz (Ecology and Environment), John Davis (NYS Attorney General's Office), Kevin Farrar (NYSDEC), John Fazzolari (Ecology & Environment), Joan Gerhardt (Behan Communications), Gary Klawinski (USEPA – Region 2), Larisa Romanowski (USEPA – Region 2).

Others Attending: Michael Bartis (Stillwater Central School District), Margaret Byrne (USFWS), Donna Davies (NPS), Justin Denning (NYSDOH), Bob Foster (Resident Old Champlain Canal), George Lukert (Ecology and Environment), Dan Lundquist (Neighbor), Kathleen Moore (Post-Star), Mark Sergott (NYSDOH), Dan Shaw (Supervisor Town of Easton), Mike Traynor (Louis Berger), John Vetter (Ecology and Environment), Stephen Williams (Daily Gazette), Thomas Wood (Supervisor Town of Saratoga), James Woods (NYS Attorney General's Office Environmental Protection Bureau).

Facilitators: Ona Ferguson and Cici Vu, Consensus Building Institute (CBI).

Members Absent: David Adams, Cecil Corbin-Mark, Laura DeGaetano, Darlene DeVoe, Rich Fuller, Brian Gilchrist, Robert Goldman, Robert Goldstein, Peter Goutos, Timothy Havens, Gil Hawkins, Jeffery Kellogg, Richard Kidwell, Laura Oswald, Merrillyn Pulver-Moulthrop, Thomas Richardson.

Next Meeting: The next CAG meeting is likely to be in March.

Action Items:

EPA

- Distribute a list of five-year review documents that can be shared with the community.
- Consult with GE about the member request to clean up the Old Champlain canal area.
- At a future CAG meeting, present on Technical Assistance Grants (TAGs) and the ecological and human health risk assessment process.
- Prepare presentation on OM&M plan for fish and water for a 2017 meeting.

CBI

- Continue outreach to CAG members who have not responded regarding continuing their membership.
- Continue to work with the membership subcommittee to find and reach out to new CAG members.
- Review the operating procedures and draft changes for the CAG to review and discuss.
- Work with the CAG admin team to ensure sufficient time for floodplains-focused conversations.

Membership Subcommittee

- Continue to work on refreshing CAG membership (with CBI).

Admin Subcommittee

- Plan the next CAG meeting with EPA and CBI.

Welcome, Introductions, and Review of the October 2016 Meeting Summary

Ona Ferguson, CAG facilitator, welcomed those in attendance. The October meeting summary was approved after noting the addition of one attendee to the draft. CAG meeting handouts and presentations are available on the project website: <http://www.hudsoncag.ene.com/documents.htm>.

Project Updates

Mike Cheplowitz (EPA) and Gary Klawinski (EPA) presented various project updates, summarized here with notes on the respective CAG discussion.

Floodplains: Floodplain soil sampling of approximately 300 properties, selected based on a statistical analysis approach¹, will be conducted until the last week of December, weather permitting. The sampling process will continue in Spring 2017. Samples are collected and then split between GE and EPA before testing. Due to lack of access and substantial high water flows, some locations were not sampled. Sampling will be done in alternate areas for those areas not sampled due to lack of access.

The comprehensive Remedial Investigation/Feasibility Study (RI/FS) is underway, including 2016 sampling. Once the sampling data are collected, the next step of the assessment involves a conservative, two-pronged screening process for ecological and human health risks. Every property will receive a human health assessment. EPA and GE are still working out details for ecological assessments, which cover a large-scale, several-mile river stretch. The first-level risk assessment process will begin once the 2016 sampling data has been submitted and analyzed and the floodplains report is finalized (possibly in a few months.) Another data gap analysis will be done next year to account for areas not sampled in 2016, but generally, floodplain ecological and human health surveys will be ongoing.

CAG member discussion about the floodplains update focused on the following questions about sampling:

- A non-member asked why there is a difference in scope of ecological and human health risk assessments regarding areas to be evaluated. Mr. Klawinski responded that the risk assessments are based on certain factors, but ecological receptors extend beyond the property lines that are used for human health risk assessments.
- A member commented that the Old Champlain Canal needs attention. Mr. Klawinski said that the sampling of standing water areas, including the Old Champlain canal, will be done as needed to understand the concentration of PCBs and the receptors that are exposed. He will consult with GE about the request to clean up that area.
- A member asked whether the sampling complies with local, state and federal laws (e.g., under the Farm Bill, there are penalties for usage of land not specifically covered) and further, whether property owners understand the legal implications/rights of sampling on their land. Mr. Klawinski believes that obtaining the owners' consent would address this, but he defers to GE's counsel for a more comprehensive response.

Dewatering Facility Demobilization: Demobilization of the 110-acre facility is focused on mitigating any confirmed impacts and will be completed by the end of December. Early inspection of in-river and processing facilities are complete, except for remaining clean-up of the buildings and soil/equipment removal. Property transfer issues are being considered, and a thorough review and inspection of the site is being conducted simultaneously. The wharf, currently owned by EPA, will be transferred back to the New York State Canal Corp (NYSCC), and GE's lease on the main property will terminate. Additionally, EPA is awaiting an official transfer offer on the access road, which it currently owns. If there are no transfer offers, the road will also be transferred to NYSCC.

The members had a brief discussion about the process of early inspection and future use of the facility. Mr. Klawinski indicated that the goal of early inspection is to identify issues that GE needs to address before the final inspection, at which point NYSCC will be involved. If no issues arise during early inspection, EPA will

¹ This approach is explained in detail in October 2016 Summary: <http://www.hudsoncag.ene.com/files/Final%20Meeting%20SummaryOct272016.pdf>

close inspection on that particular area. With respect to future use of the facility, members requested that consideration be given to those uses most beneficial to the community *before* the certification is complete and property is transferred.

*Habitat Reconstruction*²: Habitat reconstruction and response actions are now complete, and EPA is in the process of reviewing the remaining engineering submittals³. Surveys of areas will be conducted each fall, and coordination with NYS on monitoring will be ongoing. EPA will not issue a Certification of Completion before the five-year review, as GE still needs to comply with consent decree requirements (e.g., engineering document review/approval, demobilization and restoration, site inspections and GE completion report); this will take some time.

CAG members briefly discussed habitat restoration issues following the update. A member confirmed with Mr. Klawinski that EPA is coordinating with the Federal trustees on the habitat reconstruction process. A few members requested that EPA keep the CAG informed and involved on the remedial action review process through some form of public participation/input; Mr. Klawinski agreed to keep the CAG apprised of the review process and to make all relevant communications/reports accessible to the public.

Five-year Review: Mr. Klawinski reported that physical construction is almost complete and the project is transitioning from Remedial Action to the Operations, Maintenance & Monitoring program (OM&M). Data analysis of sampling is ongoing, but EPA is currently preparing the five-year review report incorporating team input on inclusion of supporting technical information and analyses from other agencies (e.g., NOAA), as well as provisions for public input. Mr. Klawinski reviewed the five-year review meetings held between May – Nov. 2016. He explained that February/March will be reserved for public comment on the report, which will be issued in late April.⁴

A member followed this update with a request that EPA share internal documents regarding the five-year review report, and Mr. Klawinski agreed to provide a list of documents that are shareable. Another member requested clarification on the status of “construction” and whether it is considered complete. Mr. Klawinski said that the project is transitioning from construction to remedial action and OM&M, and that completion of construction occurs over time as this is a large project. A member pointed out that in the past, EPA reported that construction was complete. Mr. Klawinski indicated that this may have been a misunderstanding.

OM&M Update: The OM&M sampling plan was designed to provide an unbiased estimate of surface sediment PCB concentrations in the upper river area. Sampling outside of the dredge areas was completed in November and early December⁵ (data collection ended due to winter conditions). The results of fall sampling will be available in early 2017; sampling inside the dredge areas will be completed in Spring 2017.

Mr. Klawinski said long-term monitoring of fish, water and sediment are all important, with fish data serving as the primary indicator of contamination. Sediment is most challenging to measure, as levels can vary in close proximity to one another. Mr. Klawinski presented a summary table of sediment sampling showing assessments in three river sections divided into river reaches. The fact that areas differ in level of PCBs found in the sandy reaches versus rocky or lower reaches raises the question: *how critical are sediments in the lower reaches to this sediment sampling assessment?* The state differs with EPA in sampling philosophy in that they conduct their spatial analysis ‘pool by pool’ versus ‘by river section’. An attendee noted that if sampling were done pool by pool, five times the number of samples would be needed.

In response to this update, several members reiterated their concerns about the potential inadequacy of the sediment sampling plan. Mr. Klawinski indicated that EPA is in the process of responding to NYSDEC’s comments regarding sampling plan and has made related adjustments to the plan. EPA expects that the existing sediment sampling plan will meet project needs. Finally, a member noted that a primary focus of sediment sampling must be to answer questions about risks to human health.

² This is a brief update/discussion. Mr. Klawinski gave a presentation later in the meeting, with key points summarized below.

³ 6 Certification Units in 2016, including 1.2 acres replanted, 2.9 acres of natural recolonization of SAV; and 6.4 acres of RFW.

⁴ EPA will consider requests for additional time for public review of the report if it is delayed.

⁵ Yielding 275 samples from 375 target locations.

PCBs in Fish Tissues Monitoring Update

Mr. Klawinski presented the recently completed 2015 fish data analysis results. His main points are below; see the presentation slides for more detail.⁶

The tests used for all fish data are lipid normalized, which means they include correctors for varying levels of fat in the fish samples tested. The data discussed today are for samples collected in 2015, which reflect 2014 dredging activities, and are still under review. Observed changes in fish tissue concentrations have been consistent with expectations that short term increases in PCB levels occur during dredging. The 2016 fish samples have been collected, and fish tissue levels of PCBs are expected to be varied. The spring 2016 fish data reflects exposure associated with the 2015 dredging activities. The fall 2016 fish data may reflect less exposure as these “young of the year” fish may not have been exposed to dredging. Preliminary results are expected by the end of 2016. The 2017 fish samples will be the first set of data to reflect post-dredging exposure conditions. EPA will prepare future fish data on a homolog equivalent basis to compare samples of fish from multiple years and multiple labs and will continue to monitor fish data annually.

Members discussed the issue of EPA’s expectations with respect to the fish data. One member pointed out that general expectations are not connected to whether or not the fish concentrations show progress meeting the remedial action objectives. Mr. Klawinski emphasized that these objectives have not changed, and said he is referring to expectations related to general fluctuations in fish data results, as no post-dredging data are available to prove whether there will be a stabilization or decrease in exposure.

Habitat Reconstruction Update

Mr. Klawinski presented an update on the status and progress of habitat reconstruction efforts and the benchmarks and criteria for success in the context of the OM&M. His main points are below; see the presentation slides for more detail.⁷

Mr. Klawinski said that habitat reconstruction work is very complex. As the work transitions into the final phase (post-construction monitoring), EPA has worked through many challenges that will enable the process to move forward more efficiently. Mr. Klawinski said that managing for natural variability in vegetation conditions (e.g., sunlight, water levels, temperatures, river and ice flows and invasive species) was a major challenge. This effort will help them develop appropriate benchmarks and success criteria in this last phase. The main objective of the last phase is to monitor progress of initial plantings and natural recolonization for a six-year period, with comparisons of individual areas to reference areas on a reach-wide basis. This monitoring will be conducted using highly quantitative, statistically-driven and habitat-specific based methods.

CAG member discussion of habitat reconstruction update focused on the following topics:

- *Restoration after natural event damage or new growth.* A few members asked whether there are plans to restore areas impacted by natural event damage (e.g., flooding) and those areas of new growth. Mr. Klawinski said it will depend on the circumstance and on how comparable sites outside of the project area fare.
- *Benchmark success.* A member asked at what the success rate has been for meeting benchmarks. Mike Traynor of Lois Berger indicated that the benchmarks have not yet been met, but Mr. Klawinski pointed out that there was more success in later plantings than in initial plantings because of lessons learned from early restoration efforts. Another member asked whether there has been more success in areas with extensive tree removal along the banks because more sunlight could get to the river. Mr. Klawinski said yes. A member inquired about success in plantings in deeper versus shallow areas. Mr. Traynor indicated that there have been problems in the river-fringing wetland areas. The team has not

⁶ PCBs in Fish Tissues at the Hudson River PCBs Superfund Site: Monitoring Update:
<http://www.hudsoncag.ene.com/files/EPA%20Update%20on%202015%20Fish%20Data%20Results.pdf>

⁷ Habitat Reconstruction Update:
<http://www.hudsoncag.ene.com/files/EPA%20Update%20on%20Habitat%20Reconstruction.pdf>

seen problems in other habitat types, but the restoration is recent, so it is too soon to determine success broadly.

The CAG and Community Engagement on Floodplains Work

The last session of the meeting was reserved for an update by the subcommittee working on revitalizing CAG membership, discussion of current community concerns related to floodplains sampling and future remediation, and an exploration of needs and opportunities for technical support for communities. Ms. Ferguson also reported that CBI will be drafting revisions to the operating procedures before the next CAG meeting.

Membership: The CAG subcommittee has been working diligently on enhancing membership since late October. Ms. Ferguson provided a handout reflecting the progress of the subcommittee's three-pronged work: 1) confirming which existing seats should continue and with which representatives; 2) identifying new seats that should be added; and 3) deciding which existing seats should be removed. CBI has reached out to all existing CAG members to determine if they are interested in continuing on as members or if this is a good time for them to step down (if they are not interested in participating). The subcommittee is considering adding two "next generation" seats to represent high school or college aged people and two soil and water conservation district seats. The group is looking to expand agricultural representation. Mr. Kinowski, who will be the chair of the board of supervisors for Saratoga County in 2017, is considering people he will appoint, and Mr. Squire is doing outreach with the farm programs. CAG members thanked the subcommittee members for their hard work and asked if there are new community groups (e.g., in Stillwater) that would be interested in a seat. Subcommittee members confirmed that they are connecting with Stillwater on filling other seats but are not aware of any community groups forming there with interest in a community seat.

Community concerns related to floodplains work: CAG members were provided an opportunity to generate a list of the primary concerns they and their constituents have related to current and upcoming floodplains work. CAG members expressed concern about: the impact of contamination on property values the impact of contamination on property use, whether and how contamination will be remediated, whether and how land owners will have input on remediation decisions, whether and how land owners will have input on the human health assessments, and how the human health assessments relate to property use. A member emphasized that the public has concerns with both property values/uses and human health impacts, which are interconnected. However, it appears that the top concern for property owners is how they will or will not be able to use their land. A member asked whether property owners will have access to results and the opportunity to give feedback about contamination found on their property. Mr. Klawinski encouraged direct communication between property owners/residents and EPA, and he indicated that EPA is open to discussing questions, concerns, and solutions.

This discussion then shifted to efforts to communicate information on and results of sediment sampling to concerned residents. Members discussed various forms of communications (e.g., Facebook, website and other social media options, bulletin boards, fact sheets, press releases, videos, interactive maps) EPA can use to educate and inform the public on floodplains testing issues, location and progress. A member emphasized that there needs to be a balance between digital and basic print information to be inclusive of all residents. Ms. Romanowski (EPA) said EPA is developing a community involvement plan for the floodplains phase. It will be completed in the next few months. Mr. Klawinski said that he and Ms. Romanowski have discussed communication efforts at length and struggle with balancing communicating information and preserving confidentiality for property owners. He encourages the CAG to continue giving EPA feedback on how information can be better communicated.

Technical assistance for CAG members: The group briefly discussed CAG members' need for technical assistance on the floodplains work, tabling a more robust discussion for the next CAG meeting. A member expressed concern that because there are no non-profits in the upper river area, the upper river communities cannot apply for TAG grants (since municipalities cannot apply for that support). Another member proposed that Ms. Romanowski lead a discussion on TAGs at a future meeting to address this issue, among others. Ms. Romanowski agreed to do so then and, with individuals, anytime.