

Community Advisory Group (CAG) Meeting
Hudson River PCBs Superfund Site
Meeting Summary
Thursday October 27, 2016
1:00 PM – 4:00 PM

**Administration Building, Gideon Putnam Room,
Saratoga Spa State Park**

CAG Members and Alternates Attending: Andy Bicking, Rich Elder, Peter Goutos, Manna Jo Greene, Timothy Holmes, Abigail Jones, William Koebbeman, Roland Mann, David Mathis, Scott Siegel, Andrew Squire, Lois Squire, Julie Stokes.

CAG Liaisons Attending: Bridget Boyd (NYSDOH), Amy Bracewell (NPS), 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), Deepali McCloe (Ecology & Environment), Larisa Romanowski (USEPA – Region 2).

Others Attending: Joe Battipagle (EPA), Travis Clark (Troy Record), Chris DeBolt (Washington County), Tim Holmes (Schuylerville Chamber of Commerce), Kathryn Jahn (USFWS), Regina Keenan (NYSDOH), George Lukert (Ecology & Environment), Kathleen Moore (Albany Post-Star), Mike Trayor (Louis Berger).

Facilitators: Ona Ferguson and Eric J. Roberts.

Members Absent: David Adams, Cecil Corbin-Mark, Laura DeGaetano, Darlene DeVoe, Rich Fuller, Brian Gilchrist, Robert Goldman, Robert Goldstein, Timothy Havens, Jeffery Kellogg, Richard Kidwell, Edward Kinowski, Aaron Mair, Althea Mullarkey, Laura Oswald, Merrilyn Pulver-Moulthrop, Thomas Richardson.

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

Action Items:

CAG Members

- Reply to letter from facilitation team confirming your ongoing interest in participating on the CAG or indicating your readiness to step down. *NOTE: CBI will need to hear from someone representing each CAG seat in order for current representatives for that seat to remain in place.*

EPA

- Distribute link to webpage with information about floodplains sampling, FAQs, and potential short-term actions, etc.
- Distribute a copy of the letter being sent to private property owners and bring additional copies to share at the next CAG meeting.

CBI

- Distribute the Trustee's comments on the Sediment Monitoring Plan proposed for the OM&M.
- Reach out to all CAG members to check in on their desire to continue participating.
- 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

- Assist CBI in determining how to refresh CBI membership.

Admin Subcommittee

- Plan the next CAG meeting with EPA and CBI.

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

Ona Ferguson, facilitator from the Consensus Building Institute (CBI), welcomed those in attendance. She also announced that the meeting would be CBI Associate Eric Roberts' last meeting with the CAG, as he has taken a new position with another organization, and thanked him for his contributions. The July meeting summary was approved. One CAG Alternate noted that he was misquoted in the press after the last CAG meeting and asked that members of the press identify themselves and do their very best to quote people at CAG meetings accurately. 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 CAG discussion.

Floodplains Update – Floodplain soil sampling is being done to identify the location and concentration levels of PCBs in the floodplain. The current soil sampling approach is different than that used in the past, which focused on sampling human use areas (e.g. yards or other areas frequently used by people). The current approach uses statistical analysis to select sampling locations based on spatial distribution, land cover type (e.g. agriculture, park, etc.), and existing data.

Roughly 900 sampling locations are targeted on approximately 400 properties. 250 property owners have already granted access for sampling. GE initially contacts the property owners to request access, and EPA follows up with property owners who were not reached or who do not want have their property sampled. If EPA follow up is needed, EPA staff explain the purpose of the testing and answers any questions. EPA may involve the New York State Department of Health in those visits. If the property is sampled, the owner will receive a map of the PCB results on their property and information about potential next steps. The collected data will be integrated into a comprehensive study. EPA expects to access 700-800 of the targeted properties.

GE and EPA are also identifying areas to sample that are inundated frequently year round, human use areas, culverts, and portions of the Old Champlain Canal. The inundated areas are an important component of the ecological risk assessment. Reviewing the location and size of culverts and ditches will indicate whether or not some portions of the Old Champlain Canal are connected to the river. (It is believed that some portions of the canal are no longer connected to the river). A CAG member asked to review the culvert maps for the old canal sections adjacent to the toe path. EPA said all the sampling done this year is for the Remedial Investigation/Feasibility Study (RI/FS), while previous sampling was completed under a different order. EPA expects several more years of sampling, but the exact duration is unknown because it is an iterative process.

CAG member discussion about the floodplains update focused on the following topics:

- *Concerns about sampling:* Members noted that some town officials and property owners are reluctant to allow sampling on their property because they do not know what actions will be taken if PCBs are found, nor do they know how soon those actions might occur. They may also not want the findings discussed publicly. Mr. Klawinski said if only low concentrations are found on

a property, it may be a while before the project team return to address the situation; but if PCB concentrations are elevated, actions such as the installation of signage or other short term measures could be implemented. Ms. Larisa Romanowski, EPA, said that fact sheets describing the reason for and process of floodplains sampling were sent to property owners with a frequently asked questions factsheet describing short-term actions that could be taken if immediate risk was found. That information is also available on the EPA website and could be made more prominent as work progress in the floodplains. In Stillwater, a large portion of the school district, including the athletic fields, lies in the floodplain. CAG members wanted to help the project team think of ways to reach and work outside of public meetings with property owners hesitant to have sampling done. Many landowners care most about the presence or absence of PCBs (not the concentration level) because PCB presence may impact the use and sale of the property.

Operations, Maintenance, and Monitoring (OM&M) Update – The OM&M, which is based on the OM&M scope established in 2010, is designed to monitor recovery of the river over time by looking at fish, sediment, and water data. Fish data is the most important metric to measure recovery. 2015 fish data is currently being analyzed; fish collected in 2016 will be processed and analyzed soon.

The sediment sampling program is designed to detect a five percent change per year. Samples will be collected every five years starting in 2016, which will be considered year zero. The full statistical power of the program will be achieved when 10 years of data have been collected. Sediment data collection for 2016 will begin soon.

Water samples have been collected since the 1970s. The three sampling locations in the upper river are near Thompson Island, Schuylerville, and Waterford. Sampling occurs in the lower river at Waterford and Poughkeepsie. Preliminary analysis of 2016 water data shows an overall decrease in PCB concentrations from the baseline, with more significant changes in the upper river than the lower. However, this data is only across a single year, and it contains limited changes in flow as most data points were collected in low flow conditions.

CAG member discussion of the OM&M update focused on the following topics:

- *Sediment Sampling* – Several members expressed concern about the sediment sampling plan. They said that NYSDEC and other experts critiqued the sediment sampling plan, suggesting it was insufficient temporally and spatially, and asked if EPA would consider additional sampling locations. For example, the OM&M plan requires 500 samples every three years, but the program is set up to collect 375 samples every 5 years. Mr. Klawinski responded that the EPA settled on 375 samples because time is a stronger statistical metric than quantity of samples. Another member said that this is a sticking point in the five-year review discussions, adding that of all the parts of the OM&M, members of the five-year review team appear to have the least confidence in the sediment sampling design. Mr. Klawinski said EPA has received detailed comments from NYSDEC and other trustees, as a result of which EPA made slight adjustments to the original plan. Kathryn Jahn, USFWS, said the federal trustees submitted comments, which are posted on their website. Mr. Farrar summarized the NYSDEC concerns, saying NYSDEC thinks that pool by pool sampling is the appropriate spatial scale for the program and that the temporal scale should be five years instead of ten since the first goal of the ROD is supposed to be achieved within five years. Members said that OM&M is a core component of the plan and sediment sampling needs to be right from the start; they requested that EPA respond to the comments in writing so the CAG could read and understand the concerns and EPA's logic. Mr. Klawinski said EPA would not respond in writing due to time constraints but would talk with people directly

about any concerns. A member requested a longer discussion on OM&M Sediment Sampling at the next CAG meeting.

Dewatering Facility Demobilization - Demobilization is proceeding as planned and should be finished in December. The team is conducting sampling for PCBs and addressing contamination when it is found.

Member discussion of the dewatering facility demobilization focused on the following topics:

- *Future use of the site* – A member asked if the process is taking into account New York State Canal Corps' (NYSCC) desire to use a small portion of the site for navigational dredging in the future. Mr. Klawinski said EPA is working with NYSCC on decommissioning the wharf area and plans to return the property to NYSCC when decommissioning is complete. Mr. Farrar added that the future use of the site is uncertain, but it will be cleaned for possible industrial-commercial use.
- *Certification of OU2* – A member asked if the certification process for OU2 had started. Mr. Klawinski said it had not and that in December GE is expected to submit a report documenting completion of remedial action and requesting that EPA certify the remedial action as complete. EPA will then have one year from the time of the request -- assuming everything is completed that is part of the consent decree -- to respond to the certification request. A member asked if EPA is willing to certify the remedy being complete without knowing if it is meeting the goals and being protective of human health and the environment. Mr. Klawinski reiterated that it can be certified as complete once all the consent decree requirements are fulfilled.

Habitat Reconstruction - All impacted areas have been reconstructed. GE will be submitting Form 3s for work completed in 2016. EPA will review the forms and sign-off on them if they are deemed complete. In response to a question, Mr. Klawinski noted that habitat is not part of the five-year review.

Five-year Review Highlights – Mr. Klawinski said the five-year review team has had several meetings about the data. The group has not yet discussed overall load. Public workshops have also been held; the next workshop will be in Albany the week after Thanksgiving. Attendance was low at the last meeting in Hyde Park. In response to a member comment, Mr. Klawinski clarified that community impacts are not part of the five-year review discussions and that the data sets being reviewed will be publicly available.

CAG members discussed the following topics related to the five-year review process:

- *EPA responses to NYSDEC and Trustee comments*: A member asked EPA to share their responses to the comments submitted by NYSDEC and the Trustees. Mr. Klawinski said the comments were discussed with the commenters: EPA agreed to additional analytical testing in response to the comments. He reiterated that EPA is willing to consider any suggestions.
- *Five-year Review Report and Public Comment*: A member noted that a draft of the five year review report is supposed to be ready by February and finalized in April. She requested the public be given 60-90 days to review and comment on the draft. Mr. Klawinski confirmed that EPA would draft the report in December and submit it to EPA Region 2 and Headquarters for review. Then, after revising it, they will convene a meeting to present and discuss the draft in February and open a public comment period. The goal is to have a final report in April 2017.
- *Public trust* - A member said that that the public expects EPA and NYSDEC to protect public health and the environment, but EPA appears to be defending the cleanup rather than collaborating with the trustees and other organizations who have raised concerns. She added that the public expects a collaborative process with the Trustees to reach consensus, but this does not seem to be the process, which puts the public trust at stake. Mr. Klawinski said that EPA will respond to comments submitted during the public comment period.

Hudson River Fish Advisory Outreach Program Update

Ms. Regina Keenan, New York State Department of Health, presented an update on fish advisory outreach. Her main points are below; see the presentation slides for more detail.¹

The fish advisory outreach project is intended to educate people about the risk of eating contaminated fish and provide advice on fish consumption. The challenge of the outreach is to reduce contaminant consumption but not reduce overall healthy fish consumption. The program has many components:

- Advice about which fish are safe to eat is available in multiple languages on signs posted near the river where fishing occurs, wherever the NYSDOH or their partners are distributing the information in person, and online.
- The program issues mini-grants to partners to develop and distribute the fish consumption advice. Partners have used these mini-grants to develop visual, interactive materials and exercises for lower literacy and non-English speaking audiences, maps, theater, public service announcements, tabling at events, informal surveys about fish consumption, and signs created for Rockland County. A positive messaging approach encourages families to consume fish caught from less risky waterbodies. The surveys help to educate local fish eaters and enable NYSDOH to collect information that can inform how they can best distribute their fish advisory information.

CAG member discussion of the fish advisory outreach update focused on the following topics:

- *Changing demographics* – Members noted that the demographics of the area may have changed since the fish consumption advisory first went into effect in 1975. Ms. Keenan said the demographics have changed a lot but that NSYDOH does not have that information.
- *Effectiveness of institutional controls* – A member commented that the NYSDOH is doing excellent outreach. Members expressed concern that the remedy will not be protective of human health if institutional controls to prevent fish consumption do not work. A CAG member suggested conducting a formal angler survey to evaluate the effectiveness of the institutional controls. Mr. John Davis, NYSAOG, supports this idea. Mr. Klawinski said EPA is considering the request to do a survey. A member said it is irresponsible to continue with a program fails to achieve the objective of stopping fish consumption, especially when the remedy is not going to meet the goals set forth in the ROD in the expected timeframe.

CAG Structure and Membership

A CAG subcommittee as formed at the last CAG meeting to focus on enhancing membership for the project phase focusing on the floodplains. That group developed a list of possible additional CAG seats and representatives, and also explored the possibility of forming a second, floodplains-focused CAG. Ms. Ferguson briefly provided an overview of the subcommittee's work, and CAG members discussed how to proceed. All CAG members present agreed that there needs to be a "refresh" of the membership to ensure that those who are impacted by the project have the opportunity to participate. One member expressed support for two CAGs because there will be two separate RODs and because the technical demands of the floodplains are different than those of the in river dredging. In the end, the group

¹ Fish Advisory Outreach Presentation slides:

<http://www.hudsoncag.ene.com/files/NYSDOH%20Fish%20Health%20Advisory%20Outreach%20Project%20Update.pdf>

determined that forming a new CAG is not the best path forward because of the many shared issues and interests that span the in-river and floodplains work as well as logistical and staffing overlap. The group will work hard, led by the membership subcommittee and the facilitation team, to bring more and new voices to the table and will check in with the full CAG after a few meetings to see if this approach has worked to meet the group's needs.

The group then discussed its membership and functioning:

- *Member attendance* – CAG members suggested that there is a need to revisit the responsibility of CAG members, including attendance, and to revise the operating procedures to make attendance requirements explicit, if they are not already.
- *Current member check in* – The CAG asked the facilitation team to check in with all current members, via email and letter, to confirm whether they are interested in continuing to serve as CAG members and noting changes that will be made to require meeting attendance. CBI has begun this outreach to people who have not attended recently. Some want to continue, others have stepped down, and others have not replied. The CAG suggested sending a paper letter to all CAG members asking them to affirmatively opt-in to the CAG by the end of the year.
- *Possible new members & liaisons* – The group discussed possible new members. These suggestions will be considered by the membership subcommittee (which any CAG member may join). Suggestions were: the Open Space Institute, the Agricultural Stewardship Association, New York State Department of Agriculture and Markets (as a new liaison).
- *CAG size* – CAG members do not want the group to become too large, but do want more people attending meetings to give voice to the many people affected by the project.
- *Member diversity* – CAG members discussed the geographic diversity of participants (some thought it was important to have mostly up-river members, others noted that the full river is impacted), the difference in available time between members who are paid and thus often seem to have more time to prepare thoroughly for meetings and those who are volunteer and so have essential voices but sometimes less available time. The participants in general voiced support for a CAG that is inclusive of all types of people and perspectives.

The group discussed additional ways to make the CAG responsive to current (floodplains) needs related to meeting management, including being very clear in CAG agendas about when floodplains or in-river topics are being discussed so that participants can elect which portion they want to attend. These include the possibility of some morning meetings or longer meetings when needed to fit in all important content.

And the group, finally, decided to proceed by having the subgroup and facilitation team: (1) check in with all existing CAG members to see if they still want to participate via formal letter requiring a response or considering them as having stepped down, (2) reach out to potential new members asking their interest and willingness to commit, and inviting them to attend the next CAG meeting, to start to build in some new seats and representatives. (3) review the operating procedures and expectations of CAG members and propose changes to the group for discussion (CBI will manage this), and (4) work with the CAG admin team to ensure sufficient time for floodplains-focused conversations.

CAG members expressed their thanks to everyone who has participated on and off over more than a decade on this important group and wanted to remind all participants that anyone is welcome to get on the list to receive CAG announcements about meetings and when materials are posted.