

**Community Advisory Group (CAG)**  
**Hudson River PCBs Superfund Site**  
**FINAL Meeting Notes**  
**8 December 2005**  
**CAG Meeting, 1:00 PM – 4:00 PM**  
**Saratoga Springs, NY**

**Members and Alternates Attending:** Chris Ballantyne, Dan Casey, Richard Fuller, Robert Goldstein, Manna Jo Greene, Harry Gutheil, George Hodgson, John Lawler, Paul Lilac, Roland Mann, David Mathis, Dan McGraw, Merrilyn Pulver, Rich Schiafo, Lois Squire, Julia Stokes.

**CAG Liaisons Attending:** Danielle Adams (E&E), Johan Callaghan (NYSCC) William Daigle (NYSDEC), Doug Garbarini (USEPA), Joan Gerhardt (Behan Communications), David King (USEPA), Deanna Ripstein (NYSDOH), Leo Rosales (USEPA), Steven Sweeney (NYSCC), Dan Watts (NJIT).

**Others Attending:** Mark Behan (GE), Tom Brady (Albany County Health Department) , Lee Coleman (Daily Gazette), Kenneth Crowe (Times Union), Gerald Dudding (GEO Patents), Mike Elder, (GE), Peggy Farrell (E&E), Doug Fischer (USEPA), Hope Fluder (E&E), Takehike Flurayama (Rutgers University), Bill Fuchs (NPS), Colleen Gallagher, Timothy Grady (E&E), David Guarine (citizen), John Haggard (GE), Alison Hess (USEPA), Kate Hudson (NYSDOJ), Jim Kinney (Saratogian), Tom Kryzak (Air and Earth Works), James Kudback (Controlled Extraction Technology), Christine Margiotta (The Post Star), John Mulligan (Malcolm Pirnie, Inc.), Charles Vandreli (NYSDEC), John Vetter (USEPA), Kyle York (Society of Environmental Journalists).

**Facilitators :** Patrick Field, Ona Ferguson.

**Members Absent:** Jean Carlson, Cecil Corbin-Mark, Theresa Egan, Mark Fitzsimmons, Gil Hawkins, Aaron Mair, John Rieger, Judy Schmidt-Dean, Jock Williamson.

**Key Action Items:**

- CAG subgroup (Robert Goldstein, Manna Jo Greene, George Hodgson) will guide TOSC coordinator research efforts prior to the next meeting.
- There will be a morning technical meeting in January and a CAG executive session “retreat” in the afternoon to review 2005, set expectations for 2006, and work on issues of economic development.
- EPA will release its response to Saratoga County’s noise report soon.
- John Vetter will check the current status of visual impact assessments with EPA.
- CAG members requested that EPA: (a) pull out a brief summary from their IDR comments of why EPA chose mechanical dredging, (b) let the CAG know what will be done to protect wildlife during the dredging, (c) make GE responses to EPA’s noise information requests public prior to the submission of the final report.
- EPA will post the Habitat documents on the web [www.epa.gov/hudson](http://www.epa.gov/hudson) soon.
- The next CAG meeting will be held on Thursday January 26, 2006 in Saratoga Springs.

## **Welcome and Reminder of CAG Groundrules**

The facilitators welcomed everyone to the meeting and reminded the media of the groundrules regarding their coverage of the CAG.

## **Meeting Summary, Groundrules and Action Item Update**

October CAG meeting notes were approved without additional changes. Action items from October with updates and not discussed elsewhere in the meeting are as follows:

- EPA mailed their IDR comments to the CAG prior to this meeting.
- The stewardship money RFQ Merrilyn Pulver planned to send the CAG was completed prior to its getting sent out to the CAG.

## **Update: TOSC Coordinator**

Daniel Watts introduced himself as Fred Ellerbusch's replacement as the TOSC Coordinator. He is available under the TOSC grant to provide technical assistance and advice to the CAG and to answer technical questions from the CAG. Dan is looking forward to providing these services.

Dan reviewed the process used to select dredging technology for Phase I. Based on the criteria and weighting factors that were used, he believes the technology choices were appropriate. He feels he needs to further understand why the criteria were chosen in order to decide if the process used was a good one. He suggested further information be supplied to him regarding the criteria, and suggested continuing the discussion later.

CAG members commented that resuspension is one of the community's biggest concerns, and that they wonder how it is that there is no difference between resuspension rates for hydraulic vs. mechanical dredging in the IDR. They think it might be prudent to try a variety of dredges during Phase I. One CAG member noted that she has documented 12 concerns with the IDR and would like to submit those to the TOSC Coordinator for review. Dan will work with a CAG subgroup prior to the next CAG meeting to address specific CAG questions.

## **Update: Additional CAG Members/Participation Subgroup**

John Lawler, Julie Stokes and Chris Ballantyne reported out on their work on the question of CAG membership and, in particular, how the CAG might like GE to participate differently. Some of the main points include:

- frustration with the groups (i.e. GE ) being present but not participating
- having to physically turn to speak to someone [in the liaison area] is physically uncomfortable and creates a psychological barrier

- the conclusion of the subcommittee is that they want more meaningful participation from liaisons, especially GE, but no change in membership.

The CAG wants both EPA and GE to feel welcome at the table. The group distributed copies of the section of the consent decree that provides that GE will be involved with the community. During the follow-up discussion, CAG members noted that currently EPA presents GE work and it should be GE presenting its own work. The CAG requested that EPA direct GE to provide an appropriate representative (i.e. a technical project person rather than a pr person). The group would also like EPA to share information about *why* certain decisions are made in negotiations with GE. They feel it is important for them to understand the reasoning behind decisions.

The small group also felt that the CAG had primarily accomplished information sharing from EPA to communities and visa versa in 2005, and that they'd like to accomplish more in 2006. CAG members want their efforts to add value to the project and to leverage their power to compel EPA to take their concerns seriously, as New Bedford did.

The small group's conversation resulted in two actions:

- A. The CAG invited EPA and GE to sit at the main table.
- B. The CAG proposed an "executive session" in January in order to review progress made in 2005, objectives for 2006, coordinate efforts to bring benefits to the region (with facilitation, but without EPA or GE presence). Additional subjects for this conversation might include benefits to communities (including creation of beaches).

The small group would also like to see both GE and EPA representatives giving presentations and available for questions during CAG meetings. The CAG would like EPA to ask GE to provide representatives who can answer technical questions when technical subjects are presented or under discussion. That will help both GE and the CAG by preventing misunderstandings.

EPA joined the main table; GE followed shortly thereafter, after first stating that 1) they feel their primary obligation is to negotiate with EPA and 2) future conversations need to be more productive than they have yet been. Finally, EPA stated that they hear the need for a technical person from GE at CAG meetings.

## **Habitat Assessment Report**

Alison Hess presented the Habitat Delineation report, which has been finalized and approved by EPA. It will be posted on the EPA website ([www.epa.gov/HUDSON](http://www.epa.gov/HUDSON)) as soon as possible.

The components of the Habitat Program planned include the Habitat Delineation, Habitat Assessment, Habitat Replacement and Reconstruction Designs (what will happen to replace or reconstruct those areas removed by dredging) and Adaptive Management. Active recovery as required in the ROD as well as other details will be in the final design report.

The Habitat Delineation and Assessment Work Plan of August 2003 outlines methods for habitat delineation and assessment activities. The Habitat Delineation Report was submitted in June

2005 and is currently under review. EPA approved the Supplemental Habitat Assessment Report in November 2005. Generally speaking, Habitat Delineation involves collecting baseline information on the types, distribution and functions of habitats now present (i.e. collect info on the range of habitat structure); and Habitat Assessment involves the direct measurement of physical structures of the habitats (i.e. collect info on the ecological functions associated with specific habitats).

There are four major habitat types on the Hudson River: unconsolidated river bottom, aquatic vegetation bed, shoreline and riverine fringing wetlands. Alison noted the number of sampling stations and samples taken. The information collected will be used to develop the baseline of a design for habitat replacement and reconstruction in Phase 1 areas. Data collected to date will be used as reference of pre-dredging conditions. Pre- and post-dredging data in each habitat type will be compared. The report also looks at Habitat Suitability Indices, which were developed outside the Hudson area and can be used as a secondary measure for evaluating success.

The next steps are to complete habitat assessments at remaining Phase II areas and off-site reference areas (June – Sept 2006), and a reassessment to determine the extent of natural variability that occurs from year to year.

CAG members noted the following points.<sup>1</sup>

- A CAG member requested that EPA put this out for public comment prior to the release of the final design report.
- One CAG member wondered why migratory birds were not included in the list of species that used the river. *The species were selected for modeling based largely on how much data and information is already known about them. Also migratory birds, by their nature, do not spend as much time in a habit as do other species.*
- *The final design report is due in March 2006, after which information will continue to be gathered. EPA will have the information needed prior to finalizing the Phase I Design. Reconstruction is part of the Phase I agreement and will not wait until the end of Phase II. Dredging will generally proceed from upstream to downstream, and after the dredging and monitoring, backfilling will provide habitat substrate. That is the first step in replacing habitat.*
- CAG members asked if EPA has a sense of the destruction of indices species that can be expected in Phase I. *The purpose of these reports is to look at habitat, not individual species. The project will destroy some habitat. EPA needs to know what kinds of habitats exist now, where they are, and what biological functions they are serving so as to be able to measure the comeback and plan to assist with restoration when necessary.*
- CAG members stated concern that there may not be monitoring of species in the area, and they would like that information to be gathered. *EPA biologists currently determining how much the habitats will reconstruct themselves and how much help they will need.*
- CAG members asked if there would be any attempt to assist species by helping to move them out of the work area and what might be done to minimize impact on wildlife. One

---

<sup>1</sup> Comments in plain text in this bulleted list are from the CAG. Italicized comments are from EPA.

CAG member asked if EPA estimates species survival rates. *EPA does not, though it does make assumptions about what plants might survive.*

- CAG members stated that they would like there to be a way for EPA to measure project success and whether PCBs were being removed from habitat to the extent that one might be able to eat Hudson fish occasionally. One CAG member asked about the timing on shoreline restoration. *EPA responded that shoreline stability is the first question. EPA estimates that it will be possible to see how habitat restoration is going along the shoreline by about seven years after dredging, and that it may be 10-15 years total for dredging and reconstruction.*

A member of the Natural Resource Trustees Council from the NY Attorney General's Office noted that damage to the habitat caused by the dredging process is potentially handled under the Natural Resource Damage and Restoration process.

### **Archaeological/Cultural Resource Update**

John Vetter of EPA presented an update on the Archaeological Resources Assessment for Phase 1 Dredge Areas, namely the underwater and terrestrial addenda to the original report. The information was prepared by URS Corporation for GE. This summer and fall there have been efforts on land and in the river. GE has contracted with URS to gather data. DEC and EPA have had oversight of the process.

The dredge area is likely to reveal resources. The current contamination of the Hudson River puts constraints on how much underwater investigation can be done, because the sediments cannot be disturbed. The team has made some discoveries that are being investigated more intensively. The team worked with remote sensing data to identify special areas, then each area was investigated more closely. Many wooden vessels typical of certain time periods are present, as well as materials from shoreline activities that are from daily life like launching activity, ramps, and cut lumber. The question arises: what should be done with these items? Normally, under the historic preservation act, EPA would investigate further, but here we are constrained by contaminants in the sediments.

The team is still working to determine a potential prehistoric Native American site, including a potential house site. EPA will continue working with the consulting parties to come to an equitable solution.

The CAG had several questions and comments:<sup>2</sup>

- If you bring up underwater canal boats, won't they disintegrate? *Things underwater are often documented where they are; the future of the boats is still under discussion.*
- Has EPA had other projects with similar questions? *Yes but, the Army Corps of Engineers deals with this more than EPA, and they tend to consider avoidance and mitigation.*

---

<sup>2</sup> CAG questions and comments are in plain text. John Vetter's responses are in italics.

- Fort Edward would like EPA to focus on an “addendum for terrestrial and underwater archaeological survey reports” and requests that EPA review all Fort Edward comments on the subject since 2003. The town would like to assist URS and EPA in choosing the most historically significant sites and to help determine how to avoid negative impacts.
- What’s the plan for archaeological items that come up in the dredging? *It would be problematic if there were an effort to pick over the large amount of dredged materials, so we’re trying to take action prior to dredging.*
- Will GE work with each community as dredging moves downstream? *Yes, EPA will work with individual communities. Things found in the river belong to the state of New York, but we will work with state museums to help the artifacts reside in their host communities, when possible.*
- When will we look at historical and cultural resources along the trucking route and dewatering plant, including visual impact? *As soon as the trucking routes are developed, we will assess dewatering facility construction and truck impact.*
- Please check the current status of visual impact assessments related to the dewatering facility.

### **EPA Comments on the Intermediate Design Report (IDR)**

Doug Garbarini and David King presented the IDR comments prepared by EPA. EPA’s IDR comments have been provided to GE and a copy has been provided to all CAG members. All public comments were provided to GE verbatim, in addition to those that were incorporated into EPA’s comments. GE will respond to EPA comments in the next few weeks with individual responses to public comments. The Draft Final design and Draft CHASP are due March 17, 2006.

EPA comments on the IDR were broken into the following categories: (a) corrections or clarifications, (b) supplemental information required so EPA can more fully understand and evaluate GE intent, (c) general comments on text or statements in IDR, (d) information for GE, and (e) community concerns not already addressed by other EPA comments.

IDR comments include comments on dredging selection (pros and cons of dredging methods), dewatering facility (site development, material handling: control of runoff, how materials will be handled at wharf, noise along the wharf), navigation (vessel movement, traffic control, closure of yacht basin), canal system use, controlling resuspension (how should resuspension be addressed? Where and how should it be monitored?), air and noise modeling (GE is to provide additional data prior to the Final Design since this has an impact on control structures and the dredging itself), and capping and backfilling. EPA emphasized that this is a dredging project, not a capping project. GE can only cap once the inventory of PCBs is gone. Capping is to cover the residual after the objectives of the ROD have been met. After four dredge passes, if GE still can’t get the inventory below 6ppm, GE has to approach EPA for approval for capping.

Regarding concerns about a NOAA document released in November 2006, EPA stated that Region 2 has an Interagency Agreement with NOAA on Superfund Projects. The agreement means that EPA provides NOAA funding to do technical (not policy) reviews, in much the same

manner as hiring an outside contractor. Once NOAA comments are received, EPA reviews the comments and determines if/how to incorporate the comments into a revision of the report. The NOAA letter under discussion was intended for EPA deliberation, as is standard practice. It was not meant to be a public document nor did EPA attempt to conceal it. EPA strongly disagreed with some of the NOAA comments, although the Agency incorporated others in its comments to GE. EPA strongly disagrees that the IDR: (a) represents a significant change to the ROD, (b) compromises the effectiveness or protectiveness of the remedy, or (c) will decrease the likelihood that Phase II will be implemented.

EPA believes the IDR: (a) reflects a significantly greater understanding of the physical and chemical nature of the river, (b) integrates and addresses many items that have come to light during the design that had not been fully comprehended, or in some instances even thought of during the assessment, and (c) provides latitude and flexibility to those who will be responsible for implementing and overseeing the construction in the field. The IDR development has led to significantly greater understanding of the river. Current estimates indicate that a greater mass of PCBs will be removed than envisioned in the ROD.

Regarding shorelines, EPA had to determine where the river stops (which is different in high vs. low water). GE will cut two feet shoreline and come back at a 3:1 slope to the estimated depth of contamination. While this may leave a bit of contamination, it won't be significant. An effort will be made to clarify this complex issue in the Final Report. Habitat restoration details will be released with the final design report. GE has agreed that the goal will be to replace wetlands on a 1:1 functional basis, though the ROD does not require this.

CAG members noted the following points.<sup>3</sup>

- CAG members wondered why EPA didn't address public comments they didn't agree with. *EPA will be responding directly with that information to all who submitted comments. The first priority was to get the Agency's comments to GE in order to keep the process moving. Those who want to see all responses from EPA to public comments should request them from EPA.*
- CAG members are concerned about the potential for the plan to leave high levels of contaminants along the shoreline on individual property. *EPA stated that there is a separate study to address floodplain questions being carried out now. In some areas around Rogers Island, vegetation may be all that is holding up the bank, so EPA hopes to maintain that to the greatest extent possible. There will be sampling to make sure the material is gone. If concentrations remain more than 50ppm, more dredging will be required.*
- CAG members noted that the dewatering facility location currently measures as a baseline 40dba for noise but that it is estimated to measure 65-75dba during the project. They stated that per DEP any change over 20dba is objectionable to very objectionable and that EPA should expect residents to react strongly to such a large change and should design initially to mitigate noise impacts. *EPA noted that in this case, construction standards for noise apply.* CAG members wondered why existing conditions cannot be

---

<sup>3</sup> Comments in plain text in this bulleted list are from the CAG. Italicized comments are from EPA.

the baseline, and stated that they want EPA to make GE responses to EPA noise information requests public prior to the submission of the final design report.

- Will EPA order compliance on aspects of the IDR EPA doesn't agree with? *If the final design doesn't incorporate our concerns, EPA will work it out with GE.*
- Where does EPA state that anything in the IDR isn't in compliance with the ROD? *EPA noted where they don't agree with the IDR rather than saying things aren't in compliance.*
- Saratoga County developed a noise report that was delivered to EPA mid-November. Has that information been forwarded to GE from EPA? *Yes, and EPA is preparing a response to be released shortly.*
- Public access has been one of our concerns from the beginning. We have a history of residents developing private projects along the shoreline then being told about contamination. If the shoreline work leaves PCBs behind, are we going to run into trouble with the Department of Health when we try to do public access in the future? That isn't acceptable – we need a clean riverfront for reuse and public use.
- Where did the 50ppm number come from as a cut off? For the near-shore areas, GE is required to remove sediment that contains Total PCBs above 50 ppm (mg/kg). The use of 50 ppm is essentially the same or better than the numerical criteria for the residual performance standard, which allows one location to fall between 15 and 26 mg/kg Tri+ PCBs. Sediment concentrations of 15 to 26 mg/kg Tri+ PCBs are expected to have corresponding Total PCB concentrations between 30 and 52 mg/kg. The 50 mg/kg Total PCB criterion falls within the range allowed by the standard, provided that there is only one sampling location, within a given certification unit, that has a concentration that high. This approach provides a practical engineering solution that is protective while also giving some latitude and flexibility to those who will be responsible for implementing the construction in the field. Concentrations at the shoreline (including an elevated concentration of 50 mg/kg) will be included in the overall average concentration for a given area as required by the residual performance standard. This approach is not expected to result in significant PCB inventory being left behind and is not expected to compromise the remedy's ability to meet the remedial action objectives of the ROD.
- When we raised concerns on the ROD, we were told to wait until the design phase. Now when we raise questions, we're told they will be addressed in the field. I would feel safer if there were more specific design, then occasional exceptions as needed. Instead, you are taking worst-case scenarios and applying them to the whole design. Perhaps the TOSC coordinator can help the CAG look at some of these details.

A Natural Resource Damage Trustees asked why EPA needs to guess needed backfill amounts now and cap the amount used to restore habitat rather than leaving that decision to people in the field. EPA replied that the currently listed 15% is sample for phase I and that the final design report needs parameters for bid specification agreements.

## Wrap Up

Discussion of efforts to draw economic development resources to the region, as well as updates on the CHASP and a review of the 2006 CAG meeting dates were tabled due to limited time. They will be addressed in upcoming CAG meetings.

The meeting was adjourned at 4:10pm.