

**Hudson River PCBs Superfund Site  
Community Advisory Group**

**Meeting Summary  
May 27, 2004  
12:30 pm to 3:30 pm  
Saratoga Spa State Park**

**Members Attending:** Chris Ballantyne, Jean Carlson, Ken Decerce (alternate for Harry Gutheil), George Leveille (alternate for Theresa Egan), Richard Fuller, David Gordon, Manna Jo Greene, Judy Schmidt-Dean, Phil Dobai (for Dan McGraw), John Lawler, Paul Lilac, Merrilyn Pulver, Rich Schiafo, Julia Stokes, Jock Williamson.

**CAG Liaisons Attending:** Bill Daigle (NYSDEC), John Dergosits (NYSCC) Joan Gerhardt (GE), David King (EPA), Deanna Ripstein (NYSDOH), Leo Rosales (EPA).

**Others Attending:** Danielle Adams (EE), Fred Ellerbusch (TOSC/NJIT), Joe Gardner, George Hodgson.

**Facilitators :** Larry Dixon, Patrick Field

**Members Absent:** Dan Casey, Cecil Corbin-Mark, Mark Fitzsimmons, Harry Gutheil, Theresa Egan, Gil Hawkins, Aaron Mair, Roland Mann, Dan McGraw, John Rieger, Lois Squire, Barbara Sweet.

**Key Action Items**

1. EPA will coordinate with George Hodgson to get a list of voluntary emergency service providers that could discuss with GE/EPA potential health and safety issues prior to release of the health and safety document.
2. CBI will work with EE to develop a draft CAG website for the CAG to review in the coming months.
3. The CAG will include a presentation by those working on cultural resource issues at a future CAG meeting.
4. CBI and EPA will discuss and suggest to the CAG possible agenda topics/presentations to address agricultural issues raised.
5. CBI will contact Preston Gilbert - a referral of David King - and invite him to present at the next CAG on socio-economic issues, brownfields redevelopment, and other topics he is familiar with through his SUNY work.
6. EPA to investigate what kind of federal grantors might give presentations and E&E will investigate their resources for similar issues of economic impacts and development.
7. EPA will arrange a tour of one of the final preferred sites for the dewatering facility.

## Convening of Meeting

The meeting began at about 12:35 pm. The facilitator welcomed the CAG and walked through the agenda and explained the role and purpose of the CAG for the benefit of the interim CAG members, saying that although the CAG does not have decision-making authority, it can have influence within EPA. He noted that work to date by the CAG has been primarily looking at technical reports from EPA and providing input.

## Reviews

*April Draft Summary.* The facilitator reviewed the April meeting summary, solicited the CAG for corrections, and noted areas to be corrected. It was mentioned that before the meeting EPA made some factual clarifications to the summary that would be noted. The CAG then finalized the summary. A copy of the summary will be sent to the CAG with changes marked.

*April Key Action Items (bullet underneath each item describes the action taken).*

1. CAG members and TOSC grantee will work ongoing to identify needed reviews/activities.
  - The TOSC grantee said he would review the Health and Safety plan at the appropriate time and report back to the CAG.
2. The CAG would like more information that would include flood plains, agricultural irrigation, tourism impacts, use of monitoring wells, host community benefits, etc, especially now that the host communities have been identified. CBI will discuss with the CAG offline issues to be considered for a meeting that would address economic impacts.
  - Discussions with CAG members have been ongoing and will continue. The evaluation at the meeting would also feed into the process.
3. CBI will coordinate a CAG subcommittee made up of Jane Havens, Merrilyn Pulver, Rich Schiafo, and Chris Ballantyne that will consider what kind of tour might be useful to the CAG. Ideas include another dewatering facility or the final preferred sites for the dewatering sites for this project.
  - The subcommittee reported that it would be useful to take a tour of one of the final preferred sites or a working dewatering facility, and also suggested New Bedford, MA, when their dredging and dewatering commences this fall. About 10 attendees (CAG members and the public) showed interest in at least a local tour. EPA said it would follow-up to move this forward.
4. The CAG requested that EPA explore, along with GE, how best to address community concerns about potential impacts on local voluntary services due to community health and safety plans, prior to release of the document.
  - EPA will coordinate with George Hodgson to get a list of voluntary emergency service providers that could discuss with GE/EPA potential health and safety issues prior to release of the health and safety plan.

5. EPA will issue a revised road map in May.
  - This was released at the meeting.
6. David Gordon of the CAG will talk to the River Navigator program about their potential interest in assisting the CAG on socioeconomic issues.
  - Mr. Gordon noted that the Governor's Task Force May meeting agenda focused on state socioeconomic programs and that it would likely be better to work through the Task Force to contact the River Navigator program.
7. EPA will consider placing all CAG information in notebooks in the information repositories.
  - EPA said it would not be feasible to put the information in repositories as they are underused and space is limited. However, it is hoped that the CAG website would fill this need.
8. CBI will contact Trustees to request a presentation at the next CAG meeting.
  - Representatives from the Natural Resources Trust were on hand at the meeting and made a presentation.
9. CBI will work with John Lawler of the CAG and E&E to develop a mock-up of the website for CAG review.
  - Existing websites of advisory groups were presented to the CAG. Input was taken and a draft will be developed for the CAG to review.
10. CAG members will respond to Larry Dixon at CBI with any website design suggestions before the next meeting.
  - There were no suggestions made prior to the meeting.
11. It was noted that the CAG would have to expand by three seats due to the release of the facility siting report. EPA will work with the communities to identify representatives per the Community Involvement Plan (CIP).
  - Three representatives were identified and will serve as interim CAG members:
    - Theresa L. Egan, Supervisor, Town of Bethlehem
    - John Rieger, Councilman, Town of Ft. Edward
    - Jean Carlson, Supervisor, Town of Schaghticoke

*List of Media/Newspapers.* The CAG reviewed the list of media contacts EPA notifies on project related announcements and added *The Spotlight Newspaper* and *The Express*.

*CAG Website Update.* CBI presented information to the CAG on existing websites of advisory groups. Input was taken and a draft will be developed for the CAG to review. The website should include meeting dates and locations, all finalized meeting summaries, names and affiliations of CAG members, and all meeting materials and related reports.

*TOSC Grant Review Suggestions.* Some members of the CAG suggested review of the Health and Safety plan by the TOSC grantee. The grantee said he would review it at the appropriate time and report back to the CAG. Discussion was later held on the role of the TOSC grantee and agriculture issues, but no direction was developed at this time.

### **Natural Resources Trustee Presentation**

Steven Sanford, Chief Bureau of Habitat, NYSDEC, presented on the Natural Resources Trustees (NRT). During his presentation he explained that the NRT is made up of Department of the Interior (DOI), National Oceanographic and Atmospheric Administration (NOAA), and, for New York State, the appropriate state government agencies that have trusteeship of trust resources. Its mission is to restore natural resources to the baseline they were at before damage and/or to compensate for lost service. NRT covers injuries that impact water and sediment, lost use of recreation, lost use of navigation, and air. He emphasized that the NRT needs input from the public and urged the CAG that anytime it is developing a planning process related to the river, to contact NRT to see if there are existing programs that might help communities in their funding needs. For a copy of the presentation, go to <http://epa.gov/udson/cag/index.html>.

Questions and comments are noted below.

- *A member of the CAG asked what if injuries result from the remediation itself?* NRT responded that it would be considered an injury and that NRT could address it.
- *Another CAG member inquired about how many people fish the Hudson?* The NRT representative said he did not know, but others at the NRT would since they are studying the fish consumption issue.
- *One member asked if economic injuries would be covered by the NRT.* NRT responded that it is looking at drinking water now—if it is ‘injured’ it can be ‘repaired’ for human use. Any water in the state is potentially useful, so a claim could be filed and pursued. If businesses are hurt, that would need to be a private claim separate from NRT claims.
- *The CAG inquired when the trustees win a case, what happens with the money?* NRT responded with the example of recreational fishing. If fishing resources are damaged and it collects money in a case, NRT would find ways to enhance recreational fishing or find ways to provide richer fishing resources, such as by removing dams. However, this is a new idea, and NRT is working through it now.
- *One member asked if 100% of the money NRT collects gets spent on projects.* NRT said that in addition, its expenses need to be recoverable. To use the money collected for projects, there needs to be a restoration plan that is reviewed in public meetings, in addition to other documents. Thus, the settlement includes monies for the process as well as specific, final projects.
- *Would money collected here at the Hudson site stay here?* Yes.

- *A CAG member asked if floodplains fall under NRT jurisdiction. Yes. NRT is looking at injured resources in the floodplain.*
- *Another CAG member asked if the clean fill (such as gravel) used in the remediation comes from the local area would that be considered a damage or injury? The NRT rep said it would likely be a market issue – where the least expensive location to obtain clean fill -- and was unsure if it would qualify to be an injury.*
- *Another member said they were concerned with cultural resources along the river and asked if they would be considered injuries. The NRT responded that the Park Service would likely assess cultural resources, which DOI oversees, in related to its resources. However, for the NRT the relation is parkland preserved for cultural resource reasons (battlefields, for instance) that have natural resource value. Cultural resources in and of themselves do not fall under the jurisdiction of the NRT. The facilitator used an example of a cannon in the river that was destroyed during remediation, to which the NRT rep said a cannon would not be considered a natural resource on its own, but if it was on a park and that park land was injured, then it would be.*
- *A CAG member expressed strong concern over cultural resources and inquired how would one determine if injuries to cultural resources would be due to the remedy? NRT responded that through ongoing monitoring during remediation that could be determined.*
- *The CAG also inquired about the NRT's mission as it relates to farmland and habitat. The NRT responded that for terrestrial organisms NRT needs to make sure that habitat is available to them and that it could preserve or obtain wildlife habitat with other trustee or private lands.*
- *A member of the CAG noted that the presentation stated that studies are beginning to get underway, but the Hudson problem has been ongoing for 30 years. NRT responded it has been working on the studies for the last five years.*
- *The CAG asked where does the money won in a legal claim go. The NRT replied that if this were to happen here, it would probably be held by a federal judge in a bank account, and that judge would determine what the money could be used for. Typically, once monies are provided, they sit in an escrow account earning interest until they are expended under proper federal jurisdiction and contracting.*
- *One member of the CAG asked that if there were a settlement, what is the process to access that money from the judge? NRT said that there would need to be a plan that determines damages and how computed, along with a plan of how the money would be spent.*
- *The CAG also asked if national historic parks and national parks are in synch, and asked for some clarification as to where these fall within the NRT's program. Another member of the CAG said that the National Park battlefield is only a 3000-acre parcel of land, but*

*there are many other cultural resources along the river that are not part of the National Park Service, but should be cultural preserved. How do we address this?* The NRT replied that it could bring Bill Fuchs, who has expertise in this area to come to the CAG. It might also be useful to have John Veters as well. There did appear to be some confusion about NPS role vis a vis cultural versus natural resources.

- *Someone on the CAG stated that the settlement could be a GE project and that the public should have a chance to comment on them.* The NRT responded that the injury reports will be on the web and it is unclear whether or not there would be a public comment period for it. However, the NRT will peer review the studies. NRT noted that since they are building a legal claim for settlement of damages, some information is privileged for those legal purposes.
- *The CAG noted that many small communities are unaware of the NRT and the services it provides. It would be useful if the NRT did more outreach to communities closest to the problem, especially the elected officials on the river.* NRT responded that they will add the CAG to its listserve to keep it up to date on what is happening, and noted that it is meeting with some groups in the area. It also requested the names and contact information of other groups that should be met with. Anyone interested in signing up for the listserve should send an email to [lisa.pelstring@noaa.gov](mailto:lisa.pelstring@noaa.gov).

### **CAG First Five-Month Review**

The facilitator explained the process for conducting a five-month check in with the CAG. Members of the CAG provided input on what they felt was working well in the CAG, what needed improvement, and what issues they would like to see the CAG work on together. The results will be reviewed at the next meeting.

#### ***What specific actions and issues might the CAG work on together?***

- Field trip to dewatering site
- Issues generally timely and thoroughly address (also what's going well)
- Clearly potential and real impacts of remediation on local communities must be addressed. Subcommittee to address
- How can a community and/or business within the community other than individually suing EPA or GE, recover or recoup economic damages due to siting of dewatering facilities?
- Make sure local people and corporations get jobs
  - Rental equipment
  - Sale of materials
  - Etc.
- Understanding community impacts during dredging
- Kayaking trip from Schuylerville to Battenkill 2 or downriver

- Field trips: visit to Champlain Site, if visit New Bedford, also at least contact Fox River (more similar to Hudson), also Housatonic (where much of Pittsfield was contaminated by GE giving away PCB contaminated soil to the community as clean fill.
- Finalize QLA commentary and support for economic assistance; create a formal means of input to EPA
- Go out with EPA when flood plain study is being done.
- Quality of life issues
- Generation of NRD projects
- Protection of Agriculture

#### ***What needs improvement with the CAG?***

- Public input is being voiced and heard, but does not really have effective input into actual decision regarding remedial design.
- CERCLA should have, but unfortunately did not, address host community impacts and compensating benefits.
- Would list to see a real effort to breakdown barriers and work together cooperatively.
- Group is oversized—select the site, downsize the group, bang out the deal to get it done.
- EPA is really bureaucratic
- Continued technical info
- More outreach downriver, occasional meetings downriver
- Need more constructive dialogue
- Underlying tension between dredgers and anti-dredgers
- Placard thing does not seem to work—not called in order
- CAG members could improve their communication with their constituents regarding CAG business, 2-way dialogue
- More specific responses from EPA. Perhaps subcommittee in the future. A clear sense of what EPA expects from CAG. How CAG presents to EPA—what is the process?
- Personal attacks; groundrules need to be better enforced.
- Share list of CAG contacts and contact information (of those willing to share)
- Uncomfortable with liaisons basically having a seat at the table
- Long-standing animosities still persist and underlie comments, distracting group from making progress on important issues. Request participants leave baggage at door so their real points/values can be heard and appreciated.

#### ***What's going well with the CAG***

- Well moderated, excellent facilitation, participants feel heard
- Facilitation is excellent
- Dialogue, movement of information, well coordinated
- Information sharing, honest discussion
- Great facilitators, ground rules are working, while heated at times conversation is civil, good outside presentations
- Facilitators work well with the Group.
- CAG meetings provide a somewhat civil forum for discussing the proposed cleanup
- Appreciate the role of the facilitators---would like to see it continued.

## **Flood Plain Investigation Update**

Ben Conetta from EPA presented on the work EPA has been doing on the Hudson River Floodplain. EPA proposes sampling the flood plain to determine the variability of PCB concentrations in select sites, as mentioned in the 2002 record of decision (ROD). The proposed approach would sample 12 miles along either side of the river. A minimum of 720 samples would be taken and analyzed for PCBs in later summer/early fall 2004. Results will be analyzed in early 2005 and a report issued in the summer of 2005. Results would be shared with property owners before the general public. For a copy of the presentation, go to <http://epa.gov/hudson/cag/index.html>.

The CAG had a number of questions and comments for EPA on the presentation.

- *One CAG member inquired why the EPA sampling depth differed than that of NOAA.* EPA noted that NOAA did a transect approach and that the hardest hit areas it found were 6-10 inches. EPA explained that its effort is starting so it can get a feel for what, if any, PCB levels are there, and what additional monitoring, if any, needs to take place.
- *Another CAG member asked if the draft study would be released to the public for comment.* EPA replied that there would be an informal review process.
- *The CAG said that source pollution issues on the river are not being addressed and inquired if they would be.* EPA replied that this is the first step in possibly doing that.
- *The CAG also inquired why is this being done now?* EPA said this is just a preliminary study to try and get it a sense of what the data shows. EPA noted that the RI indicated that this was of less concern than other risk drivers. Hence, the ROD requires dredging.
- *A rep from the Washington County Soil and Water asked whether the sampling design would skew results since it depends on property owners to allow access.* EPA said it depends on the access it gets, but they do want to sample residential and public property to get a good mix. But, yes, it will depend on whether residents will allow the sampling to take place.
- *A member of the CAG said that the public is concerned whether it can eat food produced in the region or not.* EPA said that the study is not targeting farmland and that this is just a preliminary study. If it looks like more investigations need to be done, it will broaden the investigation. EPA said Department of Agriculture has been doing milk sampling and has not found PCB levels in any of its samples. Another member of the CAG noted his county is using technical consultants to review all reports and requested that EPA release any report to them ahead of future presentations so it could have questions ready for the presentation. One member stated that the farm community is not sure it really wants a study on agricultural lands at this time, but would like more fact sheets or other kinds of information to better understand potential, if any, risks. Another member stated that this was outside the ROD, and thus, should not be addressed in this forum. Some suggested

that the reports done in the 1980s on PCBs and agriculture be reviewed before any new agriculture studies are undertaken – what do we know now and do we really need to know more about this topic?

- *Another member of the CAG said EPA is giving the appearance of avoiding agriculture, which is likely not their intention, noted that there is virtually no PCB uptake of crops, and suggested that the TOSC grantee look at this.* The TOSC grantee replied that there are 70 different known PCBs and they do not all act the same. It would take some work to determine what the PCBs are we are talking about, and what the literature says. The CAG did not reach agreement on how to task the TOSC grantee at this time.
- *Does this means we are off to another full-blown ROD process? I thought we would be done once the ROD for dredging was implemented.* EPA noted that the current ROD is only for the river settlement area and not the floodplain. However, this floodplain study is only a preliminary study to see what, if any, PCBs lay in the floodplain. If PCBs are found in a significant amount then, yes, another remedial investigation (RI) and ROD would be in order. EPA stressed the importance of not jumping ahead at this point and waiting to see what the flood plain investigation says.

## **Updates**

*Facility Siting Meetings.* EPA reported on the facility siting meetings it has been holding and noted there will be more meetings at Halfmoon, Clifton Park, and Schaghticoke.

*Road Map.* A revised road map was given to the CAG. EPA noted that it is a living document and will certainly need more revisions as time progresses.

## **June Agenda**

The facilitator outlined a number of agenda items for the next CAG meeting, to be held June 24, 2004 at the Saratoga Spa State Park. These include:

- Economic issues and possibly inviting Preston Gilbert to discuss (as well as Linda Toohey of Saratoga County)
- Summary of 2003 Data
- Quality of Life Performance Standards and the Engineering Performance Standards
- Evaluation feedback

Other potential ideas include:

- Regular DEC update
- Cultural/Natural Resource links
- Flood plain and agriculture discussion

## **Public Comment**

Ralph Brill, of Ralph Brill Associates, noted that there are alternative technologies that could be considered for PCB cleanup. MR. Brill said he would follow-up with EPA.

### **Adjourn**

It was noted there would be no meeting in August, since many people are on vacation that month. The facilitator thanked the Sierra Club for bringing sandwiches to the meeting. The meeting ended at 3:45.