

Community Advisory Group (CAG)
Hudson River PCBs Superfund Site
Meeting Notes
Thursday, September 28, 2006
1:00 PM – 3:30 PM
Fort Edward Firehouse
Saratoga Spa State Park, NY

Members and Alternates Attending: Chris Ballantyne, Dan Casey, Ken DeCerco, Philip Dobie, John Dukta, Mark Galough, Robert Goldstein, Manna Jo Greene, Harry Gutheil, Betty Koval, Roland Mann, David Mathis, Rich Schiafo, Lois Squire, Julie Stokes.

CAG Liaisons Attending: Danielle Adams (Ecology & Environment), John Callaghan (NYSCC), William Daigle (NYSDEC), Doug Garbarini (USEPA), Joan Gerhardt (GE), David King (USEPA), Deanna Ripstein (NYSDOH).

Others Attending: Justin Deming (NYSDOH), Gary Klawinski (Ecology & Environment), Tom Kryzak (Air and Earth Consulting), James Kudlack (Controlled Extraction Technologies), Roberta Kudlack (Controlled Extraction Technologies), Bonnie Naumann (PostStar), Fred Realbuto (Audubon Society of NY), Lloyd Wilson (NYS DOH).

Facilitators: Ona Ferguson, Patrick Field.

Members Absent: Cecil Corbin-Mark, Mark Fitzsimmons, Richard Fuller, Rob Goldman, Gil Hawkins, John Lawler, Aaron Mair, Dan McGraw, Merrilyn Pulver, John Reiger, Judy Schmidt-Dean.

Next meetings: The next CAG meeting will be held on Thursday, November 30, 2006 at the Fort Edward Fire Station from 1-3:15pm.

Action Items

- EPA will update the CAG on water contingency progress.
- EPA will send the report on cultural resources from 2006 diving to the consulting parties and to Ken DeCerco, Harry Gutheil, John Lawler, Tom Wood, Bill Peck after the Consulting Parties meeting.
- CBI will ask NJIT if they have the resources to review the cultural resources/diving report and share their findings with the CAG.
- EPA will make the data from the June storms available to the CAG.
- The CAG TSC will review habitat FDR progress before the next CAG meeting.
- All provide suggestions of fluvial geomorphologists to EPA to review habitat portion of the FDR.

Welcome, Introductions, Meeting Summary Review

Participants were welcomed, and facilitators asked for and received approval of the CAG meeting summaries from July. Facilitators reported that the state level Farm Bureau has indicated their support for Betty Koval and John Arnold as the agricultural CAG representative and alternate, respectively.

Floodplain Investigation Briefing

EPA gave a brief update on progress on floodplain issues. Five sites in need of a “removal action” were identified between Fort Edward and Schuylerville (*please note* that “removal” is a reference to the EPA program and not to the specific action that may be needed; a “removal action” may include fencing, capping, signage or actual taking away of contaminated soils). Information on these sites is public at this time. The sites are both publicly and privately held. Landowners and town officials in the relevant locales have been informed of the situation and are being kept updated on EPA’s removal plans. The public sites are both owned by the Canal Corps and are along the river in Schuylerville and Fort Edward.

EPA expects to receive a workplan for further sampling and action from GE in the next few weeks, and it is anticipated that EPA and GE will enter into a consent order for GE to do that work. Next steps will be to get access agreements with landowners completed by the end of this year so that any work can be done before the 2007 recreational season. This work will be done in places that had >10ppm PCBs at the surface. This standard is used by the EPA removal team to determine if action is necessary. This program does not have a formal public review process, except to document publicly the work once completed. The CAG asked, and EPA agreed, to share more information on this as it develops.

EPA also expects that the more comprehensive and longer term Remedial Investigation/Feasibility Study (RI/FS) plan from GE on this in the next month. The RI will include investigating further floodplains from Fort Edward to Troy and will also be formalized in a consent order. The standard for the RI/FS potential action is contamination >1ppm (*please note* that this more stringent standard is to take in account possible longer term impacts/effects to receptors).

The CAG asked about what would happen to any floodplain soils that were removed in the coming year. EPA noted that any materials removed in the short-term, prior to when dredging is in operation, will go to a permanent facility already in place (a RCRA-licensed hazardous waste landfill, for instance). Materials removed during the long-term, during the dredging project, will likely be disposed of with dredge materials for efficiencies’ sake, although that is conjecture at this point before any consent order has been agreed upon.

CAG members stressed the importance of EPA working continually with supervisors, town boards, landowners and neighbors of each site. There was also a request made that EPA strive to find a way to do this that is not inhibited by potential delays/barriers to the construction of the dewatering facility.

NYDEC noted that they had completed the first phase of investigation on spoil sites. Groundwater monitoring wells have been installed. DEC expects draft reports from contractors by the end of 2006, and does not expect these sites to have any effect on the dredging project.

Discussion of Archaeological Issues for Communities

CAG members discussed their outstanding items of concern and questions about cultural and archaeological resources. Cynthia Blakemore is the person EPA is working with at the State Historical Preservation Office. DEC and the SHPO both have some input regarding cultural resources in the river.

CAG members voiced concern that recommendations from the SHPO are not being followed and that NPS may have outstanding concerns about whether enough has been done to identify items of cultural relevance in the river or along the banks. EPA noted they are having ongoing discussions with NPS. NPS does have the magnetometer information as they requested from EPA, and has not yet responded to it. EPA also noted that they received a detailed report on the diving several weeks ago. EPA will get comments to URS and GE on the new information in the diving report. Now that Phase II assessments have been done, EPA will be developing a mitigation plan. EPA will be meeting soon with the SHPO to talk about a draft mitigation plan.

One finding from the dives is a possible sloop that may have more significance than originally expected. EPA will be meeting with a maritime group from Lake Champlain to consider whether this other group might go into the river to verify the findings.

CAG members noted that calling the artifacts in the river “scattered debris” doesn’t reflect the importance of the history of the 40-mile corridor of river in US history. EPA stated that “scattered debris” is a term that simply means the material has been moved from its original context.

EPA noted that the consulting parties on the issue of cultural resources are those stakeholders who expressed interest in being involved as well as specific entities that are naturally involved due to the subject matter, including Fort Edward, NPS, Indian tribes and SHPO, etc. On Superfund sites, EPA follows the Section 106 process and must consult with the consulting parties, but the authority to make decisions on protecting resources lies with EPA.

A list of those who wish to receive a copy of the diving report was given to EPA, for distribution following the consulting parties meeting. The CAG asked to CBI to

determine if NJIT has resources available for someone to review the document to see if it is following best practices and help supervisors understand the findings. In addition, EPA noted that they are more than happy to invite the state level consulting parties to a morning CAG pre-meeting.

Technical Subcommittee Update

In the spring 2006, the CAG Technical Subcommittee (TSC) developed a list of issues in the Final Design Report. Over the past month, the group met over the phone and in person to review that list of issues and identify remaining issues. This summary of issues and progress made is from the perspective of the TSC.

It was noted that GE cannot move forward with contracts 3-6 until the entire package of contracts 3-6 are approved and the consent decree is entered, so any remaining disputes or work to be done on the design could hold up the dredging timeline. Contracts 1-2 are separate, so as soon as consent decree is entered, GE can get started immediately on those actions. The issues of concern are listed below.

Archaeological preservation: Concerns remain. CAG members want to know the role of dredging and the real time procedure for dealing with currently unknown artifacts.

Noise: Significant progress has been made. Attention still needed on the trammel screen, unloader, tugboats, and pumps after hours. Modeling has helped address peoples' concerns. Once contractors are on board, the counties and towns might want to meet with GE and contractors to discuss operational issues. There is potential in operating protocols to reduce noise and hours of operation when dredging occurs near homes.

Air: Progress has been made. Barge covers are still desired though CAG members understand that GE and EPA's safety concerns mean that barges won't be covered. There hasn't been commitment on low sulfur fuel or diesel retrofits, which is still a concern. Request for another check-in on retrofits and fuel prior to dredging.

Lighting: More information is still needed, especially regarding operational hours.

River Traffic: Mitigation has been done to the extent possible. Navigational dredging is the outstanding issue.

Road and Train Traffic: Progress has been made. The outstanding questions are traffic related to backfill such as truck traffic from quarries to river.

Resuspension: Concerns remain. EPA is comfortable with GE's commitments on preventing and addressing resuspension. Performance standards remain the primary driver of the GE design. GE's TSS standard for contractors is 10x lower than that required by EPA, which is encouraging, though it may require additional controls and could affect productivity standards. Some contingencies for controls are in place based

on modeling. Want to understand protocols for operator errors. Sheet piles will be used at Roger's Island and Griffin Island to understand their effects in different sediment. (GE modeled resuspension to see where controls would have to be put in place first considering if 0.35% of the material being removed were resuspended and then considering the same at 0.7%). EPA expects some resuspension, at acceptable, controllable levels. Measurements will be taken at the Thompson Island dam. EPA wants GE to balance being both protective (remove PCBs) and productive (efficient over time). GE must meet the TSS standard, PCB and productivity standard simultaneously. The data from the June storms showed resuspension levels of 250 or 260 ppt. 500 is the drinking water standard.

Environmental Monitoring for Resuspension: GE will do monitoring, and they'll submit a quality assurance plan to EPA 30 days after the Consent decree is entered. EPA anticipates splitting the samples with GE on a discretionary basis. DEC will support the monitoring effort. Data that is collected will be available, but how exactly has not been determined yet. Exceptions in reports or complaints will be the most important thing.

Habitat: Significant concerns remain. GE has disputed some of EPA's comments on habitat plans. Many more details are needed on this, including the type of backfill and material to meet engineering and habitat needs, metrics for success, near shore plans, degree of active vs. passive restoration. EPA won't require 1:1 restoration. EPA is comfortable about the overall amount of restoration GE plans to do and expects that invasives will be removed from the list of species to be planted. Questions remain about the impact on the schedule of trying to resolve these issues. EPA may hire a fluvial geomorphologist to give input. The CAG TSC will work to identify more specifics on this in mid-October.

Near shore Sediment Removal: Concerns remain about meeting residual standards. Current proposal says 1 foot of backfill after stabilizing within three feet of shore. GE and EPA are in dispute, EPA is indicating that GE's final design is not consistent with the Consent decree that requires restoring to pre-existing bathymetry.

CAG members discussed whether they should spend some time discussing community improvements such as beaches and boat launches rather than looking in such detail at technical work being done by experts. Some felt this made a lot of sense, while others stated that CAG members are asking detailed questions due to the fact that they aren't sure answers they were given in the past are correct, and that it is fundamentally important that issues such as water contingency supplies are dealt with thoroughly. They suggested that once the project is off to a correct start, the CAG can focus on improvements. The CAG has learned that there are limits to what it can influence under Superfund, which limit the group's scope of discussion.

Quick Updates

Department of Health PCB Sampling: the NYS Department of Health is doing a study entitled "PCBs and Health: The Hudson River Communities Project". The study looked at several variables including PCB concentrations in blood in a study group (comprised of long-term residents ages 55-74 in Hudson Falls and Ft Edward) and a control group (comprised of long-term residents of the same ages in Glens Falls). The study activities included the collection of air samples in the participants' homes and outdoors, neurological tests, and interviews to document sportfish consumption patterns (specifically Hudson River fish). Three information sheets were provided to the members of the CAG via e-mail. The information sheets summarized the results of the outdoor air sampling and the blood sampling. The study is not yet complete. If CAG members are interested, DOH can bring a research scientist to a CAG meeting or provide the appropriate contact information at DOH to CAG members.

Update on Waterford and Halfmoon's Contingent Water Supplies: The status of the contingent water supply discussion per EPA is that GE disputed EPA's comment on Contract 4 (which says that under their agreement, GE must pay for having contingencies in place). The EPA division director will make a decision on this, likely within the next month. Under the EPA/GE agreement, on this issue, authority rests with the EPA division director. The dispute between EPA and GE is over who would be responsible for implementing or paying for the water supply contingency. Once the decision is made there will be an assessment of what exactly is needed to replace water supplies, if necessary, and what would be the triggers/standards to trip that contingency. EPA expects to work with the towns and DOH to consider these options.

A CAG member noted that Halfmoon and Waterford have a letter from EPA that says that in the case of PCB resuspension, EPA would guarantee the difference in costs required to provide safe drinking water. Populations in these communities have increased tremendously since 2000, decreasing local infrastructure's capacity to meet needs using water from Troy. CAG members asked if that letter by EPA is still good and if EPA will back it. EPA staff stated that EPA stands by the letter.

CAG members requested that EPA test any water treatment prior to the time the system would need to be used. EPA reiterated that EPA/the Federal Government will make sure that something is in place to back up water supplies when reasonable criteria, approved by DOH and DEC, are triggered. The CAG noted that remaining questions include: (1) what is the contingency, (2) what are the triggers, (3) how are these operationalized, and (4) what is the cost. Given the combination of provisions for alternate water, at least short-term, plus the operational controls that would require dredging to stop if exceedences continue, EPA believe water needs can and will be met. The CAG asked for as much clarity, detail, and progress on this issues as possible, as soon as possible, to provide more assurance and comfort.

Status of Consent Decree and Schedule: All are still waiting for the judge to rule on the consent decree. There is no limit to the time the judge has to do this. Fort Edward is

asking for intervener status from the judge, and is continuing with their separate eminent domain efforts, which could become relevant to the schedule after the consent decree is signed. EPA wants to make sure the project keeps going, and will address issues as necessary, considering legal options.

CAG members had questions about whether eminent domain could affect the starting of work on Contract I (after the consent decree is signed). CAG members asked if EPA had any contingencies in place for alternate dewatering sites, should the Fort Edward one become untenable. EPA noted that they are committed to this site, and are not considering any other site.

Status of Phase II Work: The Phase II fieldwork will be triggered off the Phase II DAD, which GE submitted to EPA in March in draft form. EPA has reviewed the DAD and hopes to submit finalized comments to GE in October. The Phase II DAD could then be discussed by the CAG. The Phase II Intermediate Design Report (IDR) is due six months after the final DAD is released.

2006 CAG Meeting Schedule: There might be an October 26 CAG meeting in Saratoga Spa State Park, depending on whether there has been progress. Alternately, there might be a CAG conference call. [Note: neither of these occurred, rather a late November CAG meeting was scheduled.]

Canal Corps and future dredging/boat tour: The boat tour to see hydraulic dredging has been postponed to spring 2007.

Other Issues: For Saratoga County, the LA Group is developing a brochure for several local counties, with funding from the Saratoga County Board of Supervisors. The brochure will be used for grant applications for funding for community benefits or mitigation efforts. This brochure is in part result of the CAG Economic Subcommittee.

Adjourn

The meeting was adjourned at 3:45 p.m.