

Community Advisory Group (CAG) Meeting
Hudson River PCBs Superfund Site
Meeting Agenda
Thursday December 4, 2014
1:00 PM – 3:00 PM

Administration Building, Gideon Putnam Room
Saratoga Spa State Park
19 Roosevelt Drive, Saratoga Springs, NY 12866

CAG Members and Alternates Attending: David Adams, Chris DeBolt, Manna Jo Greene, Timothy Holmes, Abigail Jones, Richard Kidwell, William Koebbeman, Roland Mann, David Mathis, Andrew Squire, Lois Squire.

CAG Liaisons Attending: Bridget Boyd (NYS Department of Health), Kevin Farrar (NYS Department of Environmental Conservation), John Fazzolari (Ecology & Environment, Inc.), Joe Finan (National Parks Service), Gary Klawinski (USEPA - Region 2), Joe Moloughney (NYS Canal Corporation), Larisa Romanowski (USEPA - Region 2).

Others Attending: Robert Duncan, Audrey Van Genechten (NYS DOH), Kathryn Jahn (USFWS), Regina Keenan (NYS DOH), George Luksa (Ecology & Environment, Inc.), Max Martin (Ecology & Environment, Inc.), Elizabeth Nostrand (Office of Assemblyman Englebright), Paul Post (Saratogian), Bill Richmond (Behan Communications), Christina Scanlon (Post - Star), Kirby Webster (Skeo Solutions).

Facilitators: Ona Ferguson and Eric J. Roberts.

Members Absent: Cecil Corbin-Mark (West Harlem Environmental Action, Inc.), Laura De Gaetano (Albany County Economic Development, Conservation & Planning), Darlene DeVoe (Village of Fort Edward), Rich Elder (Rensselaer County), Richard Fuller (Hudson River CARE), Brian Gilchrist (Cornell Cooperative Extension), Robert Goldman (NYS Marine Highway Transportation Company LLC), Robert Goldstein (Academia), Timothy Havens (CEASE), Gil Hawkins (Hudson River Fisherman's Association), Jeffrey Kellogg (International Union of Operating Engineers Local 158), Edward Kinowski (Town of Stillwater), Aaron Mair (Arbor Hill Environmental Justice Corporation), Althea Mullarkey (Scenic Hudson), Marilyn Pulver-Moulthrop (Town of Fort Edward), Thomas Richardson (City of Mechanicville), Julie Stokes (Saratoga County Chamber of Commerce).

Next Meeting: The next meeting will be held in March 2015.

Action Items:

- EPA to check on whether or not there will be a public review and comment period on the dewatering facility decommissioning plan.
- EPA to verify the timeframe (believed to be 365 days) in which the EPA must review and decide whether or not to issue a certificate of completion for the remedial action.
- Any CAG member is welcome to join the administrative team, currently David Mathis, Manna Jo Greene, Althea Mullarkey, Abby Jones, and Marilyn Pulver-Moulthrop.
- Admin team help draft Skeo's scope of work for the CAG assessment by the end of January 2015.
- Manna Jo Greene to distribute template resolution (for individual communities and groups to consider) to CBI for distribution to the CAG.

Welcome, Introductions, Review of October 2014 Meeting Summary

Ona Ferguson, Consensus Building Institute (CBI), welcomed the participants and led introductions. She briefly reviewed the October meeting summary. A CAG alternate requested a comment be added to the habitat update portion of the summary. Ona asked CAG members and alternates to review the summary and send suggested revisions to CBI by Thursday December 11. If no additional suggested edits are received, the meeting summary will be approved with the inclusion of the previously noted request.

Dredging Project Update

Gary Klawinski, EPA, presented the dredging update. His presentation is summarized below and includes project activities from 2014 and an overview of what it will take to wrap up this portion of the clean up:

2014 Dredging Season: The 2014 dredging season concluded on November 4. Backfilling is projected to be completed by December 6. During the 2014 dredging season, 582,917 cubic yards (cy) of sediment were dredged for a total removal of 2,523,839cy on the project to date. The project capping index to date is 7.28 percent. Approximately 20,000cy remain at the facility for disposal; the material will be shipped to the disposal facilities on four additional trains.

Next Steps: An estimated 250,000cy of sediment remain to be dredged in 2015. Some of the remaining certification units (CUs) present challenges due to shallow water, proximity to dams, or the presence of cultural resources. Areas to be completed in 2015 include CUs 60, 94, 95, 96, 99 and portions of CU 64 and 65. The review and approval process for the remaining CUs will be consistent with the process used in the past.

Habitat: Some seeding and planting is ongoing. Habitat in the areas dredged in 2014 will be reconstructed in 2015. Similarly, habitat in the areas dredged in 2015 will be reconstructed in 2016.

Wrapping up the Dredging Project: In response to a request at a previous CAG meeting, Mr. Klawinski gave a detailed overview of the steps GE must complete to wrap up the dredging phase of the remedial action. This includes (A) facility and equipment decommissioning, (B) submission of a certification of completion of work, and (C) ongoing operations, maintenance and monitoring.

A. Facility and Equipment Decommissioning: As the 2015 season moves forward, GE will have less sediment to remove from fewer CUs and may find they do not need certain equipment. GE is required to seek EPA approval to decommission equipment and send it offsite. GE will provide EPA with a proposed approach for facility and equipment decommissioning that will include a sampling plan to determine the locations and concentrations of contamination at the facility and other locations. All of the staging and support areas will require decommissioning and restoration. The sampling plan will likely require several phases and will help inform the decommissioning plan. EPA, GE, NYS agencies, property owners, and municipal officials will continue to discuss facility decommissioning and future land use of the facility property to ensure facility rehabilitation meets future use and safety requirements. Facility decommissioning is anticipated to start in late 2015, but the duration of the process is uncertain, since decommissioning will depend on how much contamination is found at the plant and how much work will be required to remove it. Mr. Klawinski said the ultimate goal is to decommission the facility grounds to a point where rainwater is clean as it flows as runoff from the property. The decommissioning plan will be made public; but it is not clear whether there will be a public review and comment period for the plan. A CAG member said the public should be involved in the review of the plans.

B. Certification of Completion of Work: The certification of completion of work, which Mr. Klawinski said won't happen for quite some time, would indicate that everything is finished and the remedial action goals were met. To pass this milestones, GE must submit documentation for review and approval by EPA.

EPA will seek input from the NYS DEC and the Trustees during this process while retaining decision-making authority. A member commented that many people think it is premature to close the facility until outstanding issues such as the navigational channel and dredging in the Old Champlain Canal are resolved satisfactorily and asked where the review process could be slowed down. Mr. Klawinski responded that completion of the remedial action is clearly defined by obligations in the agreement with GE; once the obligations are reported to be complete and EPA reviews the details to verify completion, EPA will approve the completion. He noted there is no deadline that GE must rush to meet in regards to facility decommissioning, however he believes (but would have to confirm) that once GE submits documentation of completion, EPA is required to review and determine whether or not to grant certificate of completion of the remedial action within 365 days. He added that if a voluntary agreement were to surface with regard to additional work, EPA would cooperate.

C. Operations, Maintenance and Monitoring: During operations, maintenance and monitoring (OM&M), caps will be monitored according to the requirements in the agreement for each phase of dredging. Phase 2 caps will be surveyed at years one, five, and ten. Thereafter, 10-year surveys will be completed in perpetuity. Phase 1 caps will be monitored for 30 years. Cap surveys will occur after flood events or other incidents that could raise questions about cap integrity such as a tug running aground on the cap. Surveys will determine whether or not the cap has been disturbed, and repairs will be conducted if a three-inch elevation loss is observed over a 4,000 square foot area (approximately 20% of the cap area). Average floods would not trigger the survey, but large events that exceed the design flow for the cap (for example, a 100-year flood) would trigger a survey. Kevin Farrar, NYSDEC, noted that floods had already tested caps and to date no related impact was found.

Monitoring of habitat enters a five-year benchmark evaluation phase during OM&M. During this time, observations of percent cover and species composition in the restored areas are compared to the reference areas to monitor progress of initial plantings and natural re-colonization. After five years, those doing the monitoring take a long-term view of the river, using quantitative statistical analysis to compare restoration efforts by river reach to determine overall recovery.

The current fish-monitoring program will continue for a minimum of three years after completion of the remedial action. After three years, the program will be evaluated to determine if more, less, or the same level of monitoring is still needed. Fish monitoring is expected to continue for the foreseeable future. In response to member who asked whether there would be an opportunity for public comment and review of the evaluation, Mr. Klawinski said he anticipated there would be a series of conversations between GE and EPA and then the plan would be made public. The member said the public should be involved in reviewing the evaluation before it is finalized.

Water column monitoring will continue as is for a minimum of three years after completion of the remedial action, at which time it will be reviewed. Of particular interest at this time will be identifying the concentrations of PCBs flowing to the lower river after completion of the remedy. In response to a question about whether or not the flood mud boxes would remain in place, Mr. Klawinski said they would remain as a part of the floodplain program.

Mr. Klawinski also provided updates on a few areas of particular interest including CU 0, the kayak launch, and the Champlain Canal. Highlights from these topics follow.

- CU 0 – GE data samples in this location showed 2 of 6 locations met the numerical criteria for Phase 1 areas, but the rules did not require dredging of this area because the contamination was believed to be isolated rather than contiguous. However, additional samples taken by NYS Canal Corps indicate that in fact 5 of 7 samples meet the criteria, showing contiguous samples with elevated PCB levels, thus requiring dredging. EPA will discuss additional sampling efforts with GE, then review the data and determine the course of action. In order to decide whether or not to

dredge an area, core samples are taken on an 80-foot grid pattern and criteria are established that, if met, indicate that contaminated sediments must be removed. According to the criteria, isolated points of contamination, expected to attenuate naturally, do not represent significant amount of contamination and are not subject to dredging. A CAG member said that the EPA should not accept the decommissioning plan until they have determined whether or not this area will require dredging.

- Kayak Launch – Mr. Klawinski revisited the topic of a recently constructed kayak launch that has been discussed at previous CAG meetings. At this boat launch, elevated PCB levels were detected and a sign had been posted for safety. Representatives of the park and of the NYS Canal Corps met with EPA and GE to review reconstruction designs, which were subsequently approved. The site construction was complete to prevent interaction with contaminated sediments and the signs were removed. GE will maintain the newly established infrastructure until an agreement is reached on the floodplain clean up and a new design approach to remove any remaining contamination is approved. A CAG member had said the alterations to the kayak launch were not satisfactory. She was unable to attend this CAG meeting, but another member noted that they believed the complaint was in regard to deposited rock material that made the launch shallower than it was previously. Mr. Klawinski explained that they decided not to dredge in that shallow area for fear of destabilizing two large trees. This solution is temporary, and many others are pleased with how it works and looks.
- Champlain Canal – Much of the canal is considered a backwater area in the 2014 Floodplain Work Plan. Although some samples have already been collected, EPA anticipates sampling throughout the canal in representative areas including bottom and shoreline, and particularly in Schuylerville. EPA should receive a site characterization report and sampling plan from GE in February 2015. Most of the canal is with the floodplains backwater area, though some portions may not be (which would then not be sampled if it appears those areas are only influenced by upland water). The group briefly discussed sampling at Schuylerville. A member suggested EPA prioritize locations and focus on areas like Schuylerville where flooding from the old canal or a breach in the canal could pose significant impact to local residents. He added that if the EPA can assure that the soils in the canal are at levels safe for conventional disposal, then the city could undertake this dredging work.
- Sediment Processing - The group briefly discussed the ongoing need to dewater and/or process sediments at various points on the river. Participants expressed concern about decommissioning the dewatering facility, which is the obvious place to do dewatering, before work in the old canal is complete. Mr. Klawinski said the dewatering facility might not be needed to complete this work and that dewatering could be achieved through several different, smaller-scale efforts with temporary or mobile facilities. He noted that if dredging work is undertaken in the canal, it probably will not happen for another six years. A CAG member noted that GE might argue it is not economically sound to pay taxes for six years on the on the current dewatering facility if it is not in operation.

Potential Technical Assistance Services for Communities (TASC) Support: CAG Future Direction

Two topics related to TASC support have been discussed at previous meetings: (a) support to assess the CAG given that the project is entering a transition phase, and (b) support for technical reviews of the floodplains RI/FS work plan. This discussion focused on the first of these. Ms. Kirby Webster, Skeo Solutions, gave an overview of Skeo and the services they could provide to the CAG in relation to the CAG assessment. Her presentation is summarized below.

Skeo Solutions is contracted by the EPA to provide technical assistance to communities throughout the US under the TASC program, the purpose of which is to help communities understand environmental issues and participate in decision-making processes. Skeo's independent, non-advocacy technical assistance is intended to provide a third party review of technical documents and communicate the

findings to the community, EPA, and other interested parties. EPA may check Skeo technical work for accuracy, but may not alter Skeo findings or recommendations.

Ms. Webster described the process for a CAG assessment as follows. Once contracted with EPA, Skeo would

- Complete background research to learn about the Hudson remediation project.
- Work with the EPA and CBI to identify CAG members; town, region, state, and federal officials; meeting observers; and others who might have a perspective to share related to past and future CAG needs.
- Develop interview questions.
- Interview a wide variety of people about the CAG, how it functions today, and what if any changes might be needed for the floodplains work.
- Draft a report of the findings of the interviews and a set of recommendations based on the findings. The report would not attribute comments to specific individuals but would contain a list of interviewees.
- Provide an opportunity for interviewees to review the draft and suggest changes before the report is finalized.
- Finalize the report and share the results with the CAG and the public.

The value of an assessment report is that it can capture what is working well or not working well with the CAG and suggests options for how the CAG might move forward as the project shifts to focus on the floodplains. Once the results were presented to the CAG, CAG members would discuss the findings and recommendations and decide whether and how to apply the recommendations. In response to a member question, Ms. Larisa Romanowski, USEPA, said the recommendations would not be mandated.

Some meeting participants commented on the structure and functioning of the CAG. A participant highlighted gaps in representation and the absence of representatives from the agricultural, boating and fishing communities. Another member said the CAG does not function as a community input group.

Some CAG members supported the idea of Skeo undertaking this assessment, while others questioned the value of the assessment and the results it would produce. Those who supported the assessment cited the benefits of identifying new groups to invite to the table as work moves from in-river dredging to the floodplains, and providing all CAG members the opportunity to suggest improvements to the CAG. The member who questioned the usefulness of the assessment said there is no reason to fix something that is not broken. She highlighted that the CAG has had healthy dialogue over the years due to facilitation support from the Consensus Building Institute (CBI) and suggested that CBI should continue to facilitate CAG meetings. Additionally, she noted that people from around the world had studied the CAG as a model democratic process. The participant expressed concern that the assessment would possibly disband the CAG.

The CAG decided that the admin committee and any other interested member will work with Skeo and EPA to clearly scope the assessment by the end of January, and if the group that scopes the work feels comfortable with the assessment work plan, the assessment will be conducted. Ms. Webster said the timeline of the assessment depends on the number of interviewees and anticipated it could take up to six months to complete.

Brief Updates and CAG Business

Request for technical review of floodplains work plan – A subset of members drafted an initial request to EPA for TASC technical review of the Floodplains RI/FS workplan. That draft was circulated to CAG members for input in advance of the meeting. Mr. Klawinski said the floodplains work is a very

comprehensive study and a lot of work has already been done. He suggested that as a starting point, EPA present the work completed to date and provide a baseline outline of the workplan at the next CAG meeting, prior to the commencement of any technical review. Given that the CAG is likely to request TASC support for review of particular items after that presentation, Mr. Klawinski suggested that the Skeo technical person attend that presentation before beginning their independent review to help them form a baseline understanding and speed the review process. CAG members asked that the presentation cover not only technical information but also what the plan does or does not do, the anticipated schedule, and the process for completion (e.g., what has been done, what will be done, by whom, and when) and one-page fact sheets describing the aforementioned items. A member said the goal of the technical review should not just be informational, but to also get a well-informed scientific critique of the approach so CAG members can decide if they believe the approach used was scientifically sound. Mr. Klawinski suggested the request for TASC technical assistance also include a suggestion that the technical reviewer consult with the EPA to understand the technical aspects before they present their findings publicly. Ms. Romanowski recommended that the CAG submit their formal request for technical assistance after hearing Mr. Klawinski's presentation, so they can refine the request to focus on particular topics of interest. She also said she would request EPA Headquarters to direct Skeo to attend Mr. Klawinski's presentation. In discussing TASC support broadly, one CAG member said that the EPA must commit to addressing the findings of the technical assistance for such effort to be worthwhile.

The group discussed the importance of having a qualified and competent technical reviewer. With TASC support, Skeo is the approved contractor, and Skeo works internally to select and assign an appropriately skilled and capable technical reviewer. The CAG does not have input on the selection process (unlike under TAG grants, when those who receive the grant and manage the work have much more of an oversight role). Ms. Webster said Skeo has technical experts in house and sometimes contracts others to do the work, as needed.

Forum about the Hudson Clean Up – Manna Jo Greene gave a brief overview of the November 11 forum held at Marist College organized and led by a group of partner organizations, including some CAG members. The purpose of the event was to help people in the mid-Hudson region understand what has been done and what remains to be cleaned up, and to enable people from the upper and mid-Hudson share their perspectives on the issues. A draft resolution was presented at the meeting, and leaders have asked municipalities, organizations and institutions along the river to sign it. The resolution is to ensure a comprehensive clean up and to address unresolved issues of floodplains, backwaters, and navigational dredging. A member said a similar resolution process was used in the past, was widely endorsed, and provided significant support to the EPA to mandate the current remediation.

2015 Meeting Schedule – The CAG will continue on its usual meeting schedule next year, holding March, June, September, and December meetings unless issues arise that require an adjustment. CAG meetings continue to generally be held on Thursdays, often the fourth Thursday of the month.

Request for CAG Administrative Team Members – CAG members were invited to join the Administrative Team, which meets via phone several weeks prior to CAG meetings to set meeting agendas. Please contact Eric Roberts or Ona Ferguson if you are interested in participating.

Other

- *Natural Resources Damage Assessment* – Kathryn Jahn, DOI Manager of the Hudson River NRDA Case, indicated that there will be new information on their website coming weeks.
- *Official Request for Policy Review* – A CAG member officially requested a policy review, since GE will be out of the river prior to the next regularly scheduled review period when a statutory review would be conducted. The member will also submit a written request to the EPA.