

Community Advisory Group (CAG) Meeting
Hudson River PCBs Superfund Site
Meeting Summary
Saratoga Town Hall, Schuylerville, NY
Thursday March 6, 2014
1:00 PM – 3:00 PM

CAG Members and Alternates Attending: Rich Elder, Rob Goldman, Manna Jo Greene, Abigail Jones, Bill Koebbemann, Althea Mullarkey, Andrew Squire, Lois Squire.

CAG Liaisons Attending: Danielle Adams (Ecology & Environment), John Callaghan (NYS Canal Corps), John Davis (NYSOAG), Kevin Farrar (NYSDEC), John Fazzolari (Ecology & Environment), Joe Finan (NPS), Joan Gerhardt (Behan Communications), David King (USEPA), Gary Klawinski (USEPA), Tim Kruppenbacher (General Electric Company), Joe Moloughney (NYSCC), Deanna Ripstein (NYSDOH), Larisa Romanowski (USEPA).

Others Attending: Margaret Byrne (Hudson River Natural Resource Trustees & USFWS), Maria Foster (Private Citizen), Kathryn Jahn (Hudson River Natural Resource Trustees & USFWS), Kathleen Presti (NYS Museum), Regina Keenan (NYSDOH), Maxwell Martin (Ecology & Environment), Denise Mayer (NYS Museum), Deanna McCormick (Easton Concerned Citizens), Jamie Munks (Post-Star), Ashley Pastor (Clearwater), Audrey Van Genechten (NYSDOH), Thomas Wood (Town of Saratoga), Bill Richmond (Behan Communications).

Facilitators: Ona Ferguson, Eric Roberts.

Members Absent: David Adams, Cecil Corbin-Mark, Laura DeGaetano, Darlene DeVoe, Richard Fuller, Mark Fitzsimmons, Brian Gilchrist, Robert Goldstein, Gil Hawkins, Christine Hoffer, Jeffrey Kellog, Richard Kidwell, Edward Kinowski, Aaron Mair, Roland Mann, David Mathis, Merrilyn Pulver-Moulthrop, Thomas Richardson, Sharon Ruggi, Julie Stokes.

Next Meeting: The next CAG meeting will be June 26. (This date was selected after the March meeting).

Action Items:

- CBI - Request GE representatives participate for the duration of CAG meetings.
- CBI - Draft meeting summary.
- Admin Team – Plan next CAG meeting.

Welcome, Introductions, Review December 2013 Meeting Summary

The facilitators welcomed the group and reviewed the agenda. The CAG approved the draft December 2013 summary after noting a correction to the spelling of a CAG member's name. With the exception of the CAG member and alternates contact sheet, which was only provided to members and alternates, all CAG handouts and presentations are available on the project website:

<http://www.hudsoncag.ene.com/documents.htm>.

Project Update: 2014 Dredging Season Plans

Tim Kruppenbacher, General Electric, presented the 2014 dredge season plans. Key points from his presentation included:

Schedule, Scope, and General Update –GE has now dredged approximately 70 percent (1.9 million cubic yards) of the total sediments that were slated for removal. Last season, sediments were removed from the Thompson Island Pool, the Fort Miller area south of Schuylerville, and in the Green Island area near eagles nests. Certification Unit (CU) 60, above Thompson Island Pool, has not yet been addressed. In response to a member question about when GE will finish dredging operations, Mr. Kruppenbacher noted that 30% of the project total remains to be dredged, and 75% of that amount will be dredged in 2014. Approximately 2.2 million tons of dewatered sediment have been disposed offsite in Oklahoma and Ohio. Habitat restoration is underway. Twenty acres of submerged aquatic vegetation (SAV) and 0.8 acres of riverine fringe wetland (RFW) habitat have been restored to date.

Main Stem Dredge Plan – Pending the opening of the canal system in May 2014, dredging activities will begin in CU 80 south of Schuylerville and progress downriver from north to south. Some areas, such as CU 95, may be dredged out of sequence due to special considerations such as eagle nests. The dredging target is 350,000 cubic yards for 2014.

Dredging operations will likely face significant challenges in 2014. Previously, the project team dredged bank to bank in large, contiguous areas, in contrast to the CUs targeted for 2014, which are smaller, discrete locations spread across 20-30 miles. Some of these CUs are close to shorelines and a few are in front of or to the side of dams. In response to a CAG member question, Tim Kruppenbacher (GE) elaborated on the challenge of dredging near dams. He said safety is the primary concern and that GE is currently drafting near-dam safety plans to detail the approach to be taken at each dam; but each plan will be different given the different conditions at each site.

The increasing distance between the dredge sites and the dewatering facility and the subsequent increase in travel time is another challenge. As dredging moves further downstream, barges will travel 30 miles or more to deliver material to the processing facility. The trip from the dredge site to the processing facility could take 12 or more hours. Dredged materials will be covered with water to reduce the potential for PCB volatilization during the trip. The longer distances will also require more tug operations and barge management than in seasons past.

Land Locked Area Dredge Plan – GE has been meeting with EPA, New York State Canal Corp (NYSCC), and neighbors in the vicinity of the land locked area to review the approach and identify alternatives to complete the work in CUs 61-66 (approximately 29 acres). Approximately 160,000 cubic yards of sediment is targeted for removal from the land locked area.

East side and west side support facilities will be constructed in March and April. The east side support facility will be located on NYSCC property. To construct the facility, GE will first construct a temporary causeway across the land-cut to transport materials and equipment to the site. The causeway will be removed prior to flooding of the canal in April. The east side facility will include a temporary material staging area for transfer of dredged sediments into barges in the canal land cut. This activity will be designed to prevent the loss of any material as it is moved. GE plans to install air monitors at the east side support facility similar to those located at the processing facility. The west side support facility will be constructed on private property near the site of the former Fort Miller and include an area for backfill material staging and loading and another area for crew parking and access. Archaeological investigations have been completed and no sensitive areas will be impacted.

The planned approach for the land-locked area is to dredge sediment from the river into hopper barges that will be pushed by tugboats to the trans-load area on the east shoreline south of Thompson Island Dam. The material will then be off-loaded from the in-river hopper barge, transferred in a special bin, and loaded into a barge in the NYSCC land cut. The material will then travel to the processing facility and be processed as usual. Backfill/capping material from local sources will be staged at the west side support property then loaded onto hopper barges for transport to the dredged areas. Once the dredging is

complete, equipment from the east side support facility will be removed in the reverse order in which it was constructed. Vessel Traffic Services (VTS) will be used as in the past to manage traffic.

Other Main Stem Support Properties – Marinas will be used for crew staging as much as possible as the project moves further south. The Route 4 support property will be used for heavy mechanics operation, but will be vacated once complete. The Moreau backfill loading and staging area was vacated and grass will be planted there in the spring.

Habitat Planting – RFW planting will begin in CU 28 in Thompson Island Pool. Approximately 18 acres are targeted for planting over 10-12 weeks. Approximately 20 acres of SAV will be planted over 8-10 weeks; but the schedule is driven by weather conditions—water temperatures, river flow, and plant maturity must all be appropriate for successful planting.

Cultural Resources – Most CARA investigations have been completed; some follow-up will be done in CUs 96 and 99 prior to dredging near those areas. Terrestrial assessments of the Fort Miller property were completed in 2013 and led to the establishment of a protected area on the west side support facility.

CAG members had the following questions and comments after General Electric's update. Responses from Mr. Kruppenbacher or others are *italicized*:

- The potential for resuspension and settling of contaminated sediment is of concern especially since the dredge areas are discrete hot spots. How will GE capture sediment that is resuspended and settles in another location? *Mr. King responded that overall mass standards of 1% at Waterford and 2% at the farfield location remain in place. If the mass percentages are greater than these standards, operations will be adjusted. But, since smaller amounts will be dredged in these areas than in years past, the resuspended amount will be smaller too. In-river monitoring will continue as in the past. Mr. Farrar noted that nearfield solids monitoring is key to control potential redistribution.*
- How much are operations affected by the variation of depth from the discharges from the Black River? *Last year was a particularly dry year and flow was way down. Typically flows fluctuate daily by about a foot and a half.*

Gary Klawinski, EPA, provided a brief update on the floodplains RI/FS: GE submitted a draft workplan for the floodplains. A revised work plan will be resubmitted in early summer. When the work plan is final, it will be made available. Work will commence shortly after an agreement with GE is in place and the work plan is established. EPA is reviewing data collected last year, and cap maintenance will continue this season. EPA will again collect and analyze spring mud samples for PCB content. A CAG member commented that the CAG would want technical assistance to answer questions about the floodplain RI/FS, but that there are no remaining funds available in the TAG grant.

Brief Updates and CAG Business

Noting the early departure of GE representatives, several CAG members lamented that GE leadership would not hear the concerns of the CAG members if GE representatives do not participate fully in CAG meetings. They requested the facilitators ask GE to stay for full CAG meetings. The facilitator agreed to request that of GE and offered to relay any CAG member questions to GE representatives.

Trustee Update on Natural Resource Damage Assessment (NRDA) Activities – Ms. Kathryn Jahn and Ms. Margaret Byrne, U.S Fish and Wildlife Service, presented a brief update on NRDA activities since the December CAG meeting. Key updates include:

- The Trustees sent a letter (posted on the Trustee's website) to GE to outline the Trustee's concerns and to correct the public record in regards to GE's comptroller report. Ms. Jahn noted

the difference between the roles of the EPA and the Trustee, which is the foundation for the letter. EPA's role is remediation and reduction of the threat to public health. The Trustee's role is restoration and compensation of injury to resources. GE's dredging and habitat reconstruction efforts will not resolve them of liability for natural resources damages.

- The second full year of mink studies are ongoing. The Trustees are trying to identify public landowners who would be willing to work with them on the mink studies.
- Two letters are available on the Trustees website regarding restoration project proposals. The letters, which were sent to the groups who submitted proposals, provide the context for restoration planning and the list of projects received.
- The Trustees email listserv sign-up process has changed. The Trustees representatives provided a handout to those who wished to sign up for the new listserv. Those who were previously on the listserv should still receive updates sent to the new listserv.

CAG Member Update on the NRDA Activities – Althea Mullarkey, CAG Member, commented on the NRDA process and GE's potential liability. She said that, based on GE's comments in the press, it seems GE believes they will not be liable for damages found during the NRD assessment due to their success dredging sediment. She requested that EPA inform GE that completing the current remediation does not absolve GE of liability for NRDA. She noted that NYSCC and GE were previously involved in litigation over navigational dredging and that if NYSCC is required to dredge PCB contaminated material from the navigation channel, New York State taxpayers will pay a substantial amount to clean up the PCBs that GE leaves behind. Another member commented that the NYSCC is required to dredge the navigational channel and that GE is required to clean up PCBs, so the challenge is how to determine the balance between how much GE and NYSCC are each required to dredge. Another participant stated that due to PCB contamination, the cost of dredging the navigation channel will be substantially more expensive than dredging other navigational channels which do not contain PCBs.

Ms. Mullarkey said Scenic Hudson is drafting a letter to urge GE to voluntarily address their potential NRDA liability and the final remediation steps concurrently. She cited several examples of sites where companies are actively addressing NRDA liability and remediation efforts simultaneously because it improves a company's image, reduces the company's liability under NRDA, and restores the ecosystem more quickly. Ms. Mullarkey asked whether or not the CAG could sign the letter to show their support.

Group members discussed whether or not to sign the letter. Some members agreed to sign the letter. One member objected to having a letter written on behalf of the CAG since many CAG members have stopped participating over the past 10 years as their interests were met. The facilitator noted that individual CAG members could write and/or sign a letter together on behalf of themselves and their organizations, but that due to Federal Advisory Committee Act rules, the CAG could not collectively take action. Ms. Mullarkey's proposed letter is an invitation from one CAG member to others.

CAG members discussed the idea of encouraging GE to take up navigational dredging while the dewatering facility is still in operation and dredging equipment is still in the river. A group member commented that since the remediation efforts will be 75% complete by the end of the year, now is the time to begin efforts to engage the towns and persuade GE to enter a cooperative agreement to address potential NRDA liability while finishing the remediation efforts. The member suggested that if the cooperative agreement is not reached and GE goes into litigation to determine NRDA liability, the process could add a decade or more to the overall cleanup process. Meanwhile, the restoration projects including those proposed by the Hudson Hoosic Partnership to stimulate local economies would be delayed until the litigation is complete. A member of the audience suggested the letter to GE include economic loss and potential loss of revenue information.

A member asked the New York State Canal Corps (NYSCC) for an update on the status of navigational dredging permits. Joe Moloughney, NYSCC, said the permit application has been submitted to the US Army Corp of Engineers, but the permit is not yet final.

In response to a member question, John Davis, New York State Attorney General's Office, said that he could not comment on potential litigation. But he noted that the claim brought forth by the State of New York 14 years ago had been dismissed; litigation could not begin at that time because the EPA had yet to select a remedy for the Hudson River and the NYSCC had yet to suffer damages. He commented that presently a remedy had been selected and the NYSCC was applying for dredging permits.

CAG Business

The facilitators distributed a hard copy of CAG member and alternate contact information to those members present. They noted that Richard Kidwell, representing emergency services, had moved and efforts to contact him were not successful. CAG members requested that CBI locate someone to fill the emergency services seat. [The facilitation team later learned that Richard had moved back, so he will remain in the emergency services CAG seat.]

David King stated that he plans to switch to part-time in April and that Gary Klawinski will assume his role leading EPA's efforts related to the dredging project (and on the CAG). Dave thanked the CAG members for their participation in the CAG. He commended them for their efforts over the years to ensure the public's concerns were addressed throughout the remediation process and said he believed it had made a difference in multiple ways as community and environmental groups brought particular topics to the foreground during CAG deliberations.