

**Community Advisory Group (CAG)**  
**Hudson River PCBs Superfund Site**  
**Meeting Notes**  
**Thursday, March 22, 2007**  
**1:00 PM – 3:30 PM**  
**Saratoga Spa State Park, NY**

**Members and Alternates Attending:** Chris Ballantyne, Dan Casey, Phil Dobie, Mark Galough, Joe Gardner, Robert Goldman, Robert Goldstein, Manna Jo Greene, Michelle Hayes, George Hodgson, Roland Mann, Dan McGraw, Merrilyn Pulver, Rich Schiafo, Lois Squire, Julie Stokes.

**CAG Liaisons Attending:** Danielle Adams (Ecology & Environment), William Daigle (NYSDEC), Joan Gerhardt (Behan Communications), David King (USEPA), David Kluesner (USEPA), Deanna Ripstein (NYSDOH), Dan Watts (NJIT).

**Others Attending:** David Adams (SCEMS), Colleen Carllyn, Lee Coleman (Daily Gazette), Kevin Farrar (NYSDEC), Joe Finan (Saratoga NHP), Tamara Girard (NYSDOH), David Keehn (NYSDEC), Gary Klawinski (Ecology & Environment), Beth Kroeges (Behan Communications), James Kudlack (Jim-Ber Farming Association), Charles Meton (NYS Marine Highway), Brian Nearing (Albany Times Union), Steve Sanford (NYSDEC), William Shaw (NYSDEC), Sarah Sutton (Post Star), Steven Sweeney (NYSCC).

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

**Members Absent:** Cecil Corbin-Mark, Ken DeCerce, Mark Fitzsimmons, Richard Fuller, Harry Gutheil, Gil Hawkins, Betty Koval, John Lawler, Aaron Mair, David Mathis, John Reiger, Judy Schmidt-Dean.

**Next meetings:** The next CAG meeting is scheduled to be held on Thursday, May 24, 2007.

**Action Items**

- GE representatives will pass on to the company the CAG inquiry about the possibility of GE and the Trustees working on a partial NRD settlement on navigational dredging.
- Chris Ballantyne, Rob Goldman and Julie Stokes will meet to discuss how the CAG could advance their request that navigational dredging be completed as part of the dredging project.
- CAG members asked that EPA add Phase I Peer Review to the project roadmap.
- At the CAG's request, CBI will coordinate passing around the letter of support (with names of supportive CAG members) for Fort Edward's EPA CARE Grant application.

- CBI at the CAG's request, will coordinate a possible presentation on Host Community Benefits in Pittsfield.

### **Welcome, Introductions, Meeting Summary Review**

Participants were welcomed, and the facilitator asked for and received approval of the CAG meeting summaries from February 2007, including slight changes to one of the NYSDEC presentation notes.

### **A Vision for Commercial Transport in the Champlain Canal**

CAG member Rob Goldman, NY State Marine Highway Transportation Company, presented on commercial transportation on the Champlain Canal. He said that ports in Lake Champlain, the Great Lakes and the Atlantic are all accessible through the canal. He described the environmental benefits of transporting goods via tug and barge rather than by rail or truck in terms of air pollution, efficiency and its ability to free up highway congestion by taking trucks off the road. Among the types of materials transported on the canal are originating cargo (cargo manufactured along the canal and shipped elsewhere, including structural steel, precast concrete, machine tools), and very large items such as turbine rotors and transformers.

Most fully loaded barges need 12' draft (depth). In addition, NYS law requires that the canals have a 12' draft. However, there is limited draft (9') in some places along the Champlain Canal. This means that a fully loaded barges cannot pass through those areas or have to travel with lighter loads. However, lighter loads create a higher overall barge height making passage under some of the bridges a problem. As diesel prices increase, inquiries about canal shipping have increased. Rob hopes the canal will be dredged to the required 12' draft so as to be viable for efficient barge transportation in the future.

A small amount of navigational dredging will be completed in Phase I, and a larger amount may be needed for Phase II to allow access by project vessels. However, the ROD requirements are limited to dredging needed to remove PCBs as defined by the dredging project and sediment that may need to be removed for access by work vessels. Phase 1 Contract 4 for the dredging will provide more information on how much navigational dredging will be done. CAG members who hope to see additional navigational dredging done (between Locks 7-12) as part of the dredging project discussed the financial challenge the NYSCC faces associated with removing and disposing of contaminated sediment. (NYSCC is required by state law to maintain a navigation depth of 12'.) These CAG members see this as an opportunity to do this dredging at one time instead of the Natural Resource Trustees suing for this to be done after the dredging project is completed. It was suggested that contacting the governor or congressional representatives might help bring the involved parties together to move this forward.

### **Trustees Findings to Date on River Navigation**

Eugene Leff, Natural Resource Trustee representative from the New York State Attorney General's office, presented on the Trustees' current view of navigational dredging. He distributed a report to the CAG written by the Trustees called *Trustees Report on Lost Navigational Services*.

The state of New York has made its canals a "committed use," and requires by law a 12' draft for easy use of the canal for river transportation. In the past, the state would dredge sediment to maintain this depth. Today, this responsibility falls to the NYSCC. In 1980, after the nation started regulating how PCBs are managed, the state terminated its dredging of the upper Hudson because of the cost of treating and disposing of PCB contaminated sediments. According to Mr. Leff, the treatment and disposal of uncontaminated sediments costs approximately \$35/cubic yard, whereas the treatment and disposal of PCB-contaminated sediments costs more than \$300/cubic yard. At least 90% of the areas currently in need of navigational dredging have PCB levels of at least 1ppm.

Barge passage through the area has been difficult since at least 1991. In 2005, the NYSCC Notice to Mariners stated that 72% of the measurements they took in the canal showed a draft of less than 12' and that 21% showed a draft of less than 9'.

The ROD requires some navigational dredging because these sediment areas are contaminated as defined by the project parameters, or may need to be removed for access by project vessels (about 10% of what will be dredged in total). NRD asks if natural resources are "injured," i.e. if there is measurable adverse change resulting from exposure to a hazardous substance. They have concluded in this case that there has been injury: that the State is prevented from navigational dredging due to the increased cost of dredging and disposing of contaminated sediment, the result of which is that the canal has not been dredged recently. Navigation has thus been impaired, which is a loss of use of the river. The public is required under CERCLA to be compensated for loss of use of a natural resource, and the responsible party is required to pay damages to the public. One way to calculate the damage from loss of navigational services in this case is to determine the cost of full restoration and maintenance of ongoing navigational dredging.

According to Mr. Leff, there are two ways to resolve this issue. Either through a court case or GE (the PRP) could agree to dredge the navigation channel by combining the work with the EPA dredging project (that is, combine remediation with natural resource restoration). The State and other Trustees are ready to discuss how this could be done. The Trustees see undertaking the navigational dredging as part of the EPA project as a unique opportunity to do that dredging while achieving economies of scale, reducing the overall cost of doing the navigational dredging, and decreasing the burden on the community (from a timing perspective).

CAG members asked the total number of cubic yards that need to be removed for navigational dredging. The NYSCC answered that approximately 500,000 cubic yards need to be removed, and approximately 10% is slated to be removed as part of the

dredging project, which would leave an additional 450,000 cubic yards in place and in need of removal. They asked if navigational dredging can be separated out from other possible NRD issues to be resolved and were told it can.

CAG members asked Joan Gerhardt to ask GE their level of commitment to work on a partial settlement on this issue. Joan said she would take this question to GE. CAG members then continued their earlier conversation about how to raise this issue with decision makers. They discussed the possibility of convening a meeting with interested CAG members, decision makers and GE. Some also said they think the NYSCC should take a strong lead on this, pushing GE and others, because it is their constitutional obligation and they are unable to comply. A CAG member asked if the Canal Corps would be held to higher state standards than EPA for PCB ppm, and was told that is not the case. In the EPA remedy, NY State standards on water quality do apply. It was noted that if the NYSCC ends up doing the remaining navigational dredging after the project, some of the sediment might be contaminated. There would be sampling of the removed sediment to determine disposal locations (if sediments have greater than 1 ppm, they need to go to TSCA facilities). The NRD preferred solution would be integration of both environmental and navigational dredging to maximize efficiency.

Chris Ballantyne, Rob Goldman and Julie Stokes agreed to meet to discuss how to move CAG members' navigational dredging concerns forward and will report back to the CAG.

## **Brief Updates**

### Schedule and Road Map Update

EPA distributed the newest roadmap, which outlines the project schedule over the coming year. Facility construction is planned from April 2007 to October 2008. The wharf and marina construction will occur in 2008. Phase I dredging is scheduled to begin in 2009. The facility will be tested in February of 2009 then dredging will start in the spring of 2009. For more details, please see the presentation on the CAG website at: <http://www.hudsoncag.ene.com/documents.htm>.

Documents scheduled for release in 2007 include: the Remedial Action Work Plan 1 and 2, the Remedial Action Monitoring Plan for dredging, the Construction Quality Assurance Plan, the Habitat Delineation and Assessment Report for Phase 1 Dredging, the Dredge Area Delineation Report (DAD) for Phase 2 Dredging, the Habitat Delineation and Assessment Report for Phase 2 Dredging, the Archaeological Resources Assessment Report for Phase 2 Dredging, and the Options analysis for public water supply contingencies.

Documents scheduled for release in 2008 and 2009 include: the Remedial Action Work Plan 3 (dredging, processing and habitat replacement), the Performance Standard Compliance Plan, the Intermediate Design Report (IDR) for Phase 2 Dredging, the Final Design Report (FDR) for Phase 2 Dredging, the Community Health and Safety Plan

(CHSP) for Phase 2 Dredging, and the Environmental Monitoring Program for Phase 2 Dredging.

The peer review of Phase I is scheduled to occur in 2009-2010, prior to the FDR for Phase 2. CAG members requested that EPA add the Peer Review to the roadmap for clarity.

#### Organization of Phase I Remedial Action Work Plans (RAWPs)

EPA updated the CAG on the RAWPs. Construction Quality Assurance/Quality Control Plan (QAQC) has been approved for RAWPs 1 and 2. The Remedial Action Health and Safety plan is an umbrella plan over all contracts. RAWP 1 covers the site preparations. RAWP 2 covers the remaining work including the dredging, procuring and installing the sediment processing units and water treatment systems, electrical power, remaining site work, startup and testing, equipment staging, monitoring and safety. One CAG member noted that he had seen 4 hours of GE/Parsons safety training that morning and that it was of very high quality.

#### Trails and Project Considerations

EPA said that the project should not interfere with the old Champlain Canal tow path recreational trail. Several CAG members mentioned that they want more pedestrian/bike trail opportunities in the area and that it is important to them that all trails are connected and public access along the canal is assured and maintained. They noted that the canal is public property, and that they'd like to see "green" infrastructure developed along with "grey" infrastructure. EPA said that the access road into Lock 8 will remain NYSCC land and a public road throughout the project, while the rest of the land currently owned by NYSCC will become GE's responsibility during the life of the project, then revert to NYSCC land when the project is completed. The access road may be fairly quiet during the project as it will be used solely for day deliveries and employees after site construction is complete. One CAG member said that maybe a third of the stone fill material for the site construction appears to already be on site, at the initiative of the contractor.

#### HudsonWorks Website

Joan Gerhardt described the HudsonWorks website as a way for contractors to find local services of all kinds during the project. To date 550 businesses are in the database, including everything from welders to hotels. GE has used it quite a bit and expects to use it more in the future. There will be approximately 135 people working on site for Contracts 1 and 2. In addition, GE will be trying to develop new initiatives to involve local businesses with employees, looking for retailers and restaurants to be known to employees. Joan expects to have more information about this in the future.

#### Air Monitoring

CAG members brought up the topic of baseline air monitoring on the dewatering site. They wanted to know whether there will be baseline air monitoring on the site prior to construction and prior to bringing contaminated sediment on site. NYSDEC responded that the state has been doing this monitoring near the site for a full season. There is also

background noise monitoring being done as of one week ago, so there will be one month of such monitoring prior to the start of construction. The results are not yet available, but NYSDEC can present at a future CAG meeting.

### **Agenda Items for Future Meetings**

CAG members asked CBI to coordinate a presentation on Host Community Benefits on the Pittsfield project. CBI will do this. CAG members decided that an April meeting would not be necessary and that May 24 will be the next CAG meeting. CAG members reviewed upcoming meeting topics.

### **Other: Fort Edward CARE Grant**

The Town of Fort Edward is applying for an EPA CARE grant and asked if members of the CAG would be willing to sign a letter of support. CBI will circulate the letter and return it to Fort Edward on behalf of those who are in support.

### **Public Comment**

There were no comments by the public.

### **Adjourn**

The meeting was adjourned at 3:30 p.m.