

Community Advisory Group (CAG) Meeting
Hudson River PCBs Superfund Site
Saratoga Springs, New York
Tuesday, December 11, 2012 – 1:00-3:45 pm

Meeting Summary

Members and Alternates Attending: David Adams, Rich Elder, Robert Goldman, Manna Jo Greene, Abigail Jones, Richard Kidwell, William Koebbeman, Roland Mann, Althea Mullarkey, Andrew Squire, Lois Squire, David Mathis, Julie Stokes.

CAG Liaisons Attending: Danielle Adams (Ecology & Environment), Tom Brosnan (NOAA), John Davis (NYSOAG), Kevin Farrar (NYSDEC), John Fazzolari (E&E), David King (USEPA), Gary Klawinski (USEPA), Joe Moloughney (NYSCC), Deanna Riptein (NYSDOH), Charles Sullivan (NPS).

Others Attending: Jeremy Brettholtz (Green Mountain College), James Caird (Cashman Dredging), Bill Callen (Behan Communications), John Catena (NOAA), Lee Coleman (Daily Gazette), Justin Deming (NYSDOH), Mark Foster (NYSOAG), Sara Idleman (Town of Greenwich), Regina Keenan (NYSDOH), Eugene Lunney (Republic Services), Carmella Mantello (Barton & Loguidice), Kevin Murphy (Assemblyman Tony Jordan), Brian Nearing (Albany Times Union), Ann Shaughnessy (Rensselaer County), Ryan Shufelt (AECOM), Mark Surette (Ecology & Environment), Steven Sweeney (NYSCC), Audrey Van Genechten (NYSDOH), James Woods.

Facilitators: Patrick Field, Tushar Kansal.

Members Absent: Cecil Corbin-Mark, Darlene DeVoe, Mark Fitzsimmons, Richard Fuller, Brian Gilchrist, Robert Goldstein, Gil Hawkins, Christine Hoffer, Jeffrey Kellogg, Edward Kinowski, Aaron Mair, Merrilyn Pulver-Moulthrop, Thomas Richardson, Sharon Ruggi.

Next Meeting: The next CAG meeting will be spring, possibly in March.

Action Items:

- Admin Committee – Create the next CAG meeting agenda.
- All – Be on the lookout for a community meeting on the dredging project organized by Clearwater, NRDC, Riverkeeper, and Scenic Hudson at the Marist College Boathouse for down-river communities, scheduled for 1/16/13 from 3-6pm.
- NRDA Trustees – Consider publicizing the list of publicly-proposed projects and conduct outreach to Hudson River communities to better coordinate NRDA planning with local plans.
- NOAA – Provide CAG and others who might want to submit projects to NRDA with a detailed briefing of the NRDA process.

Welcome, Introductions, Review September 2012 Meeting Summary

The facilitators welcomed everyone to the meeting and reviewed the agenda. The draft September meeting summary was approved with a grammatical correction. Pat Field introduced Tushar Kansal, a CBI Associate assisting with facilitation of the CAG. All CAG meeting handouts and presentation slides are available within one week of CAG meetings at: <http://www.hudsoncag.ene.com/documents.htm>.

Project Update on 2012 Dredging Season

David King, USEPA, provided an update and overview on the progress of dredging work in 2012. Key points in his presentation included:

Schedule, Scope and General Updates – Dredging occurred between May 9 and November 17, 2012. Dredging was completed in CUs 26-48 and was partially completed in CUs 50-54 (the West Griffin Island area; work will resume there in 2013). Backfilling and capping operations were completed on December 7, 2012. GE removed more than 663,000 cubic yards from 23 CUs (surpassing the design target of 350,000 cubic yards) in 2012. Overall, more than 1.3 million cubic yards of sediment has been removed to date.

Habitat Reconstruction, Quality of Life and Engineering Performance Standards – In terms of habitat reconstruction, submerged aquatic vegetation (SAV) was harvested from the NYSCC Feeder Canal. Four CUs that were dredged in 2011 were replanted using a modified approach involving divers and waders using dive platforms with support vessels. Monitoring of plants installed in Phase 1 areas continued and the habitat design for the 2012 dredge area is underway. Phase 1 plants are doing well. In terms of air quality, there were 40 air quality exceedances identified at the processing facility (constituting approximately 7.2% of samples) and there were 81 air quality exceedances identified at the dredge corridor (constituting approximately 3.6% of samples). The dredge corridor samples were largely in the area behind Three Sisters Island. There were no exceedances of noise, odor, or light standards. In terms of resuspension and water quality standards, although there were no exceedances of the 500 ng/L PCB concentration standard (using the 5 out of 7 day criteria), single values greater than 500 ng/L occurred on four separate occasions at Schuylerville. There were no exceedances of PCB load standards.

Residual Summary – A one-foot backfill layer was placed in all dredged areas. Additionally, capping of river sediments was necessary in some locations. Attempts were made to minimize capping within the navigation channel, and the percentage of capped areas was below the percentages that are allowable under Phase 2 Residual Engineering Performance Standards.

Processing Summary – 1,270 barges were unloaded and over 735,000 tons of material has been shipped off-site as of December 9. Eighty trains (of an anticipated 85 total trains) have shipped since May 31, and the process is on schedule to have all sediment shipped off-site by the end of December 2012. More than 350 million gallons of processed water was treated. EPA is working with GE to determine potential future uses of the processing facility, and GE is required to create a decommissioning plan for the facility. It is expected to be a future jobs generator in the region.

Off-Season Activities – During the 2012 / 2013 off-season, off-site sediment disposal will be completed, in-river equipment will be demobilized and secured, maintenance will be performed on the processing facility, and various documents, including the Community Health and Safety Plan, the Remedial Action Work Plan, and design documents, will be updated.

2013 Dredging Season – During the 2013 dredging season, adjustments will be made based on lessons learned from 2012, dredging operations will resume in CU 49 - 54, and dredging will begin in River Section 2. Section 2 will involve dredging in areas near dams and areas that are land-locked, which will present engineering challenges and could slow the pace of the work and therefore reduce the amount of sediment removed compared to the 2012 dredging season. The target for next year is removal of 350,000 cubic yards of sediment. Moving into River Section 2 will also involve moving into areas where local residents have not been exposed to dredging work, so EPA staff will be conducting public outreach to speak with residents of these communities.

CAG members discussed the following topics in response to the presentation:

Landfill Destinations – About 30% of sediment removed was non- *Toxic Substances Control Act (TSCA)* sediment, which can be taken to a wider variety of landfills than can waste which has greater than 50 ppm PCB concentration (which is subject to restrictions under TSCA).

Sediment Cap Conditions – A survey of sediment caps was conducted and no degradation was observed. Follow-up surveys will be conducted every five years and after major incidents such as major storms. The survey involves a bathymetric inspection of the area of the cap.

River Traffic – River traffic for recreational boaters has reportedly been handled very well, and the remediation team should be commended for that.

Areas of Partial Dredging – GE dredged two-thirds of a thin channel that will be backfilled in 2013. Any areas that were not backfilled in Phase 2, Year 1 had low PCB concentrations and will be backfilled in 2013.

Location of Support Facilities - EPA and GE will be able to provide a short-list of potential sites for down-river support facilities likely in late March/early April and will hold public meetings on siting.

PCBs Lost to River Flow - The amount of PCBs lost to river flow was quite low during the 2012 season. This is referred to as mass percentage loss, and it was in the 0.1% (at Waterford) or 0.2% (at Lock 5) range. The project has better control over mass percentage loss than expected, which is important as it allows the remediation to proceed downstream without significant concerns about recontamination from upstream remediation work. This low level of mass percentage loss was seen both in 2012, with low river flow levels, and in 2011, with higher river flow levels.

Air Exceedances – A CAG member stated that air exceedances are an area of concern and asked whether all best practices to minimize exceedances at the processing facility and at the dredge corridor are being implemented and whether further brainstorming is merited to identify other strategies to minimize exceedances. In response, EPA said that all best management practices are already being implemented and that the remediation team is doing all that it can to minimize exceedances. In addition, the vast majority of the exceedance readings are just barely over the exceedance level, which is a relatively conservative number

Fish Tissue Sampling – This topic will be discussed at a CAG meeting in mid-2013, when the fish data is ready.

Community Meetings –Althea Mullarkey stated that she (Scenic Hudson, in conjunction with Clearwater, Riverkeeper and NRDC) is planning a meeting regarding the dredging project on January 16, 2013 at Marist College for those individuals who cannot travel up to Saratoga Springs for the CAG meetings. EPA indicated that a fish tissue sampling update would not be available then, although a general project update will be available. Another CAG member noted that many residents do not have much information about the dredging effort.

Undersea Mussels – Dave King said there is evidence of underwater mussels in remediated areas, but they are not being counted or surveyed. A CAG member expressed an ongoing desire for information from EPA or GE about the health of mussel populations, mussel counts, etc. in the dredge area delineation.

Floodplains Remedial Investigation / Feasibility Study (RI/FS) Update

Gary Klawinski, USEPA, presented information about the agency's investigation of PCB contamination in the floodplains. Key points in his presentation included:

Overview of the Floodplains Investigation – Evaluation of the extent of PCB contamination in the floodplains involves evaluating 40 miles of floodplains encompassing over 3,000 properties. Data collection over this area involves interacting with property owners and the community and obtaining property access. Obtaining access has been a significant challenge. In areas where PCB concentrations are detected to be over 10ppm in residential and recreational use areas, interim response actions such as covers and signs are required. “Flood mud” sampling is ongoing, although this sampling was not conducted in 2012 due to low river flows. EPA continues to discuss the RI/FS with GE. Each year, since sampling began in 2000, more and more sampling is conducted, adding to the data set. Most recently, in the fall of 2012, sampling was completed on 38 of 67 targeted properties and sampling of 14 additional properties is ongoing.

Activities in 2012 – In 2012, sampling was conducted of properties remaining from 2011. GE also conducted a shoreline survey to document human and ecological use of the shoreline. Those areas where new uses, or previously undocumented uses, were detected were added to the sampling list, and properties that were previously found to have greater than 10 ppm PCB concentrations saw continued monitoring and maintenance of interim response actions. EPA received a draft RI/FS work plan from GE in May and is reviewing it.

Data Summary to Date and Next Steps - Since sampling began, over 7,000 samples have been collected on over 500 properties. About 80% of samples have shown PCB concentrations of less than 1ppm, with 13% of samples between 1-10ppm, and 6% of samples over 10ppm. Warning signs and temporary caps have been placed in areas over 10ppm where there is human use. Next steps are to continue to review GE's RI/FS work plan, review data on an ongoing basis, continue coordinating with federal and state agencies (including the US National Park Service, the New York Department of Environmental Conservation, and the New York Department of Health), to continue to sample, and, ultimately, to finalize the RI/FS work plan to define a path forward.

CAG members discussed the following topics in response to the presentation:

Involvement of NOAA in sampling – A CAG member asked why the National Oceanic and Atmospheric Administration (NOAA) has not been involved in sampling efforts since 2006. In response, Gary Klawinski said EPA continues to share data with them. Tom Brosnan (NOAA) explained that the 2006 effort was Trustee related and involved sampling of animals, whereas current sampling by EPA/GE is only of soil. John Davis (DOJ) agreed that the Trustees continue to receive the EPA/GE sampling data.

Human use areas – A CAG member indicated that a group called Hudson-Hoosick Partnership is concerned that some areas have not yet been sampled. Gary Klawinski stated that the group contacted GE directly about the area that they would like to see sampled. Generally, EPA is trying to pass along all information that it collects about human use areas to GE.

Record of Decision (ROD) – A CAG member asked if EPA was working towards a new ROD for the floodplains work. EPA indicated that it is working towards a new ROD and that it will likely take another 2 – 3 years.

Restoration Planning and Natural Resources Damages Assessment

John Catena, with the US National Oceanic and Atmospheric Administration (NOAA), presented information about the Natural Resource Damage Assessment (NRDA) program and attendant restoration process on behalf of the Hudson River Trustees. The Hudson River Natural Resource Trustees are comprised of three parties: New York State, represented by the Department of Environmental Conservation (NYSDEC); the U.S. Department of the Interior, represented by the U.S. Fish and Wildlife Service (USFWS); and the U.S. Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA). The Trustees are authorized to pursue claims (damages) for injury to, destruction of, or loss of publicly held natural resources resulting from the discharge of hazardous substances.

Under the NRDA program, the role of the Trustees is to: assess the injuries, identify and scale appropriate restoration alternatives, resolve the claim, develop a restoration plan, and conduct and monitor the effectiveness of restoration activities. By way of assessment, the Trustees are determining the nature and extent of the injury and quantifying the magnitude of the injury for each resource and service. Categories under investigation are: violations of state or federal standards, biological resource injuries, remedy-caused injuries, navigation losses in the Champlain Canal, and pathway injuries.

Following assessment, the restoration process involves the following steps:

1. Identifying categories for types of projects.
2. Developing restoration ideas.
3. Soliciting additional ideas from the public.
4. Scaling restoration.
5. Reviewing and select preferred projects.
6. Developing the Hudson River Restoration Plan.
7. Implementing the plan.

There are a number of criteria that inform the selection of restoration projects. The criteria include: link to injury, legality, efficacy, feasibility, cost-effectiveness, ecological leverage, nexus to existing plans, results of response actions, potential for additional injury, and potential effects on human health and safety. Restoration alternatives currently under consideration include: dam removal and fish passage, restoration of secondary channels, restoration of flows to wetlands, restoration and protection of floodplains, creation of grasslands, human use projects, ground water protection and additional dredging of PCB contaminated sediments for both ecological and navigational purposes.

At present, the Trustees are conducting injury assessment studies, are identifying and evaluating restoration alternatives, and are laying the groundwork for developing the draft restoration plan. The timeframe for project implementation and completion of the NRDA process is uncertain. The assessment stage and other steps in the planning phases of the NRDA process have begun and are ongoing, but implementation of restoration projects is very unlikely to begin before a final settlement is reached with GE. The Trustees have identified broad categories of proposed restoration projects and are continuing to identify and evaluate those projects against the project selection criteria described above. . The trustees have an open solicitation for the public to submit restoration project ideas through their agency's websites (<http://www.darrp.noaa.gov/northeast/udson/restore.html>) and will be formally involving the public in the process through a variety of means including public meetings and formal comments on the draft restoration plan. . Under the NRDA program, the final settlement with GE could consist of a number of different elements including projects that GE might implement, funds for the trustees to implement restoration projects or some combination of these two..

CAG members discussed the following topics in response to the presentation:

Compensation for closure of public beach – Under NRDA, the proposed project submitted by the public to compensate for the closure of Schuylerville Beach is proposed to go beyond simply just the restoration of the beach to also include enhancement and upgrades to the attached park in order to compensate the public for the loss of use over the last forty years.

Compensation for loss of use of natural areas – A CAG member noted that children in rural areas use natural environment such as streams for recreation, and asked if the loss of use of the natural environment is compensable under NRDA. In response, NOAA representatives responded that this loss has not been quantified, but some of the restoration projects under consideration by the trustees might compensate for this loss nonetheless. Other CAG members echoed concerns about not being able to quantify the loss of use of undeveloped, natural land.

Assessing remedy-caused injury – A CAG member asked how you would assess injury caused by remediation to mussel populations, considering that no “baseline” data had been collected. In response, NOAA representatives indicated that it would not be possible and that this category of the assessment of injury would focus on the damage to wetlands and submerged aquatic vegetation (SAV).

Navigation Dredging vs. Restorative Dredging – A CAG member asked for clarification on the difference between “navigation dredging” versus “restorative dredging”. NOAA representatives responded that navigation dredging would be focused on the NYSCC navigation channel. Restorative dredging would focus on the areas adjacent to the footprint remediated by EPA/GE and is also sometimes referred to as “halo dredging”.

Timeframe for Initiation of NRDA – A CAG member asked what the average timeframe was for the initiation of the NRDA process. In response, NOAA representatives indicated that they had already initiated the process and that it would be difficult to provide a specific timeframe for completion. John Davis (DOJ) indicated that the Natural Resource Trustees have three years following the end of dredging to file a claim.

Geographic aspect of compensation – The fact that PCB contamination has occurred largely in the Upper Hudson will be taken into account in selecting restoration projects and developing the restoration plan. The location and placement of restoration projects is constrained by where work can be done in terms of access to land and residual PCBs. A CAG member expressed concern that Upper Hudson communities would not be adequately compensated for injury due to residual PCBs when they’ve already faced greater injury because of the contamination.

Navigational dredging – The injury caused to communities in terms of PCB contamination increasing the costs of navigational dredging is something that the Trustees are considering. The consideration of navigational dredging is relatively novel under the NRDA program, but they are pursuing a navigational loss claim.

Public participation in NRDA process – The solicitation of proposed restoration process took place years ago and the public is not really aware of what projects were proposed and under consideration. This makes it difficult for the public to provide input into the restoration process, as the Trustees are requesting. In response, representatives of the Trustees said that they would evaluate how best to make public the list of proposed projects and conducting more outreach to communities to coordinate with local plans.

Other Topics

Sara Idleman, Supervisor from the Town of Greenwich, gave a brief update on the barge transfer terminal project in Greenwich. The Town is exploring options for implementation, including locating the terminal on the old Georgia Pacific property. A group of stakeholders, including elected officials, business owners, and nonprofit leaders has been meeting to discuss the prospect of using the canal to encourage economic development; Ms. Idleman will provide the list of stakeholders to the CAG. CAG members expressed support for the use of navigational dredging to provide greater certainty to commercial users of the canal and for the use of the Georgia Pacific site. Dave King, USEPA, also noted that there is a proposal for a hydroelectric plant and said these two projects could be coordinated.

Manna Jo Greene asked her fellow CAG members how they would like to see the Technical Assistance Grant (TAG) used. CAG members identified the need for research helping Upper Hudson communities better understand remedies that can be proposed to NRDA, but EPA said that the TAG grant cannot be used for the NRDA process. John Davis indicated that the trustees would be willing to assist with this and give a more detailed briefing of the NRDA process to the CAG and other concerned parties, such as municipal officials, who would be interested in submitting projects under the NRDA program. CAG members said the TAG grant could be used for the ROD applying to remediation of the floodplains.

CAG Business

Topics suggested and draft schedule for 2013 meetings:

- March/April: 2013 design documents, habitat update, fish tissue data if available, fish modeling vs. data discussion, update on community outreach with a focus on down-river communities.
- June: First update at beginning of dredging season
- September: Second meeting during dredging season
- December: Year end wrap up

Adjourn

The meeting was adjourned at 3:07 pm.