

Community Advisory Group (CAG) Meeting
Hudson River PCBs Superfund Site
Meeting Summary
Fort Edward Rescue Squad, Fort Edward, NY
Thursday December 3, 2015
1:00 PM – 4:00 PM

CAG Members and Alternates Attending: Maureen Ferraro-Davis, Peter Goutas, Manna Jo Greene, Timothy Holmes, Abigail Jones, William Koeberman, Roland Mann, David Mathis, Althea Mullarkey, Andrew Squire, Lois Squire, Julie Stokes.

CAG Liaisons Attending: Danielle Adams (E&E), Amy Bracewell (NPS), Bridget Boyd (NYSDOH), John Callaghan (NYSCC), James Candiloro (NYSCC), Michael Cheplowitz (USEPA – Region 2), John Davis (NYSAG), Kevin Farrar (NYSDEC), John Fazzolari (E&E), Chris Martin (NPS), Chris Martin (NPS), Deepali McCloe (E&E), Larisa Romanowski (USEPA – Region 2).

Others Attending: James Bowthorpe (Hudson River Project), Aubrey Van Genechten (NYSDOH), Tegan Kondak (E&E), George Lukert (E&E), Sean Madden (NYSDEC), Kathleen Moore (Post-Star), Cullen O'Brien (DA Collins), Julian Sayarer (Hudson River Project), Julia Watson (Behan Communications).

Facilitators: Ona Ferguson, and Eric J. Roberts

Members Absent: David Adams, Cecil Corbin-Mark, Laura DeGaetano, Darlene DeVoe, Rich Elder, Richard Fuller, Brian Gilchrist, Robert Goldman, Robert Goldstein, Timothy Havens, Gil Hawkins, Jeffery Kellogg, Richard Kidwell, Edward Kinowski, Aaron Mair, Laura Oswald, Merrilyn Pulver-Moulthrop, Thomas Richardson.

Action Items

EPA

- Provide the CAG with information about the total numbers of TSCA and non-TSCA train shipments for the entire project, and total numbers of TSCA and non-TSCA shipments for material dredged from the navigational channel.
- Provide the CAG with GE's definition of 'local vendor.'
- Create and distribute a list of the locations/properties that GE acquired to aid dredging operations in Saratoga County.

Welcome, Introductions, October 2015 Meeting Summary Update

The facilitators welcomed the group, led a round of introductions, and reviewed the agenda. They noted that the October meeting summary would be distributed to CAG members and alternates for review soon. CAG meeting handouts and presentations are available on the project website:

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

2015 Dredging Season Project Update

Gary Klawinski, EPA, provided an update on the dredging season. His main points are summarized below.¹

¹ For additional detail, please see the EPA Dredging Project Update slide deck here:

http://www.hudsoncag.ene.com/files/EPA%20Dredging%20Project%20Update_December2015.pdf

Project to Date – Dredging is complete. At the onset of the project, GE anticipated removing 2.65 million cubic yards (cy) of material during the course of the project. During the project, GE removed 2.76 million cy of material from 500 acres. Twice as many PCBs were removed than anticipated when the project started.

Of the 2.76 million cy removed during the project, 450,000 cy of material were removed from the navigational channel. The navigational channel was dredged to a depth of 14 feet unless bedrock prevented it. Caps of clean material were installed as needed in coordination with the New York State Canal Corps (NYSCC). In response to a question, Mr. Klawinski said he could provide the amount of TSCA versus non-TSCA material removed during the course of the project and from the navigational channel in particular.

Dredging in 2015 – Creative approaches were used to safely dredge 231,000 cy of material from the final and most difficult areas in River Sections 1, 2 and 3. GE used a combination of approaches including dredging from the land near Thompson Island Dam (slide 4), dredging and transferring material over the land (land cut area, slide 5), and grinding a pathway out of the bedrock so vessels could access material to be dredged near Quack Island (slide 7). The pathway was filled after dredging was completed. Sixteen TSCA and nine non-TSCA trains were shipped during the 2015 season. In response to a question, Mr. Klawinski said that dredging criteria were not met along the east side of Quack Island, and Mr. Farrar noted that the area in question will be addressed by the floodplains work.

2015 Monitoring – No air or water quality monitoring exceedances were recorded during the reporting period. Air monitors were placed in areas where the greatest exposure was anticipated, based on the location of the dredging and nearby homes. Additional information about monitor locations can be made available. Air sampling is ongoing at the facility since some contaminated material remains on site.

2015 Habitat Planting – Four acres of submerged aquatic vegetation (e.g., grasses and lilies) were planted. 3.6 acres of riverine fringing wetland (RFW) were planted. Additional seed will be spread when water temperatures are appropriate.

CAG member discussion of the project update focused on the following themes:

Operations Maintenance and Monitoring (OM&M) and Public Comment – CAG members asked that they and the public have the opportunity to provide meaningful and effective input on the OM&M plan before it is finalized. Mr. Klawinski said EPA and other Trustees will provide GE with input on the plan, then GE will revise the plan, and EPA will share the near-final draft plan with the CAG for review and discussion (likely in February). Mr. Farrar noted that Attachment E of the Consent Decree includes the OM&M scope, which is the starting point for negotiations with GE. Mr. Klawinski confirmed that the CAG will be given will be more than two weeks to review the draft plan. Participants expressed frustration about previous instances when they were given too little time to comment on important documents, and noted that at times their input did not appear to be used. They indicated that CAG input should be as important as that of trustees and the responsible party.

Effects on Neighbors and Navigational Dredging – Participants briefly reflected on a few immediate ways in which the project impacted people in the region. A CAG member noted that during the dredging project, navigation was only minimally disrupted and boaters said the dredging crews on the river were great. Another CAG member commented that backfilling above Lock 5 disrupted homeowners, and that diesel fumes impacted those walking nearby. Mr. Klawinski noted that the quality of life standards developed with the CAG input helped to

minimize disturbances, while also acknowledging that those living near the processing facility bore the brunt of noise disturbances.

Significant PCB Removal – A CAG member congratulated GE for doubling the amount of PCBs removed from the certification units (CUs).

Dredging Project: Next Steps and Timeline of Activities

Mr. Klawinski provided an update on the next steps and timeline. His main points are summarized below.²

Habitat Reconstruction – The goal of habitat reconstruction is to replace the ecological functions of the dredged areas. The CUs dredged this year will be reconstructed in 2016. EPA will continue to implement response actions as they identify issues with shoreline stabilization or recovery rates.

Processing Facility Demobilization – Demobilization is primarily focused on cleaning equipment at this point. EPA will do sampling to verify decontamination, including collecting wipe samples of equipment and cores of the subsurface after asphalt and concrete surfaces are cleaned. This sampling will continue in the spring if freezing temperatures halt work. The schedule for completion depends on the amount of work required to clean up the site. If there is a lot to clean up, it could be finished mid- to late-2016. If the subsurfaces are highly contaminated or the contamination is deeper than anticipated, then additional work will be required.

Remedial Action Certification of Completion – Once the project area is restored, GE will provide a completion report to EPA. EPA has one year to then review and certify completion. Mr. Klawinski expects the Certification of Completion to occur in 2017 or later. The issuance of the Certificate of Completion marks the official beginning of OM&M.

Operations, Maintenance, and Monitoring – OM&M reports will be provided at the end of each year on habitat reconstruction, caps, fish, and water column and sediment monitoring. Habitat reconstruction will be evaluated using benchmarks in the short term and success criteria in the long term. A participant commented that it would be helpful to see examples of successful habitat reconstruction from other superfund projects that completed the OM&M phase so that people have an idea of what to expect. Caps will be monitored to ensure the contaminated sediment is contained. Fish monitoring will continue into the foreseeable future, and EPA will keep the CAG abreast of decisions about fillet sampling protocols. Water Column and Sediment Monitoring also will continue into the foreseeable future to help the team evaluate the PCB load to the lower river. The Five Year Review will evaluate the effectiveness of the remedy to achieve the remedial action goals. See slides 8-13 for more details.

In response to a member question, Mr. Farrar commented on the Applicable Relevant or Appropriate Requirements (ARARs) in remedial action goal three on slide 13. He said there are three ARARs, one to protect wildlife, one to protect human consumers of fish, and one to protect the quality of water supplies. EPA waived the first two in the Record of Decision (ROD). He added that the remedy is anticipated to meet the third ARAR for water quality.

Participants discussion generally focused on the following topics:

² For additional detail, please see the EPA Dredging Project Next Steps and Timeline slide deck here:
http://www.hudsoncag.ene.com/files/EPA%20Dredging%20Project%20Next%20Steps%20and%20Timeline_Deceember2015.pdf

Property ownership and collaboration with NYSCC – Participants asked about the number of sites being decommissioned, their ownership and their future use. Mr. Klawinski said DA Collins WCC and EPA own the 110 acre processing facility and that there are approximately a dozen additional properties remaining for EPA to sign off on, many of which have already been demobilized. Mr. Klawinski offered to create a list of these remaining properties and send it to the CAG. EPA's focus now is to mitigate impacts at the sites and confirm with property owners that the sites are restored. A CAG member asked that EPA and John DiMura (NYSCC) identify and discuss Canal Corps properties, private property, and public access issues related to properties being decommissioned and possible future areas for a river trail in Saratoga County.

CAG members asked about navigational dredging and wharf ownership at the dewatering facility. Mr. Klawinski said EPA owns the wharf and the road and they intend to transfer ownership back to NYSCC in 2016.

Institutional controls and fish consumption – The group discussed institutional controls regarding fish consumption, or the advice given to people based on data about fish contamination levels in the Hudson. CAG members raised concerns that DOH's fish advisories are not effective. They said more signage and enforcement are needed, especially in the lower Hudson. They said that there are people who will keep eating contaminated fish from the Hudson until restrictions are actively enforced 24 hours a day. Participants asked if any changes would be made to the remedy related to these ongoing human health concerns.

Fish Sampling – Participants asked about the fish sampling protocols in the lower Hudson. Mr. Klawinski responded that both DEC and GE sample in the lower Hudson. Mr. Farrar said the DEC has been collecting tissue samples and monitoring concentrations since establishing a baseline, and added that the state sampling program is more robust than GE's, and he hoped that a stronger monitoring plan would be established in the OM&M plan. A CAG member noted that he had heard from sport fishermen that fishing has worsened, and that these fishermen attribute the decreased catch rate to the quantity of fish collected for tissue sampling. Mr. Klawinski said they have to take the fish to get the samples, and noted that sampling teams are not having any more difficulty catching the same number of fish in the same time as usual, which suggests that sampling is not impacting fish populations. John Davis, NYSAG, added that he had reviewed DEC data supporting the assertion that the level of effort to catch fish for sampling has remained roughly the same in the upper river. Mr. Farrar said that the quantity of fish populations may have changed in the lower river due to a dramatic decrease of in-river vegetation caused by Hurricanes Irene and Sandy.

Five Year Review and Certificate of Completion - A CAG member commented that the 2012 Five Year review was done too quickly (internal guidance suggests it takes approximately nine months to complete a Five Year Review). Highlighting the importance of the project to current and future generations, she asked that EPA start the next Five Year Review now so that it coincides with the certificate of completion and appropriate action can be taken to ensure a successful clean up. She also requested EPA provide adequate time for public review of the Five Year Review before it is finalized.

Floodplains Project Update

Mr. Klawinski presented the floodplains project update. His main points are summarized below.³

³ For more detail, please see the EPA Floodplain Project Update slide deck here:
http://www.hudsoncag.ene.com/files/EPA%20Floodplain%20Project%20Update_December2015.pdf

EPA has reviewed the Cultural Resources Work Plan and the draft Floodplain Characterization Report, which describes the locations of PCBs and how the PCBs were deposited in their current locations. EPA also continues to oversee Short Term Response Actions such as the installation of signs and the placement of covers for floodplain contamination. Finally, EPA has been conducting field verification activities.

Short Term Response Actions – Inspections in 2014 led to repair work at Fort Hardy Park and a residential property in 2015. A CAG member said repairs should occur quickly after winter damage in places that are heavily used in spring and summer (the Fort Hardy Park damage was evident in March and repairs occurred in November).

Field Verification Activities – EPA conducted fieldwork in fall 2015 in the near-shore Potential Human Use Areas and standing-water areas. EPA is evaluating some in-river sediment (i.e. near-shore areas) as part of the floodplain investigation because when the water level in the river drops, people can access shoreline areas that are usually submerged. Information gathered during the field verification activities will be incorporated into the Floodplain Characterization Report.

Public Outreach and Next Steps – EPA is developing a community involvement plan and fact sheets for the public. EPA will continue to work on the Floodplain Characterization Report and will also determine sampling locations to fill data gaps before sampling. EPA will continue to refine the timeline, and will try to expedite the schedule as much as possible. A public comment period and public meetings will be held when a plan to address the floodplain contamination is proposed (a.k.a the Proposed Plan). The Record of Decision will follow the public comment period. Additional next steps and future activities are listed on slides 12-14, Future Activities.

Participants made the following comments or discussed the following topics:

Potential Human Use Areas – CAG members are especially interested in the subject of identification of potential human use areas, since what happens in a particular place in coming years and decades involves so many different players and can be hard to predict. Several participants suggested EPA involve local residents in the determination of potential human use areas by doing things like walking the shore with EPA staff or submitting photos. Mr. Klawinski said the people doing the evaluation know the river well and have been involved with the project for a long time. He added that they have talked to some locals and would appreciate CAG assistance reaching out to others who might know the land especially well. Mike Cheplowitz, EPA, commented that the areas of potential human use were initially identified very conservatively and the likelihood of people being in locations not on to the list of potential human use areas is very low.

The group discussed ways to identify potential future land uses. Members suggested EPA engage both municipal officials and non-profit organizations or other community groups such as the Historic Hudson-Hoosic Partnership that are actively drafting plans and applying for grants to do work along the Hudson River. Mr. Klawinski said EPA has talked to individual property owners and some municipal leaders to acquire land use plans, which will serve as an initial base for determining future use. A CAG member said not all municipalities have a land use plans or strong zoning that could inform future use determinations. Hearing member concerns, Mr. Klawinski said it would make sense to lay out a protocol for identifying future human uses in the same way the project has protocols for other project activities. He said EPA would develop a list of these steps and share it with the CAG.

Requests – CAG members asked that EPA:

- Inform them when opportunities for public engagement and public comment will occur during the floodplains process so they can prepare and participate effectively.
- Explain more fully how EPA is evaluating properties for cultural resources and share the work plan with the CAG.

CAG Group Discussion – Dredging Project Reflections

With completion of the dredging project, and given the extensive knowledge gained by CAG members over the past decade or more, the CAG administrative committee decided to provide an opportunity for CAG members to reflect on the dredging project as a whole. The committee thought the insights gained during this process might be useful for members of CAGs at other Superfund sites and to the Hudson CAG itself during the transition from in-river dredging to work in the floodplains. Each member or alternate present at the meeting had the opportunity to share his or her reflections. Comments are organized by theme and summarized below.

- *Seek opportunities to provide additional benefits to impacted communities* – Several participants noted that the project missed opportunities to provide benefits to impacted communities during the process. Additional benefits that could have been provided included the creation of beaches, boardwalks, improved boat launches, small pocket parks, or other features that would provide access to the river, or features like deeper coves that would enable the operations of a marina. Participants attributed lost opportunities to several possible factors including unclear definitions (e.g. what is the river bottom?) and EPA’s unwillingness to seek or use the flexibility they had beyond the exact language of the consent decree and ROD.
- *Active participation by a wider range of stakeholder groups is needed* – Members noted that many CAG members and alternates do not attend CAG meetings and said consistent contribution and participation is needed from a wider variety stakeholders. Additionally, members commented that GE should participate in CAG meetings.
- *Communities could be more welcoming to dredging crews* – A participant said communities along the river may have missed opportunities to welcome the dredging crews into their communities. If towns had prepared to make them feel welcomed, it might have generated more local income.
- *Community Advisory Groups should maintain focus on impacted communities* – A member said the CAG’s focus shifted from the community to the more amorphous ‘greater good,’ and that the CAG did not benefit the local impacted communities as much as it could and should have.
- *Communication within the CAG should be transparent and information should be conveyed using many methods* – A member said information should be distributed to all CAG members, not just to those individuals who request it. Additionally, phone calls, answering machines, and parcel post should be used, in addition to e-mail, to deliver messages in a timely manner to enable effective participation.
- *CAG meetings should provide opportunities for meaningful input and should make a difference* – Some members said the CAG was not an effective method to provide input and that they did not see the results of their participation or feel EPA or GE were really listening. One participant indicated that County supervisors stopped attending the meetings because they felt their voices were not being heard. Additionally, she said that EPA often said her comments and questions were good, but she was not confident that the topics she raised would be revisited and addressed. Another member noted that when members supported the concerns of other members (e.g., around the need for alternative drinking water supplies in several communities), it made a difference and relationships among CAG

members changed for the better. A member said that the CAG is not as functional as it could be because of the power imbalance between GE and the CAG.

- *Stakeholders must ensure their interests are represented, and those paid to be at the table are more able to participate* – A participant said it became clear over the course of the project that EPA did not have the best interest of her community at heart and therefore did not represent the people in her community. She was thankful for the participation of CAG members who represent environmental organizations, who have the skills and time to read and comprehend technical documents, and who are paid to attend the meetings. She added that because the environmental organizations were informed, they were able to ask difficult questions and make sure EPA and GE discussed issues important to communities and other stakeholder groups. Another member said that when people in other parts of the country call her to ask about participating on CAGs, she tells them they should be a part of the process because it is important to have their voice at the table.
- *Other reflections* – CAG members also made the following observations:
 - Several people were happy or proud to be a CAG member or alternate.
 - Participants noted that fair, impartial facilitation was important and useful throughout the process.
 - A few participants complimented EPA and GE for their efforts throughout the process, and stressed that critical comments were not directed at any individuals.
 - People usually don't know that the Hudson River is owned by the people of New York and held by the State of New York in trust for current and future generations. Younger people do not view the river as a place they own or a place to recreate because they grow up hearing it was polluted and unsafe.
 - The CAG's power included that of raising awareness and issues for the public and elected officials, who did hear the CAG.
 - Some members are grieving because they've participated on the CAG for 15 years and feel the final outcome is insufficient.
 - Members urged each other to continue participating in the floodplains work and the NRDA process, and expressed hope that contamination in the navigational channel and contaminated areas not included in the ROD would be addressed.

Brief Updates and CAG Business

People provided the following brief updates:

- Ona Ferguson gave an update about the CAG review. Kirby Webster from Skeo Solutions will be completing a review of the CAG and will be reaching out to some CAG members and liaisons soon. The goal of the review is to hear how CAG members, alternates, and liaisons think the CAG is functioning and how it could be improved as the project transitions from the river to the floodplains. Interviews will be confidential, and all interviewees will be asked the same questions. Ms. Webster will write a report that will be shared in draft form with all interviewees to ensure their perspectives are included. The report will then be provided to the CAG to take under advisement.
- James Candiloro, NYSCC CAG liaison, said the Canal Corps will be submitting a permit application related to future dredging to the Army Corp of Engineers in February, at which point he will be able to discuss the permit contents with the CAG.