

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 2

HUDSON RIVER PCB REASSESSMENT PROJECT  
COMMUNITY INTERACTION PROGRAM

STEERING COMMITTEE MEETING  
WEDNESDAY, JANUARY 8, 1992  
HOLIDAY INN, LATHAM, NEW YORK  
7:00 P.M.

M I N U T E S

The Steering Committee Meeting was opened at approximately 7:00 p.m. by Ann Rychlenski, Steering Committee Chair. All members of the Steering Committee were present with the exception of Ennio Ruggi (Co-Chair, Citizen Liaison Group), Kate Larkin-Reilly (Co-Chair, Environmental Liaison Group), Paul Lilac (Co-Chair, Governmental Liaison Group) and Phil Griffin (Co-Chair, Agricultural Liaison Group). It is noted that Mr. William Bradley sat in on behalf of Phil Griffin.

In addition to the regular members of the Steering Committee, also in attendance were:

Doug Blazey, Regional Counsel, U.S. EPA, Region 2  
William McCabe, Deputy Director, Superfund,  
U.S. EPA, Region 2  
Paul Simon, Section Chief, Office of Regional Counsel,  
U.S. EPA, Region 2  
Charles Dworkin, Counsel, NYSDEC  
John Durgosits, Manager, Project Sponsor Group, NYSDEC

Ground rules governing the Steering Committee meeting were set by Ms. Rychlenski at the outset of the proceedings: questions and comments to the evening's presentations would be limited to members of the Steering Committee only, and to those individuals from EPA and NYSDEC present to give clarification to matters of law. Those in attendance as observers would act in that capacity only. At this time Ms. Rychlenski asked for brief summaries of Liaison Group activities from the Chairs and Co-Chairs.

Carl Deppe and Bridget Barclay reported that the Environmental Liaison Group had not recently met as a group. Tom Borden reported that the Agricultural Group would be holding a meeting on Thursday, January 16, 1992 in Schuylerville, NY, in order to discuss presentations for the upcoming Hudson River Oversight Committee (HROC) meeting. Darryl Decker reported that the Governmental Group had not met as a group, but that some individuals had been in touch with each other. Judy Schmidt-Dean reported that the Citizen Group would be meeting shortly (January 16, 1992) to discuss the upcoming HROC meeting.

Ms. Rychlenski then turned the meeting over to William McCabe for his presentation on EPA's answers to the six questions (attached) raised by the Steering Committee regarding NYSDEC's planned activities at "site 10". Mr. McCabe read the questions and responded to them in his presentation. Following is a record of Mr. McCabe's presentation and the discussions that followed as taken from tape recordings of the meeting. Please note that for the sake of brevity some comments have been condensed where repetition of the issues took place.

**William McCabe:** Why we (EPA) feel it is so important that you participate in this process is so that your ideas, opinions and comments go into the record and are taken into consideration for the final remedy that EPA and the State makes. It will go on the public record so that any actions taken subsequent to that will have that record. Public input is valued by EPA and if one segment of the community's input is missing, then obviously the input of those opposing views will not be missing and we will end up with an unbalanced community program (which is certainly not what EPA is interested in). This could effect the outcome of the remedy. Therefore, it is important that you continue your involvement in the Community Interaction Program.

As far as DEC's dredging regardless of what our decision is, and whether or not they'll abide by our decision - I think we have a very important point here. DEC has told us that their decision is not irrevocable, and we have met with high level DEC officials. They (DEC) will reconsider their decision if the remedy (through the Reassessment) can be demonstrated as more appropriate. This is important, it is a change or a modification from what you've heard before. They will reconsider their decision - That doesn't mean they necessarily or absolutely will, but they will consider what is said here through this process. It is important to remember that DEC is the group that requested the Reassessment, and they will reconsider. They will wait for the results.

DEC has also made a very important point to us - They will not make a completeness determination on their own internal process, their own state permits, etc., until the Reassessment is completed. Now that you definitely didn't hear at the last Steering Committee or the last Oversight Committee meeting.

The Project Sponsor Group will continue with its preliminary activities, but the DEC will not make a completeness determination and that's very important. What that means is once a completeness determination is made, they (DEC) then have 15 days to impanel a siting board, apply for federal permits, etc. So, all that is essentially on hold.

As to whether EPA can or would stop the State from using Site 10 or more accurately, process a TSCA permit if they applied for one - I believe that those two actions (the Reassessment and Site 10) are independent actions. Now you've just heard that they (DEC) are not going forward with it, so keep that in mind. But, if DEC applied for the permit, the TSCA permit for site 10 is just for that site. It has nothing to do with where the material comes from. So, DEC or NY State has other areas where they want to take PCBs from and where they might need a disposal site, that would have to be taken into consideration. Site 10 itself is not linked to this Reassessment project.

As to whether the State can proceed if the Reassessment says that there won't be any dredging - If that came down to a legal matter, the best we could say now is that we've had plenty of legal discussions and we would leave that up to the courts.

With respect to DEC's costs - Normally under CERCLA we only reimburse costs for which we have prior approval, in which the State has come under cooperative agreement. Obviously, they (the State) haven't done that in this case since there's no particular link between Site 10 and this Reassessment. If in the future it were linked in some way and they did come in, they would need a deviation from our regulations which would have to be approved by headquarters; and I honestly couldn't say what would happen at that time since it's obviously far in the future. So, those are some very brief thoughts and we have more details if needed.

The two most important points - that DEC will not make its completeness determination until the Reassessment is completed. That's what everyone wanted to hear, I believe, at the HROC meeting. Secondly, that their decision is not irrevocable, they will certainly consider the information that is provided under the Reassessment.

After Mr. McCabe's presentation, Ms. Rychlenski opened the table to discussion by the members of the Steering Committee. Going in order around the table beginning with Mr. Darryl Decker, Chairman of the Government Liaison Group.

**Darryl Decker:** Mr. Decker expressed appreciation of Mr. McCabe's presentation and asked for confirmation of the information from DEC officials present at the Steering Committee meeting (Mr. Dworkin and Mr. Durgosits). He also expressed skepticism of DEC's statements, considering them as "rumors" until confirmed in writing.

**John Durgosits:** DEC's Project Sponsor Group (PSG) will continue with the application process but will not go past the completeness determination. Therefore, a siting board will not be impaneled until such time as the Reassessment has been ultimately defined. As far as the PSG is concerned the dredging project and site 10 are interrelated. The dredging project naturally analyzes existing data in the river as far as polygons to be looked at for removal as well as land-based sediments that could potentially be placed into a site. The actual process of applying is for the site itself through the 361 process, that activity, or the preparation of those applications is also going forward.

**Darryl Decker:** Could DEC use site 10 for PCBs from another source other than the Hudson River - If so, did they (DEC) indicate what source?

**William McCabe:** Let me clarify - EPA looks at site 10 for the merits of the site for PCB disposal. It could come from any other source, there are other possible places besides the Hudson River where they could come from. There are the DOT sites and the remnant deposits. That's why in our mind (EPA) the dredging project and site 10 are not necessarily linked. That's why our determination would have to be considered separate.

**Darryl Decker:** Would they necessarily be NY State sites?

**William McCabe:** I wouldn't speculate on anything like that.

**Doug Tomchuk:** The main thing is that it's looked at as an application for a landfill when they apply for a TSCA permit.

**Darryl Decker:** The DEC has said they would reconsider but not that they would abide by the ROD?

**William McCabe:** The DEC has said they would reconsider if a more appropriate remedy were developed. Since no one knows what that remedy will be, I don't think it's possible for them to say what their answer will be at this point in time.

**Jim Behan (Co-Chair, Citizen Liaison Group):** Implied in the statement just made is that DEC will reconsider at the end of the RI/FS. If the RI/FS process concluded that there was a more effective remedy, the DEC could theoretically disagree with that.

**William McCabe:** Yes, they could.

**Jim Behan:** So they (DEC) have made no commitment to abide by the RI/FS.

**William McCabe:** That's correct, they have made no commitment and I honestly could not expect them to - it would be an open-ended commitment to something that's completely unknown.

**Judy Schmidt-Dean:** If DEC did disagree with the ROD and decided to go ahead on their own, is there nothing that EPA could do except let the courts decide?

**William McCabe:** First of all, if that occurred, there would be a complete record of the decision and the reasons for how that decision was made. DEC would still then have to apply for TSCA, 404 and Rivers and Harbors Section 10 permits which would still have to be decided on their merits. In a "for instance" if we said in our decision that "environmentally this is the best thing to do..." if DEC's action was contrary to that for environmental purposes, I anticipate that EPA would attempt to stop them. But that's pure speculation.

**Paul Simon:** Regarding court cases, there have been some cases, and not every single aspect of this has been resolved by the courts. But, there are significant limits to the degree to which a State can bring about a remedy which is inconsistent with something that EPA has decided.

**Judy Dean:** Has it ever been decided if this is a federal waterway, or is it a state-owned waterway?

**Doug Blazey:** I would hazard a guess that all waterways are federally regulated, but that within state boundaries are public trusts or owned by that state. There is a significant state interest in the river. We, the federal government, don't own it.

**Bridget Barclay:** Regarding criteria of public acceptance and state acceptance - what does EPA have to consider as far as the state goes?

**William McCabe:** The process lists 9 criteria, including state and community acceptance. There have been cases where those two criteria have actually led the decision, in places like Love Canal. There's no easy answer that says it must be accepted by every aspect of the community or that the State must accept it. We can go on without State acceptance which could create problems down the road. In a federally funded remedy, the State for instance, has a 10% cost share. As far as the community is concerned, on this site alone we have so many conflicting views that no matter what the remedy is - someone is not going to be happy with it.

We try very hard to get State agreement. In NY there is a dispute with the State over the Marathon Battery site clean-up levels of heavy metals.

**Bruce Bentley (NYSDEC):** There are two significant points here - one, that DEC said they wouldn't go ahead with the completeness determination which basically says that they are going to stop even though the PSG is going to move ahead to get everything set for the permit; DEC will not review that permit and take it to the next step until the Reassessment is completed.

The second thing is that DEC will be open to the Reassessment and looking at the alternatives. I was at that meeting, and I think it's important to point out that there were two deputy commissioners there, not just us getting together again. It was clear that they (DEC) are open and listening. Finally, it's important that we focus on the Reassessment. It's also important that you stay involved because it is going to be a key part of the decision, whether we (DEC) go with the decision or whether it turns out to be a court case. One other thing, on the site 10 issue, at no meeting has it ever been implied that PCBs would be brought from anyplace but the Hudson River.

**Carl Deppe:** I think it's sophistry to say that there's no connection between the landfill site and the dredging project. The problem here tonight is that Mr. Jorling isn't here, because I honestly can not accept your answers. We raised these questions in October, we went to a meeting shortly thereafter that was basically useless. We still haven't received a response to our letter to the Regional Administrator.

**William McCabe:** Darryl Banks and Ned Sullivan, both of whom are deputy commissioners with DEC were at the meetings we attended, and the letter from the Regional Administrator is to my knowledge, in transit.

**Doug Tomchuk:** I want to reiterate that the Steering Committee members were told by EPA that we probably would not have the answers to their questions at the HROC meeting, but that those questions would be raised to the Regional Administrator. We never promised the answers in six days.

**Carl Deppe:** Is there a TSCA permit, a draft permit before EPA?

**William McCabe:** No.

**Carl Deppe:** Does the Army Corps have a wetlands permit under consideration?

**William McCabe:** We have no knowledge of any such permit.

**Doug Tomchuk:** They have had pre-application meetings. That's a normal procedure because the procedure to have the application filed takes a long time, it's normal to meet to make sure you're on the right track.

**John Durgosits:** There is no application before the Corps of Engineers for a 404B permit.

**Carl Deppe:** But you have been in consultation with them, haven't you?

**John Durgosits:** We have had pre-application meetings with them, as any applicant would do.

**Carl Deppe:** What about the Regulatory Review Group at DEC - do you have a 373 permit application with them?

**John Durgosits:** I've had pre-application meetings with them.

**Carl Deppe:** Basically, what we're hearing is that DEC will wait until the day the Reassessment is done and then the next day they'll file their permits.

**William McCabe:** I don't think you could ask the State to do more than to hold up on this application. DEC will not make the completeness determination until the Reassessment is completed. Further, that they will reconsider their decision based upon the Reassessment. I don't see how we can ask them to do anymore than that. They can't sign a blank check.

**Doug Tomchuk:** Bear in mind that this is a Reassessment and that this whole thing has been going on for more than 10 years. We're not working on a blank slate and you have to look at that as part of the whole story.

**Carl Deppe:** Are you saying that they (DEC) are given more credence to a dredge project because they've worked on it for so long. Sounds like it.

**Doug Tomchuk:** I didn't say that at all. I'm saying that they have publicly announced their selected remedy. They (DEC) feel from their experience that after the Reassessment we will come up with the same remedy as they did - that's their guess. So they are proceeding with getting a landfill ready for us.

**Carl Deppe:** I wish EPA would stop with this condescending attitude towards the public on this DEC issue. I don't feel that you are being totally honest.

**Doug Blazey:** Mr. Blazey apologized for any comments that might have been interpreted as condescending and then stated as follows:

EPA is just trying to be accurate in a difficult and complex scenario of a decision in the future that has not been made yet and a federal decision that also involves independent State decisions. We do not want to give the impression that we have pre-judged anything. DEC would like to feel that they are ready to go when a remedy is decided on. We have no decision at this time. In the future it may be that remedy, or another remedy - we don't know which way we are going to go. It is up to them to do as they see fit. But what is it that you feel we're not being honest about?

**Carl Deppe:** Regarding DEC's "so-called" preliminary work. DEC is having someone in their office do everything but sign the permit. Things like geological studies, surveys of river polygons, etc.

**William McCabe:** Assuming that's so, there is nothing EPA can do to stop the State, we have no authority over that.

**Al DiBernardo:** Just as the RI/FS is separate from the PSG studies, if EPA goes ahead and determines that dredging is the option, EPA will then go ahead and determine where the dredging will occur and where the site of the facility will be. They would not necessarily take what the state has done and sign off on it. There will be more studies and more work to go into that.

**Carl Deppe:** Then there's no answer from EPA on what's going to happen - even if EPA's decision were that dredging would be environmentally disastrous, DEC's permits would be viewed as if in a vacuum.



**William McCabe:** No. The 404 and Section 10 permits go through EPA sign-off and obviously if EPA thought that the environmental impacts of those permits were inappropriate we would essentially veto it. We have done this at other sites. The only permit independent here is the TSCA one because it's for the site itself not for the Reassessment action.

**Carl Deppe:** Then EPA would grant a TSCA permit for site 10 as a PCB landfill.

**William McCabe:** If it were appropriate, and they went through all the proper processes, EPA would have to consider it on those merits.

**Paul Simon:** That would be on the permit as a PCB landfill alone - it would not necessarily represent EPA's acceptance of dredging PCBs from this Superfund site. We might oppose that. Hypothetically, if we suppose that dredging would be environmentally harmful and yet DEC were to decide to go ahead with it, we may try to stop DEC and that would be a major legal confrontation. We wouldn't necessarily accept DEC's decision if we had a totally contrary decision.

**Doug Blazey:** It is perfectly conceivable that we could issue a TSCA permit and also be suing DEC to stop them from dredging - to us that would be totally conceivable and not at all inconsistent.

**Merrilyn Pulver:** I want to make sure that I understand that DEC will not convene a siting board until the reassessment is completed. Can we have that in writing? We've been through this for ten years and I really need something in writing and maybe then I could sleep a little better.

**Doug Blazey:** EPA is not the state and can not answer for them. We must assume that what the state says to us will be conformed to in writing. But we can not presume to speak for the state.

**Merrilyn Pulver:** How can site 10 be considered independent from this Reassessment?

**William McCabe:** Our determination of that site would be based on its merits as a disposal site. We have no doubt that the state's reason for application would be the Hudson River, but legally we have to look at it as a disposal site. The Reassessment is a separate decision.

**Doug Tomchuk:** Regarding the Reassessment - we will look at alternatives for disposal such as off-site and in-situ types. When we look at on-site disposal, there is no on-site facility. You look nearby and there may be something like site 10 and you would calculate that into your disposal costs. I think the nearest off-site PCB disposal facility is in Buffalo, so you have to figure your shipping and transport costs in on something like that.

**Merrilyn Pulver:** Regarding concerns about farms near the site. Farm products would immediately suffer due to the perception of their proximity to a hazardous waste site. This is true of both agricultural and dairy products. A few years ago the State told the farmers that another site along side site 10 would be needed to put crops in since they (the crops) would be contaminated. Anything within 1/2 mile of the site would have to be harvested and brought to this dump site. The crops couldn't even be used for feed nor could they be plowed under.

**Doug Tomchuk:** (To DEC) Do you know of a study like this?

**John Durgosits:** There was such a study by Ted Buckley back many years ago about areas adjacent to site 10. There were discussions with the people about paying them not to grow crops during the time we were dredging and they went no further because the project was stopped. As part of a future site 10, of course we would be looking at impacts to adjacent lands as well as farms and that would be covered in our EIS. Ted Buckley was with Cornell.

**Doug Tomchuk:** If EPA were to decide on the dredging remedy, it would be looking at those same impacts and studies in our FS.

**Merrilyn Pulver:** Expressed a problem with the magnitude of expenses on the part of the state for preparing site 10.

**Tom Borden:** Is the TSCA permit specific to PCBs.

**Doug Tomchuk:** Under TSCA, acceptance would be just for PCBs.

**Bill Ports:** If a remedy is chosen and it is decided it's specifically for PCBs, the permit would be specific as to where they (the PCBs) would be from (Hudson River, DOT sites).

**Chuck Dworkin:** There is a Ft. Edward law passed in 1980 that specifically recites that nothing can be put into site 10 other than material from the Hudson River (specifically PCBs).

**Tom Borden:** Did you say that the dredging consideration would not be a part of the Reassessment when you make the decision?

**Doug Tomchuk:** No, in the decision, a number of alternatives would be looked at including no action and dredging, just to name a few. What should be done with the sediments in the upper Hudson is part of the decision that we're looking to make.

**Tom Borden:** Is landfill siting a part of this Reassessment?

**William McCabe:** For costing purposes we would consider one in Buffalo, one adjacent, etc. Since we would have no facility specifically there to put it into we would have to do it conceptually and then just for costing purposes.

**William Bradley:** Someone used the term "complete dredging", could you define that - I recall the state using that term saying that "complete dredging" would remove about 70% of PCBs. Then of course, what happens to the other 30%. But then again, I don't worry about that since I know that PCBs are not carcinogenic.

**William McCabe:** I think it would be in the FS that we would attempt to determine if dredging were necessary and how much dredging is necessary - I believe the 1984 decision talked about "bank-to-bank" dredging.

**William Bradley:** I'm concerned because having been involved in dredging, clamshell, air-lifts, etc. We know that there is no perfect system for dredging out of a river like shore to shore. We know we have improved things so that maybe instead of getting only 70% we can get 80%. What do we do with the rest of the sludge? The decision we made with Lake Champlain was leave it alone and let Mother Nature take care of it. And she did.

Another thing that bothers me is when you talk about responsible parties and then you talk about responsible party in your assessment. Have you gone through finding other contributors including DEC to the PCBs in the river, they after all, turned them loose.

And a Monsanto purchase requisition order in upstate NY is a matter of public record. There are many other people who put PCBs in that river, and fair is fair. Everybody targets G.E., maybe because they're the only people that's got any money.

**Keith Griffin:** Regarding DEC reimbursement. Presuming that this is a Superfund project and does qualify for Superfund monies, you said normally only work that gets prior approval gets reimbursed unless you apply for a waiver and that waiver is decided upon by whom?

**William McCabe:** That waiver is decided upon by EPA headquarters.

**Keith Griffin:** Presuming that DEC were to apply for this waiver, would they be limited in their application for a waiver for reimbursement at site 10, site G site 10-1 or what stretch in between?

**William McCabe:** NYSDEC would make an application and we would review it.

**Keith Griffin:** I believe you made the statement that the federal government reimburses, when what you're really going to do is bill this back to G.E. I'm concerned because we have a G.E. plant in my community and if you get too generous, or generous at all and they close down that plant, we've got a whole other problem.

Using the presumption that after the Reassessment, the EPA decides that something other than dredging is considered to be the alternative and that DEC decides to go ahead with the dredge project using their own monies and they apply to you for a TSCA permit. You also have to sign off on a 404B and a Rivers and Harbors Section 10 - how heavily does the Reassessment weigh on your decision to sign off?

**Paul Simon:** You seem to be assuming that the only thing that would matter would be the permits, in fact, it's possible that the permits could hypothetically be granted, while EPA through its other authorities, i.e., Superfund, could try to prevent the state from dredging.

**Doug Blazey:** One other thing, while we can look at other PRPs, generally in Superfund any PRP can look at other PRPs as well. Considering all of the talents that the one PRP that you've named has, I'm sure that has not escaped their attention. If they can find others to help them foot the bill, I'm sure that has not been lost on them.

**Keith Griffin:** Presuming after the Reassessment EPA does give its blessings to the dredge alternative, at which point the state files its applications, if I understand correctly, it would then be the sole discretion of EPA and the PRP to come up with a way to accomplish the dredge alternative.

**Paul Simon:** Regardless of what our Reassessment decision is, we would still have to look at permit applications on their merit.

**Doug Blazey:** If dredging were determined to be useful as a remedy for the River, what would be done with those materials would not necessarily be a landfill - we haven't gotten that far yet. It could be bioremediation, it could be incineration, it may be off-site treatment. Landfilling is not the only option. Then there is the question of on-site or off-site landfill - what I'm saying is that you're very far in the future. My advice to you would be to make certain that your comments are in on individual work products as they come along and concentrate on the things we're doing now and not be quite so worried about the end game.

**Darryl Decker:** I sympathize with Carl, because if I'd had my drothers we'd have done things differently. We heard a rumor here tonight that DEC has agreed to reconsider its decision until the Reassessment is over. I will consider that a rumor until I see something in writing.

We are upset that the state is wasting money. These are times of fiscal crisis and the state is constantly wasting money. Consider the \$3 million contract that the state has given Malcolm Pirnie specifically to study landfilling and dredging. I think their actions have cast a pall on this whole reassessment. The information that DEC has provided to this project is in question and their credibility is in question. I believe the integrity of this entire Reassessment project is in question because of their actions. I think this whole process is tainted by the tack that DEC has taken. The state is taking a gamble at a time of fiscal crisis and I think it's irresponsible.

**Bridget Barclay:** After asking D. Decker for copies of the letters he sent to the state and to Governor Cuomo: One thing that people forget is that this is a public health threat; and that this is an environmental problem. We've been saying for years that the state or EPA or both of them together need to take action on this problem. Right now in New Paltz at the State University at New Paltz there was an explosion that released PCBs and that's being treated as an emergency and rightfully so. Just because this has been a problem for as long as it has doesn't mean that you can afford to say that if it takes 5 years, 10 years, 15 or 20 years that's okay, it doesn't matter. It matters to a lot of people. And if the state is taking action that may result in the river being cleaned up faster, then I want to go on record of being in support of that.

**Bruce Bentley:** Darryl, I just think that if you want the state to be open and look at all options, you should be open too since that's what the reassessment is all about. You have a pretty strong feeling of anti-dredging and the state has a pretty strong expression of pro dredging.

**Darryl Decker:** But I'm not supplying any information. I'm not giving them any data. The DEC is giving them 50% of what you've got.

**Doug Tomchuk:** Darryl, when you're talking about "tainted" and having a stake in the matter. Why do you feel that the state's data is tainted and G.E.'s is not. I'm kind of curious about that. Sorry to put it so bluntly.

**Darryl Decker:** That's fine. Has G.E. issued a determination on a preferred remediation? The state has.

**Bridget Barclay:** G.E. is clearly on record of what their position is here. They're not a state or federal agency, they're not required to file a record of decision. But they've made no bones about what their decision is.

**William McCabe:** I have to defer to that, we have no question as to what G.E.'s view is, we have letters and plenty of documents to state what their position is and I don't think that we have any doubt.

**Bill Ports:** Getting back to data. I think you have to look at the facts - in talking to the scientists involved, including some of G.E.'s people. In looking at some of the data that DEC has supplied, there's a chance that the estimate of PCBs up there has been underestimated. (in the upper Hudson).

**Darryl Decker:** You may be right. There's clearly more PCBs in the lower Hudson.

**Doug Tomchuk:** What do you base that on, Darryl?

**Darryl Decker:** Your Phase 1 Report.

**Doug Tomchuk:** That's a qualitative estimate.

**Bill Ports:** I think that it's important that we get on to the business of the reassessment itself and not go off on these tangents. I have heard some excellent suggestions tonight from the other side of the table that I think should definitely be factored into the decision. So let's get on with it and keep this open and look at all the options.

**Al DiBernardo:** I think with regard to the estimates of PCBs in the lower Hudson, there's a little confusion. The budgets in the lower Hudson are 1984 estimates. We have the same estimates in our report. I think that what you're alluding to is the nature of the PCBs in the lower river, especially around the NYC area. I think that requires clarification. On a philosophical bent - I think that you all know that I try not to side with DEC or with anybody for that matter, but maybe one of the reasons that DEC has spent so much is because of processes like this. Democracy costs a lot of money. You have been fighting them for 10 years and they have been fighting back. I can relate to that because I can see the direct expenses in this process and what its costing. And some day EPA will be criticized for spending so much more at some later date than what was envisioned because of this process. So I see somewhat of a deficiency in that argument.

**Carl Deppe:** Now I have to jump in too. It's that there is no health emergency, otherwise it would have been discovered long ago. EPA did a ROD in 1984, if there had been a health emergency and you had not discovered it, it would have been negligence on your part. There is no health emergency that demands any urgency here. And if I'm not mistaken, G.E.'s going to pay you guys - so EPA is not paying any of this. Ordinarily the PRP would have done all of this themselves, but you guys said no, it's too complicated, we have to do it ourselves.

**Doug Tomchuk:** That's not true, we didn't say it was too complicated. We said that G.E. had too much of a position on these views and we didn't feel that we could support a decision based on G.E.-conducted studies because of all the history of this site.

**Carl Deppe:** I think that anyone here besides those from the state or federal government finds it hard to understand that DEC is going ahead before the reassessment is done. This is such bad public policy - because your speculation that you will find an emergency means that you will have to repudiate everything that EPA has ever done on the whole PCB issue. They're going ahead, they're doing everything except signing on the dotted line with their dredge project. And it will be all done before the reassessment is completed. There is really some basic problem here with government, although we have a couple of local officials who understand this problem.

**Merrilyn Pulver:** I'd like to know about the 1980 NY state law, the Fort Edward law, I believe you said that it was going to be just the Hudson River PCBs involved.

**John Durgosits:** What the law says if I remember it correctly, is that site, which not referred to as site 10 but is expressed in surveying terms - that nothing may be disposed of other than Hudson River spoils. We interpret that as something that has to be taken out of the Hudson River. I don't want you to think that the only thing which is in the Hudson River is PCBs. If you look at the reports that are available you will find that there are other materials waste products which are there. The chemical of concern is PCBs, but the law of the state of NY talks of Hudson River spoils. The site can not be used as a municipal dump site and no waste can be trucked in from elsewhere.

**Merrilyn Pulver:** Do you have a copy of that law, could we have a copy?

**Bruce Bentley:** Will you be at the Oversight Committee meeting next week - we'll bring you some copies.

**William Bradley:** A little into the philosophic of this thing. We have reached a level where we do not trust each other's intellectual honesty. Doug (Tomchuk) mentioned that you did not trust G.E. to do a study because they had too much at stake. I think that there are good honest men and women who will do a good job regardless of their own feelings.

**Doug Blazey:** Let me just clarify the reasons, and there are a number of them, why we decided to do this study, and they are complicated. It was not just that G.E. had too much at stake or had a position. We also felt that the community, the state and an awful lot of people had an interest in this. And even if G.E. did an absolutely spectacular job, there would still be a lot of people out there that just wouldn't believe it; and we thought it was important that the public have trust in the result, and we would therefore take that work upon ourselves.

**William McCabe:** I'd like to clarify one thing that Carl said regarding the 1984 ROD. It was an interim decision as Doug pointed out, I have it in front of me and this is what it says: the lack of sufficient data to establish the fate and transport of PCBs in the Hudson River prevents the agency from making a final decision of no action. It does not say that there was no risk.

Mr. McCabe then turned the meeting over to Ms. Rychlenski.

**Bridget Barclay:** I just want to point out that regarding correspondence - this letter to the state in which Carl Deppe signed himself as the co-chair of the Environmental Liaison Group - I just want to go on the record in stating that the Environmental Liaison Group never discussed the issue, and that while I respect Mr. Deppe's opinion as an individual, it does not represent the opinion of the Environmental Liaison Group.



Ms. Rychlenski then went on to the next agenda item, a report on Phase 2 Field Activities by Al DiBernardo of TAMS, Inc.

**Mr. DiBernardo:** Since we're talking about history - originally when we went into this project, we went in with somewhat of a bias about doing additional sampling. People had felt that there was so much available that maybe we wouldn't have to do it. One of the reasons we went through Phase 1 was to determine if additional sampling was needed. Well, we have gone through Phase 1 and we have determined that additional sampling is needed. Maybe not for the reasons cited here tonight, but for other reasons. Phase 2A is the second part of that sampling. The hallmark of Phase 2A is the side scan sonar work, second is high resolution coring and third is water monitoring. We'll start with the first one - side scan sonar work. Let's call it geophysical work which consists of three techniques, side-scan sonar, bathymetry and sub-bottom profiling. Sub-bottom profiling is determining in the river what exists below bottom. From samples that we take in the river we'll be able to correlate the hardness we get with the types of sediment in the river to determine what exists with depth.

The bathymetry is a means of determining what the elevation of the bottom of the river is. It will give us depths below water level and that information can be used in any modeling we do of the river - sediment transport and hydraulic modeling. Side scan sonar is a torpedo that has elements that shoot out waves from the side of this torpedo that give you a picture of the bottom of the river. A picture in that it shows you where the different textural classifications are, where the obstructions in the river may be, where the rock may be.

We began side scan sonar work in the middle of December and ended at Christmas for about half of what we had hoped to do because of the bad weather. We've virtually done those three geophysical techniques for the Thompson Island Pool. At the end of each day we took the electronic data and put it into a network to get a picture of the bottom of the river. We will go back out in the spring to finish the work. The information will provide us with an air photo of the bottom of the river, a map of the bottom of the river so that we can learn what's at the bottom of the river. We're going to study it from a sedimentological point of view and tie that in to PCB deposition. We are also going to use that map to determine where we will take our samples. Before I go on, Darryl, you raised your hand.

**Darryl Decker:** I had a question about the upper areas of the Hudson - re: bathymetry. Aren't there changes in the river bottom over time? What you photographed today, is that going to be the same next year?

**Al DiBernardo:** That's right. It will not be exactly the same. The beauty of being able to go back in the spring after we have some flows and do that part of the river that we haven't done yet, we can also redo parts of the river that we have done - we can go back and determine what the changes of the bed elevation in the river are.

In the next month, hopefully, we will be starting on the coring in certain areas of the river, and we're going to be starting in the lower river. The high resolution cores we will start at the Battery and we will work our way up the Hudson River. And hopefully, we will be in the upper Hudson come spring. Now the type of analyses done on these high resolution cores will be far and above the types of analyses that are typically done on EPA superfund sites. They are congener specific analyses, in addition to the normal procedures that the agency normally utilizes, we've added another layer of quality to insure that we get the kinds of result that will be compatible with our study. That work will begin in February and will be done by Lamont-Doherty Geological Observatory with TAMS and Gradient under the direction of Dr. Richard Bopp and with Dr. James Simpson. Two of the foremost people on Hudson River sediments, specifically PCBs in Hudson River sediments.

The water column sampling will begin around the same time that we begin the high resolution coring. As a result of our Phase 1 studies we all realize that something is going on just north of Rodgers Island, and something has just happened just north of Rodgers Island, i.e., we have just capped four remnant deposits. We are very much interested in getting that information. Seven water sampling events at 10 stations along the upper Hudson, between Glens Falls and Troy Dam. We would like to have our first event during the calm period this winter and then a couple of events during the spring run off and then stage a couple of events throughout the year.

2B will be the next document that you review. We don't have a schedule for that yet, but we are proceeding with preparing that and that will have additional elements of work.

**Doug Tomchuk:** Just for your information the Phase 2B sampling plan is coming out with the Phase 2 Workplan and should come out at the same time as the Responsiveness Summary. This way we can answer all the questions on Phase 1 on the direction of the project and at the same time outline where we propose to go from there. That will undergo the full review procedures.

This concluded Mr. DeBernardo's presentation, at which time Ms. Rychlenski proceeded to go on to some general "house keeping" issues with regard to Liaison Group functions.

Ms. Rychlenski reminded the Chairs and Co-Chairs of an upcoming meeting of the Hudson River Oversight Committee in Poughkeepsie, NY at 6:00 P.M. on Tuesday, January 21, 1992 which would be attended by EPA's Regional Administrator, Constantine Sidamon-Eristoff. Ms. Rychlenski added that pursuant to a letter sent to the Liaison Group members, they should prepare a presentation of no more than 15 minutes duration to be given before the Regional Administrator at that meeting.

Regarding correspondence - Chairs and Co-Chairs must copy correspondence to Ms. Rychlenski and Mr. Tomchuk. Anything signed off on by Chairs or Co-Chairs on behalf of the Liaison Groups themselves must be copied to the group membership, via a mailing that Ms. Rychlenski will execute, as has been done in the past. She reiterated that while some Liaison Groups are meeting, others are not, and that it is imperative that the group members know what it is that their officers are sending out under their banner.

Also on the matter of sharing information - Bridget Barclay mentioned that she was not copied on the letters sent out to NYSDEC and to Governor Cuomo and EPA's Regional Administrator by the other Chairs and Co-Chairs of the various Liaison Groups - Ms. Rychlenski emphasized that it is the responsibility of the Liaison Group officers to share information with each other regardless of opposing viewpoints or lobbying efforts.

**Ann Rychlenski:** We all knew that this was a group of highly divergent opinions, that's why we brought people together. We're not kids, no one said that we all have to agree with each other. And we can't go around cutting each other out of it, we have to share all of the information, that was the original premise of this group - that we would all share all of the information with each other at the same time so that there would never be any accusations that one group or one constituency was being favored over another. I think it's very important that we all adhere to that original premise that we be honest with each other. For now, let's consider this an oversight, but from now on we must continue to do things in a fair fashion.

Regarding the press conference mentioned earlier by Darryl. That's something else that we (EPA) found out second-hand. I don't have a problem with anyone calling a press conference. If you want to call a press conference as Darryl Decker, Supervisor of Washington County, or as any private citizen, Clearwater, CEASE, I have no problem with it, it is your constitutional right to say whatever you want about this program. But when you send out the release under the banner of Chairman of the Governmental Liaison Group, under this program, can imply EPA sanction of that press conference. And not only was there no sanction, we didn't even know about it. So from now on, if you want to do it, please do not use the umbrella of the C.I.P.

Carl Deppe took issue with this, stating that he felt the officers had the right to call a press conference using their titles. Ms. Rychlenski reiterated that the umbrella of EPA's C.I.P. could not be used as it implied EPA sanction of the event and that no further discussion of this would be entertained.

Bridget Barclay took issue with Carl Deppe's defense of the press conference issue and also of his signing off on the press release as Environmental Liaison Group Co-Chair. Ms. Barclay felt that this sign-off implied the sanction of this particular opinion by the entire group, when in fact, the Environmental Liaison Group had not met recently on this issue or any other and therefore, could not have knowledge of Mr. Deppe's opinions.

Ms. Rychlenski stated that the real issue at hand was not how letters were signed, but that the group membership at large was not being kept informed of what their officers were promulgating on their behalf. It was once again stated that the entire membership must be copied on letters sent out by their officers, so that if there is a difference in opinion it can be clearly seen and option for rebuttal made available.

**Darryl Decker:** A question for Al, this Dr. Richard Bopp, is he a former member of the Project Sponsor Group?

**Al DiBernardo:** I know that he was member of DEC, but as for the Project Sponsor Group, I don't know - someone at DEC would have to answer that (Dr. Bopp's membership of the PSG was at this time confirmed by John Durgosits of DEC).

**Merrilyn Pulver:** Would it be possible at a future Steering Committee meeting to have G.E. present their comments to the Phase 1 Report, so that we can ask them questions.

**Ann Rychlenski:** Part of this program has always been the option that members of this group can have outside individuals come in to give presentations to this group or HROC. I don't have a problem with that. In addition, our newsletter will be deferred to the spring since we have not gotten any contributions to it. There are lots of thoughts and opinions flying around this place, so if you want to sound those views out, you have a perfect vehicle in our newsletter. I'm sure you noticed that our newsletter is completely uncensored - the way the articles came in is the way they went out - no blue pencil - so get writing.

**Carl Deppe:** I have one last question. What does it mean that people from outside the Liaison Group being sponsored, I don't quite understand that.

**Ann Rychlenski:** Well, for instance, Merrilyn just brought up G.E. - G.E. is not part of the Liaison Groups, however, if someone who is a member feels that they have something important to say to this group and that we may want to question them about their information, they may sponsor them. Merrilyn would in effect, be sponsoring G.E. That's what that whole program was set up for. There may be a great number of individuals from outside the immediate sphere of the Liaison Groups, the academic world, the scientific world, the business world, the environmental world, the legal world that may have thoughts or information that you feel they should share with this group, with EPA or with HOC, you can sponsor them to appear and present. This same thing applies to the upcoming Oversight Committee.

**Doug Tomchuk:** Ann, can you just go over it again in how it would work for the Oversight Committee.

**Ann Rychlenski:** It functions on the same premise. If anyone from the Liaison Groups feel that there is someone who has important information, technical or otherwise, that it would be important for the Regional Administrator to hear, in relation to this Reassessment, they may sponsor that individual to give a presentation to the Hudson River Oversight Committee at the meeting on the 21st. Bear in mind that individual gives the presentation on behalf of the group that is sponsoring them, and that presentation would cut into the time frame of each group being given 15 minutes.

**Tom Borden:** When can we expect to see the Phase 2 Workplan?

**Doug Tomchuk:** It's going to be somewhere around the end of February.

**Al DiBernardo:** I don't think that that's going to be it, I don't think it will be out by then.

**Tom Borden:** When will we have our next meeting?

**Ann Rychlenski:** We thought that our next meeting should be a joint Liaison Group meeting, we haven't had one where we've gotten everyone together since July. I think it might be a good idea to have one like that next so that everyone can see what's going on. We should do that at least two to three times a year.

Ms. Rychlenski adjourned the meeting at approximately 10:30 p.m.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

JACOB K. JAVITS FEDERAL BUILDING

NEW YORK, NEW YORK 10278

HUDSON RIVER PCBS SUPERFUND SITE REASSESSMENT  
Community Interaction Program

STEERING COMMITTEE MEETING

Wednesday, January 8, 1992  
7:00 p.m.

Holiday Inn, Latham, New York

A G E N D A

Welcome & Introduction

Ann Rychlenski, Steering  
Committee Chair,  
U.S. EPA, Region 2

Reports on Liaison Group  
Activities & Meetings

Liaison Group Chairs and  
Co-Chairs

Discussion of Questions Raised  
at Last Steering Committee Meeting  
Regarding NYSDEC Planned  
Activities at "Site 10"

William McCabe, Deputy  
Director, NY/Caribbean  
Programs (Superfund)  
U.S. EPA, Region 2

Report on Field Work and  
Phase 2A Sampling

Al DiBernardo, TAMS  
Consultants, Inc.

Action Items for Upcoming  
Hudson River Oversight Committee  
Meeting and Closing Items

Ann Rychlenski

Also attending for U.S. EPA, Region 2:

Douglas Blazey, Regional Counsel  
Paul Simon, Chief, NY/Caribbean Section, Office of  
Regional Counsel

Attending for New York State DEC

Charles Dworkin, Assistant Counsel  
John Dergosits, Project Sponsor Group Member

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**U.S. EPA HUDSON RIVER REASSESSMENT PROJECT**

**COMMUNITY INTERACTION PROGRAM**

Questions raised by members of the Steering Committee regarding  
NYSDEC planned activities at "Site 10"

1. Why participate in the extensive Community Interaction Program that EPA has designed for the Reassessment if in fact public input will not have an impact and DEC will dredge no matter what EPA's ultimate decision is?
2. In a question of ultimate jurisdiction, if EPA's decision on a federal level is a remedial alternative other than dredging, does DEC have the authority to proceed arbitrarily with the Project Sponsor Group's dredge project?
3. Since DEC is actively participating in the reassessment process, will DEC abide by the EPA decision if it is other than a dredging decision?
4. Are federal permits (EPA, Army Corps) being processed for the Project Sponsor Group's effort before the reassessment decision under Superfund can be made (i.e., TSCA, wetlands, etc.)?
5. Are DEC's costs reimbursable if these contract funds for site 10 are being spent prior to EPA's making a decision as part of the Reassessment? Are the funds reimbursable at all?

Steering Committee Questions Re: NYSDEC

page 2.

6. Is there anything EPA can do to stop DEC from proceeding with its activities pertaining to the development of Site 10 until the completion of the Reassessment?

HUDSON RIVER PCB REASSESSMENT RI/FS  
STEERING COMMITTEE MEETING  
ALBANY, NY  
JANUARY 8, 1992

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HUDSON RIVER PCB REASSESSMENT RI/FS  
STEERING COMMITTEE MEETING  
ALBANY, NY  
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Carl Weppe	CEASE
Kathie DeGroot	Citizen Union Group
William Bradley	Farm Bureau
Harry Kypish	Agriculture Committee
Tom Bush	Ag Liaison Comm.
Marylyn Pulver	Ag Comm.
Rick Grant	ag
Kath H. Cobb	Covenant
Bridget Barclay	Cleanwater

HUDSON RIVER PCB REASSESSMENT RI/FS  
STEERING COMMITTEE MEETING  
ALBANY, NY  
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