

EPA Housatonic Citizens Coordinating Council Meeting

Berkshire Athenaeum
One Wendell Avenue
Pittsfield, MA

September 29, 2010
5:30 to 7:30 pm

Final Meeting Summary

Participants: The list of participants is included in Attachment 1.

Introduction

Patrick Field, Facilitator, Consensus Building Institute, opened the meeting and reviewed the agenda.

Jim Murphy introduced U.S. Environmental Protection Agency (EPA) Regional 1 Administrator, Curt Spalding, who was appointed to the position in December 2009. Mr. Spalding provided an overview of his environmental work history, including his role as Executive Director of Save the Bay in Providence Rhode Island where he worked on PCB and ecosystem and restoration issues in Narragansett Bay. He expressed his deep appreciation for the sacrifices, time, and energy that citizens give to help EPA to accomplish the work that it does, and he thanked CCC members for their dedication to the Housatonic River. He explained that he knows this region well and believes that the people who live here make the Berkshire region as nice as it is.

Mr. Spalding noted that the Housatonic River clean up is approaching a period of increased activity, and that EPA aspires to do this work well. He added that he knows that there are diverse and closely-held perspectives about how the clean up should proceed, and EPA aspires to find the sweet spot, or the spot that reduces risk and also protects the value of the river. He added that EPA would listen to and engage the community, while noting that the community might not fully agree with the final outcome or decision. He expressed his commitment to setting a standard for listening to the community in the coming months.

The Committee reviewed the April 28, 2009 meeting summaries. A CCC member noted that her question about PCBs had been omitted. The CCC approved the meeting summaries with the correction.

Update on Remediation Projects in Pittsfield

Dean Tagliaferro, On-Scene Coordinator, EPA, provided updates on several remediation projects. He explained that there are twenty Removal Action Areas (RAAs) in the Upper ½ Mile Reach and 1 ½ Mile Reach. Remediation has been substantially completed in sixteen RAAs, the Upper ½-Mile Reach and 1½-Mile Reach, and that EPA has issued certificates of completion to GE for eleven RAAs. His presentation and a site map can be found on the EPA GE-Housatonic River website at:

<http://www.epa.gov/NE/ge/publiceventsandmeetings.html>

East Street Area 2: South

Remediation is underway and will include removal of 20,000 cubic yards (cy) of material and installation 4.8 acres of engineered vegetated barrier. He explained that this work is expected to be completed in summer 2011.

Silver Lake & Riverbank Restoration

Dean explained that EPA expects a revised remediation plan for sediment and bank cleanup around Silver Lake from GE November 8, 2010. The remediation is intended to begin 2011. He provided a map with the Silver Lake walkway and tree-planting plan.

Dean explained that Western Massachusetts Electric Company (WMECO) installed a fixed solar panel array on their property and on a small portion of the abutting PEDAs property. WMECO requested a modification to the tree-planting plan currently proposed for the north side of the lake adjacent to the walking path. The Consent Decree currently prescribes native tree species that can grow to 80-100 feet. WMECO, which has title to a portion of the riverbank, has requested that replacement trees be native species that grow to less than 20 feet tall. The City of Pittsfield, PEDAs, EPA, DEP, GE and the Trustees discussed options and agreed on a modification to the planting approach would be okay. A CCC member asked whether this would require a modification to the Consent Decree (CD). Dean noted that this change may require a modification to the Consent Decree, and if this were to happen, EPA would send the CCC the draft modification. Tim said EPA would check on that.

A CCC member asked if there will be air monitoring stations for volatilization of PCBs. Dean explained that there will be monitoring during remediation, but not after remediation is complete.

Unkamet Brook West

GE submitted a final cleanup plan to EPA in July 2010, which EPA is currently reviewing. The remediation is anticipated to begin in 2011.

Unkamet Brook –Remainder

GE is expected to submit a final cleanup plan to EPA on November 19, 2010. The plan may need revisions, and remediation is likely to begin in late 2011 or 2012.

A CCC member asked if there would be a public comment period on the Unkamet Brook cleanup plans. Dean responded that informal comments are welcome on any document. He explained that it will take EPA and MA DEP at least 45 days to review the work plan and that public comments will be considered during the review.

Floodplain Residential Properties Downstream of the Confluence

Dean explained that the Consent Decree provides for a cleanup standard of two parts per million (ppm), and that sampling and remediation, if needed, will be done on properties downstream of the confluence to meet this standard. There are 36 properties - eight between the confluence and Woods Pond and 28 below Woods Pond; the list of parcels is in GE's Pre-Design Investigation Work Plan which is available on EPA's website. He noted that sampling has not commenced yet. Once the plan is approved, property owners will receive a notice about the plan moving forward. All properties will be investigated, but there may not be PCBs on all the properties and not all properties will require remediation. A CCC

member commented that as a homeowner with PCBs on his property, he feels that it is an injustice for all property owners who have PCBs below the two ppm threshold, but high enough that it must be disclosed, and will lower the value of the property.

Monitoring

Dean explained the monitoring program planned for remediated sites. He responded to a question about Newell Street monitoring, which will include GE site inspection for erosion, grass cover, and tree survivability. The monitoring would not include soil sampling. He explained that different sites have different monitoring requirements, and that generally remediation that includes re-vegetation requires monitoring for two years and five years on floodplain properties. Dean explained that engineered barriers are monitored from the surface. EPA also monitors groundwater around the sites and wells on all parcels are monitored under a separate monitoring program.

A CCC member questioned how human health protection is ensured if there are no soil samples. Dean explained that each remediation is based on performance standards, and if performance standards have been met, then the project is considered complete.

A CCC member questioned if EPA issues GE a Certificate of Completion for a site, does it release GE from future liability on that site? Tim Conway, Senior Enforcement Counsel EPA, explained that once a Certificate of Completion is issued for a site, GE does get a liability release for the soil on the property however, GE could be held liable if one of the reservation of rights in the CD is enacted or if EPA requires more work to address a new condition or new information. A CCC member questioned what would happen if in a decade, barrels released more of their contents. Tim explained that with a Certificate of Completion, GE is not relieved of liability for groundwater.

Dean affirmed that EPA issues “comfort letters” to owners of remediated properties.

A CCC member questioned recent excavation work done by a property owner on a site under the CD. Dean explained that the property owner does have a letter from EPA that outlines requirements for soil removal and that the Pittsfield Conservation Commission does has a list of properties with those requirements. However, the Pittsfield Conservation Commission apparently approved the excavation work without knowing that it was under the CD. CCC members questioned the process and collaboration between EPA and the Conservation Commission that would allow such activities to happen despite the known risks.

A CCC member asked about a residential property listed in Appendix T of the Consent Decree and believed that the property was not remediated by GE. The CCC member requested EPA follow up on this. Dean agreed to look into this issue further.

A CCC member questioned what would happen to owners of contaminated properties with wells or sump pumps. Dean responded that he is not aware of sump pumps in the CD area other than in Lakewood, which may fall under the jurisdiction of the MA DEP. A CCC member noted that this is an issue that should be investigated further because water does not follow jurisdictional boundaries and that there should be a coordinated effort between MA DEP, EPA, and Pittsfield, including the Board of Health, for addressing potential groundwater procedures in the area in and around the CD. Dean agreed to look into this issue further.

A CCC member questioned how outflow from Silver Lake into the Housatonic River is monitored. Dean explained that it is monitored monthly and that results are reported in GE's monthly monitoring report.

Rest of River

Susan Svirsky, EPA Project Manager for Rest of River, provided an update on the Rest of River status.

She explained that GE will submit a revised Corrective Measures Study (CMS) on October 12, 2010, which includes the evaluation of seven flood plain/sediment combinations which span the range of alternatives, and also individual evaluations of 10 sediment and 9 floodplain alternatives. There will be a 30-day public input period on the document, which will be posted to EPA's website. EPA will put the public comments into the administrative record.

Susan also explained that EPA is seeking input from stakeholders on remediation and river restoration and will host a visioning charrette in early 2011. EPA is in the process of identifying a consultant to facilitate the charrette and to conduct a situation assessment, which will inform the planning for the charrette. The charrette will give EPA an opportunity to listen to stakeholders' visions about the remediation and restoration of the Rest of River. A CCC member requested that EPA and GE organize a public forum in which they present their cleanup proposals and to discuss disposal options given the Commonwealth's Area of Critical Environmental Concern (ACEC) designation. The CCC member suggested that these meetings be conducted in a familiar format, such as a town hall meeting. Susan assured that both towns and the public will have opportunity to submit public comments. She explained that a final decision about Rest of River would likely be made in approximately a year, after sufficient public input.

Eva Tor, MA Department of Environmental Protection (DEP), commented that MA DEP and other state agencies are actively involved in EPA-lead activities, and that state agencies continue to provide written comments and advice to EPA on the cleanup.

Presentation on the Restoration of the Vernal Pool in the 1½-Mile Reach Floodplain

Susan Svirsky, EPA Project Manager for Rest of River, made a presentation on restoration of the vernal pool in the 1½-Mile Reach Floodplain upon the request of a CCC member. She noted that the technical expert who was scheduled to make this presentation could not attend the meeting due to a family emergency, and that she could provide an overview of the process. Her presentation can be found at: <http://www.epa.gov/NE/ge/publiceventsandmeetings.html>

She explained that EPA believes vernal pool restoration, when done correctly, can be done well. Susan explained the characteristics and functions of vernal pools, which are variable, seasonal water bodies, defined by their lack of connection to a water body and as breeding habitat for a number of amphibians. She explained that Massachusetts vernal pool certification requirements may be fulfilled by two methods: 1) Presence of obligate species and lack of obvious connection to water body; 2) Evidence of breeding by two or more facultative species, lack of obvious connection to water body, and evidence of no reproducing fish population.

Susan explained that in the Rest of River area, EPA conducted an ecological risk assessment, which

included: evaluating breeding habitat/success from Confluence to Woods Pond Dam (1998-2000); identifying vernal pools and backwaters suitable as breeding habitats; looking at 45 pools meeting requirements for MA NHESP certification; and collecting additional data collected from target pools for the 1999 Amphibian Reproductive study. She responded that EPA has GPS locations on the areas of study.

A Vernal Pool near the Confluence (8VP- 1) was identified and evaluated during the Ecological Characterization and other amphibian studies. However, this pool fell within the boundaries of the 1½-Mile Reach cleanup. Remediation and restoration of the pool was performed by GE during their 1½ - Mile Phase 4 Floodplain Property cleanup. Susan explained that data on the pool was evaluated before and after the remediation with field surveys done by EPA, GE, and licensed surveyors. EPA found indicators of success in the vernal pool after restoration. Susan also explained that EPA believes that there is a solid history and documentation of vernal pool restoration successes. She added that there are also restoration failures, and that EPA views the keys to success to include:

- History of river and flood plain
- Good documentation of existing conditions
- Establishment of performance objectives and standards
- Cleanup plan tied to restoration plan
- Supervised planning and implementation
- Implementation of invasive species control measures
- Monitoring performance against standards

Susan responded to the following questions:

- *Is anything known about the frequency of species?* EPA does not have data on species frequency after late July 2010.
- *What are the monitoring requirements?* Five years, through 2011.
- *Is this a successful breeding pool?* It is successful in EPA's opinion.

Dr. Aram Calhoun, University of Maine biologist, offered her opinion on the restoration of 8-VP1 based on her research on vernal pools and visit to the site. She questioned the measures of success presented by EPA. She explained that a scientific measure of success is total recruitment and noted that study of the restored vernal pool did not indicate total recruitment. She added that you would need more time, five years or so, to be able to evaluate the success of the vernal pool based on this standard of success. She added that when she visited the vernal pool, she noted the presence of algae, which indicates that the pool has an open canopy. She explained that when a pool is open, the food web switches from low species habitat to more dense habitat, which cannot support obligate species.

Dr. Calhoun added that studies that report on successful vernal pool restoration were done in California, and studies have not demonstrated target species revival in New England's environment. She commented that the current pool is not a success. She and others responded to the following questions and comments from CCC members:

- *Will the Rest of River only address certified vernal pools or areas that you think are vernal pools?* Susan Svirsky responded that this decision has not been made yet.
- *At what age do spotted and wood frogs become sexually active?* Dr. Aram Calhoun responded at 2 years for males, 3-5 years for females.

- Dr. Aram Calhoun clarified that her understanding is that the vernal pool was active before the restoration and that her comments focused on restoration data presented to her by GE. *A CCC member suggested that the vernal pool may not have been viable to begin with due to the PCB contamination. Another CCC member commented that it is disingenuous of GE to claim that the pool was viable to start with without adequate data.*
- *A CCC member commented that this is a core issue to the restoration and that further data analysis and discussion would be necessary.*
- *A CCC member asked Dr. Aram Calhoun if she was a GE consultant? Michael Carroll, GE, affirmed that Dr. Aram Calhoun and her University of Maine colleagues in the audience are GE's consultants. Dr. Aram Calhoun explained that she has published extensively on vernal pools and that her work is peer-reviewed.*
- *If the pool is now an open pool instead of canopy pool, is this an indication that GE did not perform its job correctly? Dr. Aram Calhoun explained that she cannot comment on the quality of the work. She noted that the canopy could have changed naturally or been altered by humans.*
- *What are safe level of PCBs in vernal pool? Dr. Aram Calhoun commented that she did not know what safe levels of PCBs are. She noted that she knows that there are viable amphibian populations in river now. Susan Svirsky added that there are peer-reviewed studies that EPA performed that demonstrate significant amphibian malformations, developmental issues, and abnormalities due to PCB exposure.*
- *A CCC member commented that we owe it to our children to make short term sacrifices for long term greater good.*
- *Who is collecting post restoration data? Susan Svirsky responded that GE is required to do some data collection, for example data collection on obligate species once a year for the duration of the monitoring. EPA is also collecting data.*
- *A CCC member observed that it sounds like pools were evaluated using MA state standards for successful vernal pools and questioned if the standard is sufficient given changes that can occur in vernal pools over time. Dr. Aram Calhoun commented that it is hard to restore vernal pools over time, noting that the assumption that we can create vernal pools is not correct.*
- *What do we do with this data? How do we proceed? Susan Svirsky responded that EPA is required to look at a lot of factors and that a cleanup decision will need to balance those factors.*
- *A CCC member recommended that the Division of Fisheries and Wildlife, Audubon, and other credible third parties with knowledge of PCB impacts review the data. Susan Svirsky agreed to email the links to EPA's data.*
- *A CCC member thanked Dr. Aram Calhoun for presenting and commented that in their opinion the standards for success are not adequate.*

Proposed Consent Decree Modification for EPA and GE to Reconcile Costs for the 1 ½ Mile Reach Removal Action

Tim Conway, EPA, explained that in September, CCC members received a proposal from EPA on a modification to the CD. He explained that the 1½-Mile Reach remediation, which was completed in 2007, was unique because of the cost-share set up between EPA and GE. There were four annual incremental payments, and when EPA realized that those payments were not sufficient, EPA asked GE for additional funds. EPA proposes to modify the CD to reconcile the cost share. EPA and GE have agreed on funding amount and language for the CD modification. GE will make a one time payment of \$790,000 to EPA and the parties will set up a process to reconcile costs on annual basis. There will be

no state or local costs. EPA has consulted with the Commonwealth of MA, PEDA, Pittsfield, and the State of Connecticut, and no objections have been raised.

Update on Documents in the Berkshire Athenaeum Public Repository

Dean Tagliaferro, EPA explained that in the summer 2010, EPA received a call from the librarian of the Berkshire Athenaeum that the repository was overcrowded. EPA removed 360 documents relating to already-completed cleanups. EPA ensured that there are still reports in the repository that summarizes all cleanup activities. The CCC was notified of this action by email. EPA's belief is that electronic media is the best format storing all documents, since the library repository has very little use. EPA is committed to maintaining a complete record of documents on its website and will keep hard copies in the Athenaeum of select key documents.

A CCC member commented that EPA made arbitrary decisions about removing documents from the repository and commented that it would have been nice to know about the decision beforehand. The CCC member noted that Housatonic River Initiative offered to house the repository and that there are citizens who do not use electronic media. Dean responded that there is a back up of the documents on EPA's website. Dean agreed to update the CCC on the disposition of documents and to convene a conference call of interested parties to discuss the issue further.

Update on MA SubCouncil Round 2 Draft Restoration Plan and Supplemental Environmental Assessment

Karen Pelto, MA SubCouncil of the Housatonic River Trustee Council introduced herself as the new representative on the CCC. She provided a brochure on the Round 1 projects (approximately \$4 million have been allocated since 2007). She added that there will be Round 2 funding of approximately \$1.3 million and that the SubCouncil has 5-12 project proposals recommended for funding. She expects additional information on the final plan and implementation to be available in Fall 2010.

Planning for Future CCC meetings

Patrick Field, facilitator agreed to check on dates for an additional CCC meeting in January, after the GE's CMS document is submitted. CCC members suggested that the meeting be held in South County. Kate Harvey, CBI explained the agenda development process, which includes soliciting agenda items from all CCC members. Patrick Field suggested discussing an agenda planning processes to ensure that CCC members have opportunities to add items to the agenda and to ensure equal opportunity for speakers and presenters.

Public Comment Period

There were no public comments.

The meeting adjourned at 8:30 pm

Action Items

<i>ITEM</i>	<i>WHO</i>
Finalize and post April CCC meeting summary	CBI/EPA
Follow up on sump pump questions	EPA/DEP – see notes above
Identify local well ordinances	EPA– see notes above
Follow up on question about residential property work for property referenced in Appendix T of CD.	EPA– see notes above
Follow up on question about need for Decree modification for planting changes at Silver Lake	EPA – see notes above
Coordinate next CCC meeting	CBI
Coordinate repository conference call	EPA
Clarify agenda development process	CBI

**EPA Housatonic Project Citizens Coordinating Council
Attendance September 29, 2010**

Name	Organization	Email Address	Attended
<i>Members</i>			
Valerie Anderson	Hous. Clean River Coalition	Vander4@verizon.net	X
Thelma Barzottini	Citizens for PCB Removal		X
Barbara Cianfarini	Citizens for PCB Removal	bcianfar@hotmail.com	X
Michael Carroll	GE	Michael.carroll@corporate.ge.com	X
Gene Chague	Trout Unlimited; Berkshire League of Sportsmen	JG_Chague@hotmail.com	X
Jeff Cook	Downtown Pittsfield	jcook@cohenkinne.com	X
Shep Evans	Hous. Valley Association	shepevans@yahoo.com	X
Sarah Flynn	Hous. Clean River Coalition	ethansarah@verizon.net	
Lynn Fowler	Housatonic River Commiss.	lynnfowler@att.net	X
Benno Friedman	Sheffield	Benno2@verizon.net	
Tim Gray	Hous. River Initiative	housriverkeeper@verizon.net	X
Judy Herkimer	Hous. Env. Action League	healct@snet.net	X
Bill Hines	PEDA-City of Pittsfield		
Charles Kilson	Schaghticoke Tribal Nation	Cekemt731@earthlink.net	
Rene Laubach	MA Audubon	rlaubach@massaudubon.org	X
Andrew Madden	MA Dept. for Fish & Wildlife	Andrew.madden@state.ma.us	X
Caleb Mitchell	Pittsfield.		
Dan McGuinness	NW CT Council of Govts.	Nwccog1@snet.net	
Susan Peterson	CT DEP	Susan.Peterson@ct.gov	X
Dennis Regan	Housatonic Valley Assoc.	dregan@hvatoday.org	
Andy Silber	GE	Andrew.silfer@ge.com	
Susan Svirsky	U.S. EPA	Svirsky.susan@epa.gov	X
Eleanor Tillinghast	Green Berkshire	etillinghast@greenberkshires.org	X
Eva Tor	MA DEP	Eva.tor@state.ma.us	
Dean Tagliaferro	U.S EPA	Tagliaferro.dean@epa.gov	X
Jane Winn	Berk. Envir. Action Team	jane@thebeatnews.org	X
Karen Pelto	MA Natural Res. Trustees	karen.pelto@state.ma.us	X
John Ziegler	MA DEP	John.Ziegler@state.ma.us	X
<i>Alternates</i>			
Audrey Cole	HEAL	healct@snet.net	
Tim Conway	U.S. EPA	Conway.tim@epa.gov	X
Dick Gates	GE	Richard.gates@corporate.ge.com	X
Dave Gibbs	Housatonic River Initiative	Dgibbs@verizon.net	
Samantha Lefenfeld	Housatonic Valley Assoc.	slefenfeld@hvatoday.org	
J.Connell	S.Berk. Chamber of Comm.	Jennifer@clarkandgreen.com	
Michael Makes	Pittsfield Cons. Comm.	djtjrinc@berkshire.rr.com	

Gayle Tardif-Raser	Mass Audubon	gtraser@massaudubon.org	
Joanne Flescher	Mass DEP	joanne.flescher@state.ma.us	X
Alison Dixon	HVA	adixon@hvatoday.org	X
George S. Wislocki	Green Berkshire	agwislocki@gmail.com	X

Additional Attendees

Mike Argue	Weston Solutions, Inc
Dave Avery	Chamber of Commerce
Jay Baver	MA Fish and Wildlife Board
Rob Brooks	Penn State University
Aram Calhoun	University of Maine
Jamie Campbell	citizen
Scott Campbell	Weston Solutions, inc.
Rich Cavanero	EPA Region 1
Rob Cianciarulo	US EPA
Tom Czelusniak	Weston Solutions, Inc
George Darey	
Rich DiNotto	The Isosceles Group
Alison Dixon	HVA
Kate Harvey	Consensus Building Institute
Kim Herkimer	HEAL
ML Hunter	University of Maine
Patrick Field	Consensus Building Institute
Kathy Kessler	HRI/BEAT
Rich Fisher	US PA
Elaina LaBella	HVA
Scott LaGrecca	Berkshire Museum
Rob McLaren	GE
Kevin Mooney	GE
Kevin Munney	US FWS
Jim Murphy	EPA Region 1
Harold Nelson	stakeholder
Laurie Norton Moffatt	Corporate Abutter, Citizen
Thomas Potter	MA DEP
Steve Robillard	Citizen
David Rooney	Berkshire Economic Development Corp

Curt Spaulding	EPA Region I
Laura Quinn	Consultant
Nate Winstanley	Lenox resident
Izabela Zapisek	Weston Solutions