

EPA Housatonic River Citizens Coordinating Council (CCC)

Lenox Town Hall Auditorium
6 Walker Street
Lenox, Massachusetts

March 2, 2011
5:30-7:30 pm

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.

The US Environmental Protection Agency (EPA) Housatonic River Citizens Coordinating Council (CCC) reviewed the September 29, 2009 meeting summary. The CCC approved the meeting summary.

Additional Requests for Membership to the CCC

Patrick Field reviewed the guidelines for CCC membership in the CCC operating protocols. He explained that the operating protocols call for diverse representation of interest groups from all or most segments of the communities impacted. He added that EPA, in consultation with the facilitator and the CCC, would invite members to achieve a balanced group of participants from a cross-section of the affected public interests. Patrick noted that the facilitators had received membership requests from five individuals:

- Michael Supranowicz, President, Chamber of Commerce of the Berkshires
- Jerry Burke, President & CEO, Hillcrest Educational Centers, Inc.
- Michael P. Daly, President & CEO, Berkshire Bank
- Sean A. Gray, Executive VP, Retail Banking, Berkshire Bank
- Charles Urquhart, Norman Rockwell Museum

Several CCC members questioned why the proposed members did not attend the current or recent past CCC meetings. Several CCC members commented that they would like to understand why the proposed members are interested in the CCC. A CCC member explained that their own early experience with the CCC was confusing and that the proposed members may not have known that they should come to the meeting. Several CCC members noted that they would welcome hearing additional perspectives on Housatonic remediation issues. CCC members suggested that proposed members be invited to come to a CCC meeting before making a final decision on membership.

Update on Dam Removal

A CCC member requested an update on MA Audubon's Sackett Brook Restoration Project, including removal of the Gravesleigh Pond Dam. Rene Laubach, MA Audubon, explained that MA Audubon applied for NRD Round 2 funding from the Massachusetts SubCouncil,

Housatonic River Natural Resource Damage (NRD) Trustees for a project that includes removal of a 1930s era concrete dam and restoration of the brook. He explained that the NRD Trustees approved the project and subsequently, MA Department of Environmental Protection (MA DEP) selected the project for offsite mitigation in connection with the Pittsfield Airport project. Rene explained that sediment testing for PCBs was done around the dam. The same firm did the testing four times, at the same location, and at different times of year (October, December, summer, and spring). MA DEP representatives were on site for each sampling round and selected the locations to be sampled. The first round of testing found PCB levels of two ppm; the second, third, and fourth rounds were negative for PCBs. Rene explained that they are not sure why the first round of testing had PCBs, and that DEP has indicated informally that they are comfortable moving ahead with the project. He explained that funding for the project would come from either NRD fund or the City of Pittsfield.

CCC members had the following questions and comments:

- *When the Rising Pond Dam was renovated in the 1990s, the Connecticut DEP was not notified of the project in advance, and there was a large downstream transport of PCBs. Are the testing results available to the public?* MA DEP responded that the testing results are public.
- *Have there been migrating fish seen around the dam?* Rene noted that they have seen brook trout around the dam.
- *There was a request to have the Massachusetts Trustee representative provide an update at the next CCC meeting.*

Update on Remediation Projects in Pittsfield

Dean Tagliaferro, On-Scene Coordinator, U.S. Environmental Protection Agency (EPA), provided updates on several remediation projects.

East Street Area 2-South

Remediation is underway and will include removal of 20,000 cubic yards (cy) of material and installation of 4.8 acres of engineered vegetated barrier. He explained that this work is currently suspended due to the winter weather, however, work will resume shortly. The soil removal was started in July 2010 and is about 60% complete. The soil removal should be completed in summer 2011, and tree planting and site restoration will begin in September 2011. The work should be complete in late September/October 2011.

CCC members had the following questions:

- *Where is the soil being transported?* Dean explained that if the soil contains over 50 ppm PCBs and is not classified as hazardous, it is transported to a landfill facility in Model City NY. If the soil contains less than 50 ppm PCBs and is not classified as hazardous, it is transferred to a landfill facility outside of Rochester, NY. If the soil contains over 50 ppm PCBs and is classified as hazardous, it is transferred to a facility in Fort Arthur, TX for incineration. [EPA explained at the next CCC meeting that PCBs are not considered hazardous waste as defined in the federal RCRA regulation. PCBs are regulated under the federal TSCA regulation, not RCRA. If material contains PCBs above 50 ppm, they need to be disposed of in a TSCA-regulated hazardous waste facility. If they contain hazardous waste as defined by

RCRA, they go to RCRA-regulated hazardous waste facility. By stating that PCB waste is not regulated as hazardous waste under RCRA does not imply that the material is not 'hazardous".]

- *Why is some soil being incinerated?* Because some of the soil contains over 50 ppm PCBs, is hazardous waste, and has high levels of halogenated compounds, it is being incinerated.
- *What was the highest level of PCBs found in the soil samples?* It was over 1000 ppm.
- *Where there barrel remnants found in this area?* Yes, drum remnants were found. There were no intact drums, and the materials associated with the remnants found were tested and transported offsite. Most of the drums were filled with dirt and some contained other material. [EPA clarified at the next CCC meeting that the other material included solid pieces of debris, like trash and wood, as well as some materials that could not be identified. All debris was tested for hazardous materials; some of it tested positive and some did not. Anything that tested positive was shipped away.]
- *Any additional actions being considered for PCBs in homeowners' drains in that area?* Dean explained that the area with the drains is not in East Street Area 2-South, but rather in an area bounded by Newell Street, East Street and Fasce Place. There is overlapping jurisdiction in this area. MA DEP was the lead on certain items including soil testing and testing of basement sumps. GE performed the required activities and submitted a report to MA DEP. MA DEP reviewed the report and did not require additional work. EPA is the lead on groundwater and related indoor air issues. EPA is continuing to investigate groundwater.

Silver Lake

Dean introduced Dave Dickerson, EPA Project Manager for Silver Lake, who has worked on other PCB sites.

Dean explained that EPA received a revised remediation plan for sediment and bank cleanup around Silver Lake from GE and is currently reviewing that work plan. EPA is working with GE on modifying some issues, such as material sizing and specifications, and hopes to get a final work plan approved soon. The remediation is intended to begin in fall 2011 or winter 2012.

- *A CCC member asked why remediation of the Rest of River is proceeding if Silver Lake is still contaminated and flowing into the River.* Dean explained that Silver Lake and other outstanding projects are intended to be done before the start of Rest of River.

Other projects

Dean explained that the Massachusetts Department of Transportation (MA DOT) plan to widen East Street between East Area 2-South and the Pittsfield Economic Development Authority (PEDA) property; a project with areas that fall both within and outside the Consent Decree. MA DOT has proposed to sample materials from East Street.

- *A CCC member asked if MA DOT would be required to improve culverts?* Dean responded that he was not sure. He added that his understanding is that they plan to add new storm drain lines that will drain to the basin on the PEDA property.

- *A CCC member asked if such storm drain lines would violate MA Stormwater Regulations? Dean responded that he did not know, but assumed MA DOT would comply with the regulations.*

Rest of River Status and Process Going Forward

Susan Svirsky, EPA Project Manager for Rest of River, provided an update on the Rest of River status. Her presentation is found at www.epa.gov/ne/ge/publiceventsandmeetings/20110302/480300.pdf

She explained that GE submitted a Revised Corrective Measures Study (RCMS) to EPA on October 10, 2010, which provides GE's analysis of 10 sediment, 9 floodplain, and 5 disposal alternatives, and GE's recommended cleanup plan. EPA held an extended public input period on the document through January 31, 2011 and comments received are available on EPA's website. Susan added that the Berkshire Record published an article on the comments, however, at the time, not all of the comments had been received.

EPA is evaluating the alternatives in the RCMS considering input received from stakeholders and the 9 evaluation criteria specified in the RCRA Permit. She explained that the nine evaluation criteria include: EPA's general standards (overall protection of human health and the environment; control of sources of releases; and compliance with Applicable or Relevant and Appropriate Requirements (ARARS)) and Selection Decision Factors (long-term reliability and effectiveness; attainment of IMPGs (interim cleanup goals); reduction of toxicity, mobility, volume; short-term effectiveness; implementability; and cost).

Susan also explained that EPA is seeking input from stakeholders on remediation and river restoration and will host a visioning charrette in spring 2011. EPA hired a third-party consultant (Certus) who is conducting interviews with stakeholders and will use the information gathered to facilitate a series of mini workshops and a charrette. The charrette provides an opportunity for the public to interact with EPA regarding their views on the remedial alternatives and to develop an understanding of how EPA must make its decision. The charrette will be held during EPA's decision-making process. In addition to the charrette, as in the past, EPA will be available upon request to discuss issues of concern with stakeholders.

The three mini workshops, which will help to prepare stakeholders for the charrette, will address: 1) work that EPA has done in the past on the site 2) about the Housatonic River and 3) remediation and restoration. The mini workshops will be held April 5, 6, and 7 at Shakespeare and Company in Lenox, MA. The charrette will be held on May 7, at Shakespeare and Company, and will be an all day event with different technical presentations and exercises around visioning what remediation and restoration should look like. There will also be a summary session. The events will be taped and posted on the EPA website. EPA also hopes to work with local public access television channels.

- *A CCC member suggested that EPA should find a public venue that is ADA compliant. The CCC member added that Shakespeare and Company receives funding from GE. Susan noted that EPA looked for a public venue that could accommodate the space, capacity, and technical requirements needed, but could not find one. She added that Shakespeare and Company is ADA compliant.*

Susan explained the Remedy Selection Process, which includes:

- *EPA Internal Review/Decision-making* – Spring/Summer 2011. This comprises of EPA Region I “Management Review” of Proposed Remedy and evaluation by the EPA National Remedy Review Board (RRB). She noted that stakeholder groups can submit written comments (up to 10 pages) on the RCMS for RRB consideration. EPA will inform the public when they can submit comments. The process includes coordination by RRB with EPA national Contaminated Sediments Technical Advisory Group (CSTAG). [EPA noted at the next CCC meeting that the limit for comments had been raised to 20 pages, instead of 10.]
- *EPA issues its Proposed Remedy for public comment* – target -fall 2011
- *Formal Public Comment Period and EPA outreach*
- *EPA Notifies GE of Intended Final Decision*. At this point GE may invoke formal dispute resolution.
- *EPA issues RCRA Permit Modification (“Remedy Selection”), including response to Public Comments*
- *Public/GE have right of appeal* (EAB and US Court of Appeals)
- *GE must proceed w/ design of components of the remedy that are not subject to appeal.*
- *EPA may proceed w/ design of components that are appealed (must offer opportunity to GE)* If appeal is denied, GE must pay EPA costs.
- *Once appeals are resolved, GE must design, construct, and pay for the remedy that is upheld.*
- *Implemented as a Superfund remedy*

CCC members had the following questions and comments:

- *Is there a flow chart for this process?* Susan explained that there is a flow chart in the CMS study process fact sheet. www.epa.gov/ne/ge/ under Community Updates
- *What is the implication of the project being implemented as a Superfund remedy?* Susan said that essentially it means that EPA does not need to secure permits but must otherwise comply with the ARARs. Tim Conway, EPA, concurred.
- *Do you have a rough idea of when something is going to be done?* Susan responded that they are not sure because it is hard to predict what the potential hold-ups might be.
- *Can only people and groups who commented during the formal comment period appeal the decision?* Tim Conway responded that his understanding of the Federal Regulations on environmental permits (40 CFR; Part 124), is that yes-only people and groups who commented during the formal comment period appeal the decision. However, Tim strongly recommended that interested parties read 40 CFR 124 for themselves. EPA agreed to send a link to the regulation language.

Susan added that if groups would like to speak with EPA about the Rest of River, they should contact Jim Murphy at murphy.jim@epa.gov or her at svirsky.susan@epa.gov.

Proposed Consent Decree Modification for Silver Lake Bank Plantings

Tim Conway, EPA, explained that the Consent Decree, which was approved by the Court in 2000, requires remediation of 20 of contaminated soil/non-river areas, five groundwater

management areas, and three areas of the Housatonic River. Tim noted that EPA had agreed to inform the CCC of any potential Consent Decree modifications. In the Consent Decree, the Silver Lake remediation prescribed restoration with native tree species that can grow to 80-100 feet. Since then Western Massachusetts Electric Company (WMECO) installed a fixed solar panel array on their property and on a small portion of the abutting PEDA property opposite these proposed plantings, WMECO requested a modification to the tree-planting plan currently proposed for the north side of the lake adjacent to the walking path. WMECO has requested that replacement trees be native species that grow to less than 20 feet tall. The City of Pittsfield, PEDA, EPA, DEP, GE and the Trustees discussed options and agreed that a Modification to the planting approach would be okay. Tim explained that the U.S. Justice Department has drafted a proposed modification.

CCC members had the following questions and comments:

- *When the Consent Decree is modified, do you have to go to court and who represents the people?* Tim responded that to do a modification under the Consent Decree there is a mechanism that depending on significance of modification, some modifications can become effective by filing with the court. For less significant modifications, such as the proposed Silver Lake modification, GE, MA DEP, and EPA have to agree, and the modification becomes effective upon filing with the Court. For more significant modifications, GE, MA DEP, EPA, and others have to agree with the proposed modification, and the judge has to approve the modification..
- *Who decides if a modification is less or more significant?* Tim explained that in the end, the final authority to decide is with the U.S. Justice Department.
- *Who represents interested parties (homeowners)?* Tim explained that it would be up to those parties to intervene in the court action. He added that when the Consent Decree was first proposed, groups were able to intervene in the process; he was not sure if the modification process is different.
- *What are the species being replaced? What species are being proposed?* Dean responded that cottonwoods and black willows are being replaced with nannyberry viburnum, serviceberry, black chokeberry, choke cherry, silky dogwood, pussy willow and speckled alder.
- *Will the trees change the footprint around lake and result in wildlife impacts?* Tim explained that in his understanding, there was not an appreciable difference in habitat value due to trees.
- *Who proposed the change? If an independent business can make a change, I would like to request a modification to the Consent Decree to consider new remediation techniques that gets rid of PCBs.* Dean explained that the modification originated from discussions with PEDA and Western MA Electric.
- *A CCC member requested that the remediation not be called a "clean up".*
- *Are there residential property owners living in the area where plantings being are being modified?* Dean replied, no.

Update on Documents in the Berkshire Athenaeum Public Repository

Dean Tagliaferro, EPA, explained that at the September 2011 CCC meeting, EPA reported that to alleviate space at the Berkshire Athenaeum Public Repository, EPA would remove selected documents while also ensuring that: there are still reports in the repository that summarize all clean up activities; maintenance of a majority of documents on the EPA

website; and copies of all documents at the EPA repository in Boston. Since the September CCC meeting, he and CCC members Judy Herkimer and Tim Gray met to discuss alternatives. They agreed that when EPA removes documents from the Athenaeum, Tim Gray will receive those documents to maintain, if he chooses, for historical purposes. EPA will also ensure that the records at the Athenaeum are up-to-date and well organized.

- *A CCC member asked what documents may not be available online?* Dean responded that there may be some pre-Consent Decree documents that are not available online. Such documents are ones that repeat information that can be found in other reports, however, all documents are available in the Boston repository. Dean added that none of the Rest of River documents have been removed.
- *A CCC member asked why Connecticut DEP did not receive a hard copy of the revised Corrective Measures Study.* Andy Silfer, GE, explained that it was GE's understanding that a copy had been sent by their contractor to CT DEP. When GE learned that the copy had not been received, they immediately sent another copy.

Brattlebrook Park

John Ziegler, Massachusetts DEP, explained that he was asked to present on the groundwater resource under Brattlebrook Park. He noted that the US Geological Service (USGS) does not identify a potentially productive aquifer under that Brattlebrook Park. He added that a 2004 Pittsfield Community Development Plan refers to a "Vincent Farm/Brattlebrook Aquifer", which is located east of the park near Dalton. USGS identifies that area as part of a medium yield aquifer, which under state regulation means that it is a potentially productive aquifer. [EPA clarified at the next CCC meeting that the aquifer is outside of the boundaries of the consent decree.]

CCC members had the following questions and comments:

- *In the early 1980s, Pittsfield was looking into a potentially productive aquifer in that area, however when the water was sampled, it contained PCBs and the project was abandoned. This issue should have been addressed in the Consent Decree.* John Ziegler noted that he was not aware of this history and added that any water resources that Pittsfield might want to develop would have to go through a permitting process.
- *Why are there monitoring wells on the Brattlebrook Farm property?* John noted that he did not know and that if stakeholders have additional questions, they should contact MA DEP.
- *A CCC member clarified that the Goodrich Pond part of Brattlebrook Park is not part of the Consent Decree. Another CCC member expressed concerns about an area near Goodrich Pond where wooden blocks, which they believed were used to soak up PCBs, were found in the soil near the pond. This is an area which may have also been an old dump, and today kids hang out and citizens may dig for antique bottles. The CCC member requested that if additional blocks are found that they be sampled and that the area continue to be investigated.* Dick Gates explained that, GE did extensive investigation on the area and removed the wooden blocks. They then worked with the city to investigate the area under MA DEP's solid waste program.

Planning for Future CCC meetings

<i>ITEM</i>	<i>WHO</i>
Finalize and post September CCC meeting summary	CBI
Schedule spring CCC meeting	EPA/CBI
Send link to Federal Regulations on environmental permits (40 CFR Part 124) to CCC	EPA
Reach out to CCC member applicants to explain process and request that they come to a meeting	CBI

Patrick Field and EPA suggested that to maintain a quarterly schedule that the next CCC meeting would be scheduled in late May/early June. A CCC member requested that the meeting not be held on June 8.

Public Comment Period

Charlie Cianfarini, Pittsfield resident, explained that at the beginning of the CCC process, the Chamber of Commerce was involved and additional business members attended CCC meetings. He stated the people who applied to come back to the CCC are all part of the 1Berkshire system and added that he would also like funding from GE to participate.

Adjourn

The meeting adjourned at 7:25 pm

Action Items

Potential action items for next meeting:

- Dam removal on Audubon property

**EPA Housatonic Project Citizens Coordinating Council
Attendance March 2, 2011**

Name	Organization	Attended
Valerie Anderson	Housatonic Clean River Coalition	X
Thelma Barzottini	Citizens for PCB Removal	X
Barbara Cianfarini	Citizens for PCB Removal	X
Michael Carroll	General Electric	X
Gene Chague	Trout Unlimited; Berkshire League of Sportsmen	X
Jeff Cook	Downtown Pittsfield	X
Shep Evans	Housatonic Valley Association	
Sarah Flynn	Housatonic Clean River Coalition	
Lynn Fowler	Housatonic River Commission	X
Benno Friedman	Sheffield	
Tim Gray	Housatonic River Initiative	X
Judy Herkimer	Housatonic Environmental Action League	X
Bill Hines	PEDA-City of Pittsfield	
Charles Kilson	Schaghticoke Tribal Nation	
Rene Laubach	MA Audubon	X
Andrew Madden	MA Dept. for Fish & Wildlife	X
Caleb Mitchell	Pittsfield.	
Dan McGuinness	NW CT Council of Govts.	
Susan Peterson	CT Department of Environmental Protection	X
Dennis Regan	Housatonic Valley Assoc.	X
Andy Silfer	General Electric	X
Susan Svirsky	U.S. EPA	X
Eleanor Tillinghast	Green Berkshire	X
Eva Tor	MA Department of Environmental Protection	X
Dean Tagliaferro	U.S EPA	X
Jane Winn	Berkshire Environmental Action Team	X
Karen Pelto	MA Natural Res. Trustees	
John Ziegler	MA Department of Environmental Protection	X
Alternates		
Audrey Cole	HEAL	
Tim Conway	U.S. EPA	X
Richard Gates	General Electric	X
Dave Gibbs	Citizens for PBC Removal	X
Samantha Lefenfeld	Housatonic Valley Assoc.	
J.Connell	S.Berk. Chamber of Comm.	
Gayle Tardif-Raser	Mass Audubon	
Joanne Flescher	Mass DEP	
Alison Dixon	HVA	X
George S. Wislocki	Green Berkshire	

Additional Attendees

Jaclyn Archer	Lenox resident
Mike Argue	Weston Solutions
Scott Campbell	Weson Solutions
Charlie Cianfarini	Pittsfield resident
John Coty Jr.	Lee resident
Tom Czelusniak	Weston Solutions
Cathy Deely	Stockbridge resident
Dave Dickerson	EPA Region 1
Rich DiNitto	The Isosceles Group, Inc.
Nichole Dupont	Sheffield resident/ Iberkshires
Gregory T. Federspiel	Town Manager, Lenox
Michael Feldstein	HCRC
Patrick Field	Consensus Building Institute
Rich Fisher	EPA Region 1
Lauren Gaherty	Berkshire Regional Planning Commission
Dan Harris	BEC
Kate Harvey	Consensus Building Institute
Ann Jon	Sculpture Now
Trevor Jones	Berkshire Eagle
Nat Karns	Berkshire Regional Planning Commission
Kathy Kessler	HRI, BEAT
Larry Lampman	Environmental Engineer/Grassfed Beef Farmer
Dick McGrath	The Isosceles Group, Inc.
Rod McLaren	General Electric
Kevin Mooney	General Electric
Kevin Munney	US FWS
Harold Nelson	Stakeholder and civil engineer
Keith O'Neil	Lee resident
Nancy Ovitsky	Pittsfield resident
Alexandra Phillips	Big Table Farm
Marcia Powdermaker	
Luke Pryjma	Big Table Farm
Brian Sisco	Local fisherman
Liz Sorenson	DCR, ACEC Program
Renee Wood	Town of Sheffield, Selectman and resident
Karen Youdelman	Richmond resident
Robert Youdelman	Richmond resident