

**Saginaw-Tittabawassee Rivers Contamination CAG
Full CAG Meeting
Memorial Park, Freeland MI
Tuesday, July 20, 2015
6:00 PM – 8:30 PM
DRAFT**

CAG Members Present

Drummond Black
Charles Curtiss
Leonard Heinzman
James Krogsrud
Terry Miller
Michael Kelly
Jim Koski
Joe Kozumplik
Luis Mulford
Laura Ogar
David Sommers
Joel Tanner
Bryce Wakeman
Bob Wiese

CAG Members Absent

Armando Falcon
Lee Pavlik
Nancy Pavlik
William Marsrow

Ex-Officio Members Present

Todd Konechne, Dow Chemical
Al Taylor, MDEQ
Mary Logan, EPA

Support and Agency Staff Present

Kip Cosan, Dow Chemical
Dan Dailey, MDEQ
Cheryl Howe, MDEQ
Janelle Pistro, Dow Chemical
Diane Russell, US EPA
Doug Sarno, Facilitator

Doug Sarno called the meeting to order at 6:10 PM. Agenda items included:

- CAG Updates
- EPA Project updates
- Institutional Controls

Copies of all meeting summaries and presentations are available at www.saginawcag.com.

Materials and additional information on the Dow Chemical Site including all presentations from CAG meetings are also available at the EPA web site at <http://www.epa.gov/region5/cleanup/dowchemical/cag.htm>

1. CAG Updates

The CAG accepted the recommendation of the membership committee to add Joe Kozumplik as a member. The 2015 CAG members now include:

- Joe Kozumplik
- Terry Miller
- Luis Mulford
- Lee Pavlik
- Nancy Pavlik

The communication committee is working to distribute CAG flyers, any member can get copies to distribute.

A recommendations committee to coordinate input on Segment 3 Proposed Plan has been established and includes Terry Miller, Luis Mulford, and Laura Ogar.

2. EPA Updates

Mary Logan provided the update.

Segment 3 Proposed Plan

EPA is seeking to get its proposal out on approximately September 1 with a 45 day comment period (ending approximately October 15). The options for sediment and bank remediation will be the same as presented in Segment 2 as the conditions are similar for Segment 3 as for Segment 2.

Segment 2.

There are three bank stretches in Segment 2 where stabilization work is still to be conducted. This work will provide structure and stability to the banks. One bank management area (BMA) was completed last week, and has been seeded and planted. A second BMA is in process, and the banks are being smoothed. A third BMA will begin

soon. All of the work being done this year is on private property and there has been good coordination with the landowners.

CAG Question: are there plans to fix some of the eroding banks? EPA is focused on banks where there are high levels of dioxin.

CAG Question: Is there any baseline data on the levels of dioxin in runoff and sediments in the river? It is a complicated question as dioxins move during floods each year so can be deposited and recaptured from the floodplain on an ongoing basis. The EPA model focuses on the banks with the highest concentration of dioxin and the major contribution of dioxin to the river, so that is where we are focusing our efforts.

CAG Question: is there annual or semi annual testing to understand what is coming down the river to better understand if we are seeing any progress? One of the elements of the program in the 24 miles of the Tittabawassee River is measuring surface sediment concentrations in quarter mile segments. This has been completed for the entire river once already and will be conducted on a regular basis, maybe not annually but frequently. EPA will conduct a final risk assessment process to look at sediments and fish and assess residual risks as we move through the process. There will always be a sandy sediment flow through the river, the question is understanding the levels of dioxin in those sediments.

Floodplain.

EPA signed the decision on the floodplain in September and are now in the planning process to get ready for implementation.

3. Institutional Controls in Superfund Cleanups

Catherine Garypie, EPA attorney, presented this information.

Institutional Controls (ICs) are administrative and legal tools used at most Superfund sites to maintain protection of human health and the environment, generally in conjunction with engineering controls to manage contamination. ICs restrict site use, modify behavior, and provide information to people.

EPA ensures long term protectiveness through monitoring and the 5 year review process. ICs provide an additional level of safety to help ensure the remedy remains in place.

CAG Question: will ICs be reviewed in the five-year review process? That is a site-by-site decision, but 5 year reviews look at the comprehensive cleanup.

ICs are often layered, having more than one IC at the same time, all with the same goal. ICs can also be used in series over time when site circumstances or IC processes change.

ICs can be used throughout the cleanup process (like a fish advisory) but are almost always used where some residual contamination is left on site.

Types of ICs:

- Government controls, like zoning
- Proprietary controls, like property easements or covenants
- Enforcement tools, like orders or permits
- Informal Devices, like deed notices or public advisories.

ICs are often implemented, monitored, and enforced by various levels of government, and involve responsible parties as well. An IC Implementation and Assurance Plan is established to ensure long term stewardship of ICs.

ICs at this site:

Final conditions of this cleanup will include many SMAs and BMAs that are capped leaving some contamination in place. ICs will include proprietary and/or government controls to ensure protectiveness of the response actions.

ICs will generally occur at the end of the cleanup process. There are enforcement tools in place for Dow to develop and implement ICs for SMAs and BMAs.

Information devices include fish consumption advisory sand other materials.

Some ICs already in place in the floodplain include local building codes. State and local laws provide strict controls on development and use and building in the floodplains so these also serve as ICs.

Wetlands regulations also exist to require permits for dredging of filling in wetland areas.

Miss Dig notifications will also be used to help homeowners and others know where digging is not recommended.

In the floodplain plan, EPA is not limiting how people can use their property, but is assessing how property is being used now and planning cleanup accordingly. EPA plans to continue to monitor floodplain land use and if land use changes, additional evaluation or cleanup may be needed.

IC guidance documents can be found at:

www.epa.gov/oerrpage/superfund/policy/ic/guide/index.htm

CAG Question: What levels are you looking for in monitoring? For ICs, we are looking to see the effectiveness of the ICs put into place, whether the goals are being met.

CAG Question: Deed restrictions on a property affect landowner's use and is a permanent instrument. Such tools might prevent me from certain uses like a dock or

campsite on the river, that would harm my long-term property value. Won't lenders also look at this? In general, they are negotiated to be permanent and would follow with sale of the property. Homeowners would be compensated for this loss up front. EPA's experience is that this allows for full disclosure and can help to provide a higher level of comfort for land transactions. More information on this is available on the EPA web site.

CAG Comment: Miss Dig is not likely to be called on the floodplain because they know nothing is down there, but there are other sources of information to use as well.

CAG Question: What is the status of ICs at the Pine River Superfund Site, we have members of the Pine River CAG present tonight? The site is not that far along so we have not yet looked at ICs.

CAG Question: Are ICs available for ecological controls to help protect wildlife? Two cleanup levels for floodplains were set for human health protection. We are still looking to conduct an ecological risk assessment to identify additional areas requiring cleanup for ecological protection, but did not want to wait to protect landowners living on the floodplain.

CAG Question: Is there a long-term goal to have these ICs lifted at some time? No, we do not see that happening, and do not want to have these lifted without our knowledge. We do hope to have the fish advisory lifted at some point in time, but the property controls would remain in place.

Todd Konechne provided an overview of the Dow Tittabawassee River Conservation Program (TRCP). This is a voluntary owner participation program and not being required by EPA at this time.

The program was released at the end of May, and Dow has been busy meeting with many property owners within the 8 year floodplain. The primary element of the program is that it is voluntary. Because there are two cleanup numbers, under the program once a property is evaluated, property owners would agree to keep the footprint of area that is not residential the same and not expand the residential uses of their property. This would provide some finality of use for that property with regard to cleanup. Property owners would be compensated for engaging in the program. If people decide not to enter the program, the property would need to be reevaluated and cleaned up any time there is a change to the use of the property, it is their choice to join the program or not. People also agree not to take soil from the floodplain and move it to non floodplain or move soil from non-maintained to maintained areas. Property owners would also agree not have livestock or poultry in the floodplain. It also acts as an access agreement to do monitoring and cleanup.

CAG Question: What kind of response are you getting? Spoken to close to 200 residents so far, everyone received an invitation. Getting good response so far.

CAG Question: We heard that those participants in the class action suit are not allowed to participate in the program? It is complicated, Dow has been advised by the class action lawyers to not talk to their clients. They were invited, information given to their lawyers, not sure where it is going from there.

CAG Question: A lot of these property owners might not even know what to ask, is there basic information available? Yes, there is a flyer, pamphlet, Q&A, covenant documents, explanation of the process. Dow is working hard to make sure people understand the program. The majority of the people have worked hard to read the information and educate themselves.

CAG Comment: Personal experience was there was no pressure, Dow was forthright in answering the questions, we had a lot of questions and spent several hours total in talking with Dow. Also have heard positive feedback from others in the program. The contract is in clear language.

CAG Question: how do you have authority to monitor property that is not in the program? We would not have to go on property, we are just looking to understand where property is changed from undeveloped to residential. Sampling and cleanup will be offered to them, but it will be voluntary. We don't know exactly how we will do this but we will be trying to track any changes in land use over time.

For those who do not get cleanup, future property owners will have that choice when the property changes hands.

CAG Question: How far down does this program affect? This is being offered to all property owners in the 8 year floodplain on all seven cleanup segments.

CAG Question: Does the covenant last 7 years? No, it is in perpetuity. But we are offering a 7-year value assurance that allows folks to sell property within seven years to ensure that owners get fair market value on the sale.

Other Comments

CAG Comment: We are looking for data on the beach at Saginaw Bay to understand potential health concerns, does this data exist (there are a lot of public questions, and we need to be able to communicate better to folks, what is available. It would be helpful to have some sort of handout)? There is some data, most of it is at least 10 years old, but it all shows dioxin levels of less than 250 ppt. The State is working to answer the question in more detail. Dow also has data, sampled four beaches and the average concentration is about 12 ppt. EPA, MDEQ and Dow will compile all of this data and help to make better communication to the public.

CAG Comment: please share this data and information with the full CAG.

Public Comment

How will ecological risk assessment be conducted, looking at the game advisory suggests that there is an ecological concern? The State noted that there is a concern. Also had experience with chicken eggs, and farm raised beef. There is an exposure pathway there, and we know it will need to be addressed, probably through institutional controls. Additional cleanup will also be identified through the ecological risk assessment.

The meeting was adjourned at 8:05 p.m.