

**2014 Hudson River PCB Forum
Marist College Boathouse
November 11, 2014**

Summary of Presentations

Welcoming Remarks: Dutchess County Executive, Marcus Molinaro opened the 2014 Hudson River PCB Forum by taking us back to his days as a Village Trustee of Tivoli. He explained that in the early 1990s Tivoli, like many other Hudson River municipalities, had disregarded the value of the Hudson River as their “backdoor” and were more focused on consumer-related aspects of economic growth. He explained that soon after this he realized that the Hudson River was the unifying factor for the Hudson Valley and the connection between the upriver and downriver communities, despite their disagreements about the proposed clean up. He called for a comprehensive cleanup of the Hudson River because it has given and will continue to give life to New York State. The Hudson River is a great environmental resource with an important heritage and history to preserve. He stressed the importance that the Hudson River as a tourist location – another important reason to invest and protect the river for the current and future generations.

Hudson River PCB Remediation – One River, One Cleanup: Unfinished Business: Andy Bicking, Director of Public Policy, Scenic Hudson, expressed his appreciation for the Marist professional staff, Mark Molinaro, and his fellow organizations Clearwater, Riverkeeper, and NDRC. Mr. Bicking then provided context for the forum’s agenda. He explained that in 2009, hundreds of citizens and officials joined together to celebrate the start of the largest dredging project for the Hudson River. He showed a brief video about New York City water taxis. The company’s owner, Tom Fox, was interviewed and explained how the water taxis are used for transportation, recreation, and education about NYC and the Hudson River. Mr. Fox believes that if people get out on the river they will be better stewards. Mr. Bicking asked the audience to imagine if all our river communities had the same focus, enthusiasm, and determination for the river the endless possibilities that could be achieved. Communities and organizations along the Hudson River have watched the PCB clean up for the last five years, and now, within the next 18 months the legacy GE will leave of the Hudson River will be decided. Researchers have concluded that if necessary steps, such as cleaning the 136 acres of contaminated water sediments and dredging of the Champlain Canal, are taken now, the water quality and overall health of the Hudson River will be greatly improved. He continued by saying how the 1.3 million pounds of PCBs that were dumped into the Hudson River from the 1940s to 1976 have brought an end to Hudson River fish consumption and to the fishing industry, as well as preventing the NYS Canal Corporation’s from honoring its obligation to dredge navigational channels. Mr. Bicking concluded by explaining how it makes perfect sense, economically and environmentally, to address all of these issues before dismantling the facilities and equipment to free the Hudson River from contamination.

Superfund Cleanup in the Upper Hudson – Where Are We? Abigail M. Jones, Staff Attorney for Riverkeeper and CAG member, gave an update on the status of the current in-river PCB cleanup by GE, who is entering into its final year of dredging and will be completely out of the river, including decommissioning its support facilities, by 2016. She also spoke about the NYS Department of Health fish consumption advisory which has limited or prohibited human consumption of PCB-contaminated fish from the Hudson River since the late 1970s. Ms. Jones presented a brief overview of the timeline of the present cleanup, as well as the technical details of what GE is required to do under the 2002 Record of Decision (ROD) it entered into with EPA with respect to the in-river portion of the Hudson River Superfund Site. Ms. Jones noted that, in the five years GE has been dredging in the Hudson River, the company has dredged far more PCB-contaminated sediment than it expected and with little to no exceedances of water and air quality, as monitored by EPA. However, any such “successes” by GE to date will be severely undermined unless GE voluntarily undertakes

- (1) additional “restoration dredging” of 136 acres of federal Trustee-recognized hot spots of PCB contamination in the dredge areas, and

- (2) dredging of the navigation channel in the Champlain Canal which the New York State Canal Corporation has been unable to maintain for over 30 years due to the presence of PCBs in the navigation channel sediments.

Ms. Jones stated that by not undertaking this additional dredging, there will be adverse impacts to both the recovery of the health of the river as well as river-based commercial and recreational economic development opportunities. This left-over PCB-contamination could also jeopardize the remedial objectives of the overall cleanup by GE and could prohibit many of the restoration projects proposed as part of the Natural Resource Damages Assessment. Ms. Jones also noted that GE and EPA are in the beginning stages of drafting a cleanup plan for the “floodplains” area of the Hudson River, and that Riverkeeper and the other environmental organization will be involved in this process – and also encourage the public to get involved – to ensure that the floodplains cleanup is sufficiently protective of human and environmental health.

GE’s Legal Responsibility for PCBs in the Hudson River — What is Possible? Daniel A. Raichel, Staff Attorney for the Natural Resources Defense Council, gave an update on GE’s liability under the federal Superfund Act, and how this relates to GE’s responsibility to address PCBs remaining in the Hudson River after the completion of the current EPA-mandated dredging. First, Dan discussed two of the main types of Superfund liability applicable to polluters:

- (1) removal or “remedial” liability, which makes polluters responsible cleaning up their pollution in order to “assure protection of human health and the environment;” and
- (2) natural resource damage or “NRD” liability, which makes polluters pay compensation to the public for losses from damages to natural resources suffered as a result of their pollution. While all of the dredging to date, overseen by EPA, has been conducted by GE to address its *remedial* liability, the Hudson River Trustees (namely, U.S. Fish and Wildlife, the National Oceanic and Atmospheric Administration, and the State of New York) can still assess NRD costs against GE that could be used to conduct additional dredging in the Hudson.

EPA could also, under certain circumstances, find that the current dredging remedy does not satisfy GE’s remedial liability and order the company to do more. In the end, there are only three realistic options for the leftover PCBs that GE originally dumped in the Hudson River:

- (1) GE will pay to clean them up;
- (2) the taxpayers will pay for their cleanup; or
- (3) the PCBs will stay in the River. Because options 2 and 3 are not acceptable, now is a critical time to make sure that GE really does clean up its mess.

Report from Upriver Communities – A Perspective from the Frontline of the Cleanup and What it Means for Downriver Communities: Tom Richardson, Supervisor of the City of Mechanicsville, Chair of the Historic Hudson-Hoosic Partnerships: Supervisor Richardson’s presentation entitled, “Reclaiming the Hudson River,” presented multiple reasons why this concept is so important. He began by explaining a bit about the Historic Hudson-Hoosic Partnership, which includes three counties, Saratoga, Rensselaer, and Washington, as well as 32 communities, 27 non-profits and four State Parks. The goal of the partnership is to bring ideas and goals of the different members forward so that all the communities and organizations can become successful. Supervisor Richardson thanked General Electric for being successful and investing billions of dollars to perform the clean up. He then discussed the PCB contamination and its connection to floodplains. Supervisor Richardson cited the example of the Villages of Schuylerville and Victor, which have the Old Champlain Canal running through them. Because of rain and floods, PCB-contaminated sediment is clogging the canal. In addition, the canal sits 100ft above wells used for drinking water. Richardson called for GE to test the water and clean out any contamination in the Canal, while their equipment is still mobilized at Fort Edward. Supervisor Richardson concluded his presentation with the discussion of navigational dredging, emphasizing that dredging equipment is scheduled to be dismantled next year – but there is still considerable work to be done. He reiterated the need to clean up the Champlain Canal, which if dredged could provide a positive economic impact for the area.

Pete Bardunias, CEO and President of the Chamber of Southern Saratoga County, gave a short speech in regards to the PCB contamination. He briefly mentioned that he is in an unusual position because General Electric is an important member part of his Chamber and still a viable business in his area, however, he also recognizes the profound importance of navigational dredging of the river channel and of restoring the Old Champlain Canal. He concluded by saying that he is here to support the effort to urge GE to further their clean up efforts so that everyone can move forward to help the river towns.

Reclaiming the Hudson for Tourism & Recreation: Mary Kay Vrba, Executive Director of Dutchess County Tourism focused on the overall importance of tourism in Dutchess County and along the Hudson River in general. She began her presentation by explaining that tourism is a big industry for the area, and that in 2012 visitors spent \$4.7 billion dollars in the 10-county region, in which \$4 million was spent on outdoor recreational activities. Ms. Vrba explained that many of the recreational activities take place on or near the Hudson River, especially water-related activities such as kayaking and boating. Increasingly tourists, especially international visitors, who visit New York City, are looking for more activities and the Hudson River is in the perfect location to attend to these wishes. She gave the example that international adventure travelers came to New York and filmed a documentary while biking along the Hudson River, which is enhancing global interest in the Hudson Valley. In addition, the Hudson River was and is home to sporting events such as regattas, which brought in a large number of participants and an even larger number of spectators. Ms. Vrba stressed that the Hudson Valley will continue to be a center for tourism – but only if the Hudson River is clean and safe for all uses. The river plays an important part in the economics of the area and it is imperative that it remains viable.

David Mathis, upriver member of the boating community and of the Hudson River PCB Remediation Community Advisory Group, focused on the general perception of the Hudson River and the river as a link to upriver communities. As a resident who lives on the banks of the river south of Lock 5, he cited an example that on two occasions people have made comments when he was swimming in the river about the chemical contamination. People do not see the Hudson River as anything other than a means to get to somewhere else, but access to boaters is severely limited. Many marinas are closed or have very few boats, and river communities do not have docks that give people travelling on the river any opportunities to stop and visit. He gave the example in Saratoga. There is a National Historic Park in the area, which is a great tourist location, but it is not accessible to anyone travelling via the river because there are no docks in or near Park. The same is true for Schuylerville and Fort Ticonderoga. Mr. Mathis' would like to see the Hudson River be restored as a prime tourist location because of its accessibility to many other parts of New York.

Next Steps: Manna Jo Greene, Environmental Director, Hudson Sloop Clearwater and CAG member, moderated the panel and question and answer discussion. She first focused next steps – on the importance of signing a municipal resolution. She noted that 15 years ago the Friends of a Clean Hudson, a coalition of two dozen river and environmental groups, went out into municipalities and educated the people about the true health impacts, such as neurological damage, from eating Hudson River fish due to PCB contamination. After educating the citizens, 69 municipalities and 150 organizations passed resolutions calling for the remediation of PCB-contaminated hot spots in the upper Hudson. This sent an important message to the EPA, overcoming GE the huge campaign GE had mounted to prevent the clean up. Ms. Greene then transitioned to today's outstanding issues – the remediation of an additional 136 acres of contaminated sediment as defined by the Federal NRD Trustees as beneficial to the recovery of the river's natural resources. She also stressed the need to dredge the navigational channel, to ensure full use of the river by deep draught shipping vessels – neither of which does GE plan to clean up. She also urged that GE be required to restore the Old Champlain Canal, and ensure a rigorous clean up of the floodplains. She explained that the reinvigorated Friends of a Clean Hudson have developed a municipal resolution to call for a more comprehensive clean up of the Hudson River and requested that elected officials, concerned citizens, and organizations take a copy of the resolution and bring it to their local or county legislature and ask their municipal officials to pass the resolution, which can be adapted to community organizations as well. This will send a clear message to GE, EPA, the Trustees, and others that a comprehensive cleanup has widespread support from up and down river communities. She explained that it will be in the

company's interest, as well as NYS taxpayers' interest, for GE to participate in a voluntary settlement, while the remediation facilities are still mobilized and operable. It is imperative that citizens and elected officials weigh in heavily on this issue to convince GE to meet with state and federal trustees to work out a voluntary agreement that will be mutually beneficial. Copies of the municipal resolution were passed out to participants who attended the Forum and are available at: www.clearwater.org/wp-content/uploads/2009/09/RESOLUTION-REGARDING-THE-REMOVAL-OF-PCBs-FROM-THE-HUDSON-RIVER-11.13.pdf.

Closing Remarks: Paul Gallay, President and Hudson Riverkeeper, Riverkeeper concluded the forum event by thanking everyone and summarizing the proceedings. Mr. Gallay reiterated how complicated this issues is, that people have a lot at stake, that much progress has been made, and yet considerable hazard still remains. The higher residue contamination remaining in the Hudson River can lead to slower recovery and jeopardize the results. He provided the example of the un-dredged canal, which has caused problems for shipping, commerce, and recreated. Mr. Gallay stated that if this last piece of the puzzle is not completed, the integrity of the cleanup is at risk. Mr. Gallay continued by saying that the communities have the will and have learned so much. We have seen the work that gets done when pressure is put on GE. We have learned that based on the Natural Resource Damages process there is a potential liability for the contaminated sediments in the shipping canal and that GE will ultimately bear the cost. Mr. Gallay concluded that the last two decades of work have created a coalition of upriver and downriver communities to call for a thorough clean up, and everyone's efforts is needed to push GE to complete the remediation of the 136 acres, dredge the navigational channel, fix the floodplains. Passing the municipal resolutions in support of this continued work will help ensure our mutual goals are achieved.