

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau D

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July 20, 2021

The Honorable Nicola Armacost
Mayor of Hastings-on-Hudson
Municipal Building
7 Maple Avenue
Hastings-on-Hudson, NY 10706

Dear Mayor Armacost:

This letter is in response to your letter dated May 26, 2021 and the July 8, 2021 letter to the Commissioner. Thank you for sharing your concerns with us. Commissioner Seggos has asked that I respond to you regarding your concerns with the preliminary design information provided to the Department by BP Anaconda Wire and Cable (BP) for the Harbor on Hastings Site.

As stated in the Department's letter dated May 10, 2021, we agree that there are several items that need additional information from BP. The Department also requested BP to provide any additional information, evaluations, and design elements as they are completed for review prior to the 95% Final Design submittal. There are still several elements that need to be designed, reviewed and approved prior to removal of the contaminants taking place. Below are the Department's responses to your concerns regarding the Harbor at Hastings site.

The Basis of Design Report (BODR) for the Old Marina and Kinnally Cove Dredging and Restoration

Based on supplemental investigation data, the Department determined that the OU2 area was not fully defined and remediation was needed in the Old Marina and Kinnally Cove. The OU2 remedy for the nearshore area was extended to the north and applied to this area. The OU2 nearshore remedy consists of the removal of sediment and fill that contain PCB concentrations greater than 1 ppm and/or copper, zinc and lead concentrations above background concentrations to a maximum excavation depth of 6 feet within the area where sediment resuspension controls, such as a fixed silt curtain, are feasible. Dredged areas within the resuspension controls will be backfilled with clean material to isolate remaining contamination, prevent erosion of cap materials, restore bathymetry, and provide a habitat layer. In nearshore areas which have contamination remaining above background concentrations, isolation cap material will be placed following dredging. The cap will consist of a sand isolation layer; armoring layer; and a minimum of a 24-inch habitat layer. The isolation and armoring layer thickness and materials of the cap will be established in the final remedial design ("final design"). The remedy selected in the Record of Decision for OU2 required a river flow and deposition study to determine



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approximate sedimentation rates and the acceptability that up to 12 inches of the habitat layer may fill in by natural deposition within a reasonable duration of time after installation of the isolation cap. Based on your letter and the hydro modelling from BP, it appears that all parties agree that Kinnally Cove is a depositional area. The Department is willing to allow BP to backfill to within the 12 inches of the current elevation as it will not negatively affect the remedial goals for this area. Previously, the Village expressed an interest in leaving the area 12 inches deeper than the current elevation to allow for recreational use until it becomes filled in by natural deposition. The data from the 2018 supplemental investigation shows that the top 12 inches of the current sediments generally contain less than 1 ppm PCB, with the exception of one sample being 5.2 ppm. Therefore, it is the Department's expectation that sediments that may deposit in this area after dredging and backfilling, will be similar in PCB concentration, and possibly, less.

At the end of the remedial project the Cove will either be backfilled to the current elevation or backfilled to within 12 inches of the current elevation. Any proposed dredging, after the completion of the remedial project, would be considered "new dredging" and would be a presumptively incompatible activity, according to Part 661 tidal wetland regulations. Any future dredging activities will also be limited due to potential disturbances of the isolation cap. At this time, the Department does not anticipate future costs to the Village because, due to the restrictions on dredging activity in this area, it is unlikely Kinnally Cove will be dredged for recreational use after the remedial project is complete.

Beneficial Use Determination (BUD)

BP requested a BUD to reuse sediments that had concentrations greater than 1 ppm and less than 10 ppm onsite. The Department sent a letter dated March 15, 2021 to BP stating "the Department will not be issuing a BUD for the reuse of these materials as backfill on the site. However, the Department approves the materials described in the BUD request to be consolidated within the OU-1 remedial boundary of the site and placed beneath a demarcation layer. This material will still need to be evaluated for constructability." The sediments that BP proposed to consolidate on site meet the site cleanup objectives. The Department cannot deny requested use of material that meets standards, criteria and guidance and which meets the needs of the remedial elements set forth in the ROD. As the Department is not a party to the Consent Decree between BP, the Village and Riverkeeper, the Department does not have jurisdiction to enforce the Consent Decree between BP, the Village and Riverkeeper.

Turbidity Curtain

As stated in the revised BODR for Old Marina/Kinnally Cove, dated June 23, 2021, BP is required to submit a Turbidity Mitigation/Control Plan and a Monitoring and Maintenance Plan detailing the turbidity controls for the project, before a Final Design is submitted and approved. The Department anticipates that the design for the turbidity curtain or alternative control method will be included in the Turbidity Mitigation and Control Plan and shared with the Village in the next few months.

Basis of Design Report (BODR) for Compensatory Wetland Construction

The BODR is a preliminary report with limited detail intended to express the envisioned direction of the design. The Department, like the Village, is awaiting more detailed design proposals. The Department has expressed to all parties that further waterward encroachment into the Hudson River for a shoreline design must be avoided and that parties must discuss design alternatives, as some designs could potentially require cutting back on developable property, which may be a concern to some parties. The Department is not opposed to design alternatives as long as they meet remedial requirements and do not encroach further into the river/tidal wetland.

The Department takes Sea Level Rise (SLR), as well as storm surge and flooding into consideration during all proposal reviews. BP is required to include SLR as a factor in design, as can be seen in the BODR for the compensatory wetland. It is also stated in the BODR that the wetland elevations will be reevaluated closer to actual construction to ensure that the elevation is accurate at that time based on SLR.

Since the stakeholder meeting in December 2019, the Department has not received a revised shoreline design from BP. The Department has told BP during site visits and monthly calls to avoid "straight-line riprap" with 90-degree angles and to consider the presently existing site conditions in their design. The Department has previously requested that partial designs of the compensatory wetland, boat slips and shoreline be submitted prior to the Final Design submission for review and discussion.

The Department's goals are to remove contaminated material to the extent possible; contain the remaining contamination to prevent any further human and ecological exposures; and reconstruct the site in a manner that does not require additional taking of river bottom. To facilitate completion of the design and actual remedial action, the Department is willing to have another Stakeholder meeting to advise all parties as to what can or cannot be found acceptable to the Department. Please provide me with possible dates at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "Jessica La Clair".

Jess LaClair
Project Manager
Division of Environmental Remediation

ec: Trustee Fleisig
Village Manager
M. Chertok
R. Webster, Riverkeeper
P. Johnson, ARCO
S. Edwards, DEC-DER
A. Guglielmi, DEC-OGC
H. Gierloff, DEC-Region 3
A. Schimizzi, DEC-Region 3
J. Armitage, DEC-DER
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