

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau D

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October 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 a follow up to our discussion during a call between the Village of Hastings and the Department that was held on September 14, 2021. On that call, the Village expressed concerns regarding the remedy for the Harbor at Hastings site. In response to those concerns, the Department will request that BP provide modeling of the entire shoreline and Kinnally Cove. Please understand that the Department can request, but cannot demand, this modeling as it is not a requirement of the remediation project. The Department will also request that BP account for the void areas under what remains of the docks/platforms and adjust the site maps as necessary.

The Village shared a concern that the jetty needs to be wider than what BP has proposed in preliminary sketches. The Department will determine the necessary width of the jetty based on the needs for the proposed wetland stability and to provide for adaptive management. The jetty's main objective is to serve as protection for the proposed wetland. The Department will not support a wider jetty if it requires additional fill in the river or a smaller wetland footprint.

As stated in the Department's letter dated May 10, 2021 and, on the call, we agree that there are several items that need additional information from BP. The Department has requested BP to provide any additional information, evaluations, and design elements as they are completed for review prior to the 95% Final Design submittal. In addition, the Department will request that BP share the submittals with the Village as they are finalized and prior to the 95% Final Design submittal.

There are several elements that have already been finalized:

- The placement of the Northwest Extension Area wall will not change. The placement is based on containing the most PCB material and taking the least amount of river bottom for the remedy.
- The Record of Decision allows backfill to within 1 foot of pre-dredge depths in Nearshore areas that are depositional. Kinnally Cove and Old Marina are considered part of the Nearshore areas as opposed to the Deep-Water areas for the site. Any proposed dredging after the completion of the



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remedial project, would be considered “new dredging” and would be a presumptively incompatible activity requiring a permit, according to Part 661 tidal wetland regulations. The Village would have the burden of establishing that the “new dredging” meets tidal wetland permit issuance standards and that there are no other feasible alternatives for the recreational use of non-motorized vessels in the vicinity.

- The Department did not issue a Beneficial Use Determination (“BUD”) for sediments that had concentrations greater than 1 ppm and less than 10 ppm onsite. BUDs are issued for re-use of materials offsite, not for consolidation of materials. The Department is allowing BP to consolidate these sediments within the OU-1 remedial boundary of the site. The material must be placed beneath a demarcation layer and the amended sediments will still need to be evaluated for constructability. The sediments that BP proposed to consolidate on site meet the site cleanup objectives. The Department does not have discretion to 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.

The Department encourages the Village and BP to have conversations and work together to design a shoreline that meets the remediation goals, does not take additional river bottom, meets multiple stakeholder needs, and is sustainable. 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. 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.

To facilitate completion of the design and actual remedial action, the Department is willing to have another Stakeholder meeting to advise all parties at the same time as to what will or will not be acceptable to the Department. Thank you for sharing your concerns with us.

Sincerely,



Jess LaClair
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Division of Environmental Remediation

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