



New York - New Jersey
Harbor Estuary Program

RESTORATION WORK GROUP

of the New York – New Jersey
Harbor Estuaries Program

Chair: Lisa Baron (Army Corps of Engineers)

www.HarborEstuary.org

HEP Restoration Work Group Meeting Minutes

30 August, 2010

EPA Offices, 290 Broadway

25th Floor Conference Room 2530

New York, NY

10:00 am-1:00 pm

1. Meeting Minutes Approval

Meeting minutes from June 21, 2010 meeting held at Hudson River Foundation were approved by the Work Group.

Action Item:

- Follow-up with Metropolitan Waterfront Alliance (MWA) to discuss details about the MWA Waterfront Conference to be held on November 30, 2010. The group agreed that it was important to have a general talk on the Comprehensive Restoration Plan (CRP) to the entire audience for educational purposes, in addition to the breakout plenary session.
- Contact MWA to discuss next steps for CRP and Comprehensive Waterfront Plan (CWP) integration. One goal is to incorporate the Target Ecosystem Characteristics (TECs) as design elements into plans for waterfront development.

2. Revision of HEP Action Plan and CAC comments

The updated HEP Action Plan was provided to the work group with the Citizen Advisory Committee's comments. The Action Plan needs to maintain its general approach rather than getting into specifics. The partially revised Action Plan was provided for the group to review and comment. The following suggestions were made:

- The goals within the HEP Action Plan overlap with the goals outlined in the CRP. These goals should be consistent and should match the CRP goals for 2015.
- Bob Nyman will take the lead on revising the document based on input from the group.
- Climate change should be addressed in the habitat section, in addition to being incorporated throughout the document where appropriate.
- A Mitigation database was suggested as a way to track progress of restoration.

3. Approval of Oyster Subcommittee Charter and Chairs

The Charter of the Oyster Subcommittee was approved by the Work Group. Additional discussion included:

- The Oyster Subcommittee will coordinate the Oyster Restoration Research Project and other ongoing oyster restoration efforts in the region. These programs have significant opportunity for stewardship and public outreach.
- NJDEP denied the Shrewsbury River permit for the oyster gardening program. Grants have been pulled back for oyster gardening in New Jersey based on the policy released by NJDEP.
- Each TEC has issues that could be addressed through policy change, support, and public outreach. Oyster restoration could become a component of NYCEDC waterfront properties.
- Naval Station Earle is a potential site for future oyster restoration since it is a secure location and would address NJDEP's concerns of illegal poaching. The Navy is preparing a letter of support to provide to NJDEP for this effort.
- Lenny Houston suggested the RWG meet with the Norfolk District of the USACE for a lessons learned on their efforts on oysters in the Chesapeake Bay. The meeting was held on October 20, 2010.

Action Item:

- **Continue discussions with NJDEP to modify their policy on oysters.**
- **Set up meeting with Norfolk District USACE, October 20, 2010.**

4. Update of Oyster Restoration Research Program (Jim Lodge)

Update was similar to the updated provided on June 21, 2010. Key points included:

- Team is waiting on NOAA for concurrence for issuance of the USACE nationwide permits for Bay Ridge, Red Hook, Staten Island (NYS) sites.
- September 13th is the proposed date to begin oyster reef construction for Bay Ridge Flats. There is a possibility of moving dates for placement.
- The spat-on-shell should be placed no later than end of November.
- The goal is to build all five reefs by November. It is estimated that only one day will be needed per site.

- Governors Island was selected as the location for the press event to showcase the oyster research efforts.
- The Hastings on the Hudson River site had to be moved slightly up river. The area is used for beach sanding and therefore, not optimal for reef placement.
- The USACE (Timmy LaFontaine, field lead) is ready for construction of reefs.
- A Request for Proposal (RFP) will be released to monitor the reefs following construction.

Action Items:

- Richard Tomer (Chief of Regulatory Branch, Operations Division USACE) to determine status of the permit.

5. Policy Considerations to Advance Restoration

The Work Group initiated the discussion about overcoming challenges to advance restoration including: 1) habitat exchange, 2) placement of fill for wetland construction or shorelines and shallows; 3) attractive nuisance issues due to ubiquitous sediment contamination throughout harbor. Regulatory frameworks within each of the regulatory organizations needs to be evaluated and determine areas of flexibility, needed coordination and improvement. One of the goals of the work group is to prepare ecological restoration guidance to aid in the permitting process for ecosystem restoration projects rather than protocols currently established for development projects. The following concepts/issues were discussed:

- The Shorelines and Shallows TEC is regulatory driven due to habitat exchange issues and potential fill.
- Restoration projects require willing land owners
- Mitigation guidance is necessary within the region to allow predictability of permitting process (obtain general permit).
- NJDEP has many departments that become involved in a permit application. NJDEP is attempting to streamline their operations and permitting process. The following departments become involved: 1) Historic preservation; 2) Office of Sediment and Dredging Technology; 3) Dam Safety; among others. NJDEP Land Use utilizes 3 sets of regulations.
- NYSDEC, with offices in Albany and Stoneybrook has the following issues as well: 1) Dredged material classified as Solid Waste; 2) Dam safety; 3) Compliance with SEQR; 4) Commissioner Level commitment; 5) development of a Regional Management Plan.

- Ground Rules need to be established for permitting and creation of ecological restoration guidance.
- Connecticut/Massachusetts have a dedicated restoration permit office.
- Habitat Exchange needs to be considered with existing rules, reasonably and necessary (Mugwart versus wetland).
- Habitat exchange issues must be evaluated on a case by case basis within the site specific framework. There is a level of risk which one must be willing to take in order to replace one habitat for another. One must assume project will be successful and there will be ecological improvement within the system.
- The TECs should have technical credibility to form the basis for implementation and alleviate habitat exchange issues.
- Mitigation Bank guidance is needed within the region and can be a mechanism of implementation of the CRP. The few opportunities within NJ (Kane Track) are not adequate and are expensive (\$400,000/acre). Regulatory dialogue needs improvement.

Action Item:

- All representatives need to work with internal counterparts to determine Agency's regulations and policies to advance the concept of develop restoration guidance.

6. RWG Approval: HEP nomination form for Saw Mill River Daylighting Project, Yonkers (Bob Nyman)

Nomination form was approved by Restoration Work Group. Project will be integrated into the Comprehensive Restoration Plan and the OASIS database once assigned a CRP number.

Action Items:

- **Assign CRP number.**
- **Integrate into OASIS.**

7. CRP Public Outreach Status (Lisa Baron)

Jamaica Bay (May 2010), Newark Bay/Hackensack River/Passaic River (June 2010), Upper Bay (June 2010), Lower Raritan River (September 2010) Planning Region Meetings were held to obtain comments on the CRP and build support and consensus. Lower Hudson River Planning Region to be held at the Custom House in Battery Park will also be linked to a Restoration Work Group Conference (date TBD). Arthur Kill/Kill Van Kull, Lower Bay and Harlem River/East River/Western Long Island Sound Planning Region meetings have not been scheduled yet (plan is to schedule them in December and January).

Action Items:

- **Amanda Switzer to work with Bob Nyman to conduct a Doodle for the Hudson River/Restoration Work Group conference.**
- **Schedule remaining meetings by end of February.**

8. Urban Wetlands Protection and Sustainability Workshop sponsored by NYC Parks & Recreation Natural Resource Group

Please see attached information (preliminary draft agenda). The ideal date chosen for the workshop would be December 1st.

9. Next Meeting Agenda Items

- a) Coordination with other restoration programs (Hudson River Estuary Program, Long Island Sound Study, etc.)
- b) Harbor Heron Conservation Plan
- c) Method for agency review/input of project summary sheets for restoration sites.

10. Additional Business

None

Participants:

Bob Nyman, USEPA
Kate Boicourt, USEPA
Lisa Baron, USACE
Peter Wepler, USACE
Jodi McDonald, USACE
Amanda Switzer, USACE
Lenny Houston, USACE
Richard Tomer, USACE
Rosalie Siegel, PANY/NJ
Dennis Suszkowki, Hudson River Foundation (HRF)
Jim Lodge, HRF
Debbie Mans, NY/NJ Baykeeper (via phone)
Steve Zahn, NYSDEC
David Bean, NJDEP
Clark Wallace, Trust for Public Land
Manuel Russ, Concerned Citizens of Bensonhurst

Lisa Baron
Restoration Work Group Chair

