

Meeting of the Policy Committee of the New York – New Jersey Harbor Estuary Program

September 23, 2010, 10:00 AM – 12:45 PM

ATTENDEES

Policy Committee Members or Alternates Present: John Boulé, Barbara Finazzo, Kerry Kirk Pflugh, Jeff Myers, Carter Strickland, Charles Warren, Christopher Zeppie.

Others Present: Bob Nyman, Joe Seebode, Phyllis Feinmark, Bill Slezak, Jim Lodge, Sheldon Lipke, Brian Mitchell, Chris Len, Dennis Suszkowski, Kate Boicourt, Gabriela Munoz, Lisa Baron, Fran Dunwell, Rosalie Siegel, Roland Lewis, Andy Bicking. Michelle Doran-McBean on phone.

Facilitator: Bill Logue

Materials handed out: 1) Agenda, 2) Policy Committee April 12, 2010 Draft Meeting Summary; 3) Scope of the New York-New Jersey Harbor Estuary Program; 4) Action Plan Revision Status; 5) schedule and Process for 2010 Annual HEP Budget Development; 6) Revise Draft Structure/Charge for Implementing the CRP within the HEP Framework; 7) New York/New Jersey Harbor Estuary Comprehensive Restoration Plan Feasibility Study: Overview and Appropriations Schedule (Presentation).

MEETING SUMMARY

OPENING REMARKS:

Barbara Finazzo welcomed the group and informed them that Regional Administrator Judith Enck had unexpectedly been call to Washington for a meeting. The summary of the April 12 meeting was approved.

GEOGRAPHIC SCOPE OF HEP:

Ms. Finazzo noted that Administrator Enck had been approached by a number of non-governmental organizations about the potential for expanding the geographic scope of the program. Bob Nyman conducted preliminary research which concluded that such an expansion is possible and New York and New Jersey indicated preliminary interest in exploring the concept. The underlying benefits include a larger number of affected people and interests and improved ability to seek funding including a substantial potential increase in matching funds.

Mr. Myers reminded the committee of the recent letter of support for \$52 million in funding signed by Governor Paterson and Mayor Bloomberg, this was followed by a meeting with the congressional delegation. He noted that to increase legislative support, given the differing geographic focus of legislators, an expansion in scope would benefit the program. Ms. Kirk Pflugh indicated that an expansion was of interest but New Jersey was concerned that additional funds be distributed equitably; a concern echoed by others present including New York City. She indicated an expansion would provide an opportunity to expand into the Raritan River. Others agreed because the Raritan is integral to the Comprehensive Restoration Plan (CRP). Those echoing the concern about potential downsides of geographic expansion mentioned that NY/NJ Harbor proper is just starting to gain traction as a place with

interest from Secretary Salazar and others (e.g., the elected officials who organized the Floyd Bennett Field task force) and pointed out that expansion could undermine and dilute that effort. Mr. Strickland noted that New York City has not had a good experience with broader funding efforts; the 1990s bond act was passed only because of city voters, who then contributed more than 50% of the funding, but received only approximately 19% of funds back, and most of that in the diesel retrofit program. In addition he pointed out the significant sources of funding from non-profit groups that has gone to preservation in the Hudson Valley, one of the areas of proposed expansion. In later discussion all agreed that the head-of-tides was the northern limit of any possible expansion and most agreed that the ability to address issues from a systems/watershed approach would benefit the program.

Mr. Zeppie encouraged the committee to reach out other groups before making the decision to avoid duplication of effort or inconsistent approaches. A coalition of nonprofit organizations is forming around CRP issues to coordinate restoration efforts and seek funding. This effort is modeled on a successful approach used in the Great Lakes. Fran Dunwell of the Hudson River Estuary Program (HRE) noted the program's role in providing matching funds for HEP projects and other support over the years.

Observers noted that a number of organizations including Scenic Hudson, Riverkeeper, and Clearwater are interested in expanding the funding and see a geographic expansion as a means of accomplishing this. Others noted the importance of building congressional support and coalitions, and enhancing partnerships.

The Committee asked Bob Nyman to prepare more detailed information on how a geographic expansion could be accomplished, what groups should be consulted, options for addressing the equity issue, and identify key focus areas.

FUNDING:

The committee discussed aspects of funding including several ways of increasing funding, opportunities within existing programs, and the importance of planning and message. Chuck Warren noted that HEP does not receive funding comparable to other programs. Roland Lewis of the CAC reiterated the work of the coalition mentioned previously and informed the committee that presentations were being made to environmental funders for significant funding. Working harbor and environmental justice issues are being emphasized.

HEP is participating in the New Jersey League of Municipalities Conference with a table display and 1.5 hour workshop. The table display is a key way of interacting with municipal officials and one goal is to gather information about information and resources they need. New Jersey will release its toolkit in the near future.

John Boulé informed the committee that the US Army Corps of Engineers (USACE) is promoting CRP as a model for restoration and national leadership has been briefed on the program concerning the level of participation and consensus. This will help the CRP in competing for funding with the USACE and in legislative appropriations. The Council of Environmental Quality has expressed interest in adding the HRE to the list of Ecosystems of National Significance which will also increase visibility of the program.

As these various funding initiatives and sources are pursued the committee discussed the importance of delivering a common message building on the one developed by Big Duck which reaches funders and citizens. The alignment of the message with other efforts including those of plaNYC/Vision 2020,

Metropolitan Waterfront Alliance is important. Also seen as important is having a detailed plan for how significant additional funds will be used.

SECTION 320 FUNDING:

Bob Nyman briefly reviewed the schedule and process for the Section 320 funding of approximately \$800,000 annually. The Action Plan is the basis for prioritizing these funds which include staffing, operations and grants. The proposed schedule involves the Policy Committee earlier in the process and provides several additional opportunities for input. The proposed schedule was agreed to.

HEP ACTION PLAN:

Bob Nyman reminded the committee that HEP had formerly used Targets & Goals to guide decision making. In 2008 these were revised into the current Action Plan with goals and action items as a living document to continue to guide the program with regular updates. One effort in those revisions was to better align the Actions Plans for HEP and HRE. The five goals with priority actions are the basis for the workplan and budget.

The CAC provided comments on the Action Plan which the Management Committee has reviewed and considered in ongoing revisions. Those revisions will be completed and the draft shared with the Policy Committee later in the fall.

The CAC and others have suggested that climate change be addressed more explicitly in the Action Plan. There was discussion as to whether this should be done throughout the document or as a separate goal and how this might impact application to EPA for a Climate Ready Estuary grant. Members and observers noted agencies and others, including NOAA, USACE, New York City and others, are addressing sea level rise, severe rainfall patterns and other issues associated with climate change in their programs, plans and conferences. The significant research funding for climate change was noted. HRE from 2005 through 2009 had addressed climate change issues through its goals in the Action Plan. In the 2010 – 2014 Action Plan a new climate change goal was added.

The committee did not reach a final conclusion but indicated a preference for having climate change addressed as appropriate within each goal and adding a new overarching goal on climate change without adding a new work group on that issue. This will be proposed within the edited Plan.

TOTAL MAXIMUM DAILY LOAD:

Barbara Finazzo reviewed the issues relating to TMDL and the choice concerning use of the seasonal geometric mean and 30-day geometric mean for enterococci. New Jersey has expressed preference for the seasonal average. New York State was asked by EPA to reconsider use of the 30-day mean but has not taken a final position. New York has concerns about the application of the 30-day standard throughout the harbor. If both states use the seasonal standard, only the Passaic River and Hackensack River would not meet the standard. New York City will be sending a letter to EPA concerning the issue and its opinion about the inapplicability of the “Beach Act”. The states and New York City expressed reservations about spending significant funds to meet a standard which will likely be changed by EPA in 2012 through the rule making process. The Oversight Group will meet October 6 to attempt to resolve this issue.

HydroQual is performing an analysis of the Sandy Hook Bay area and the preliminary indication is that it may meet shellfish harvesting criteria. The analysis will be complete in the near future.

Concerning dissolved oxygen (DO) and nutrients there is a tentative agreement to use the New York state standard for marine DO. HydroQual has completed a draft plan concerning reductions, the states have commented. This will be addressed at the October Oversight Group meeting. Concerning toxics modifications will be made concerning the CARP model for mercury and the model evaluation group will meet to discuss this. HydroQual is working on the TMDL documents for other parameters.

OYSTER RESTORATION:

Dennis Suszkowski of the Hudson River Foundation gave a brief presentation concerning the pilot oyster restoration project. He noted the initial target of 500 acres in 10 to 20 sites by 2015 and a long-term target of 5,000 acres of established oyster reef habitat of 2050. The pilots are designed to test the feasibility of growth and survival of the oysters and determine what ecosystem services they provide to the harbor. He identified operational partners and the locations of experimental reefs. He noted the importance of parallel funding and message on these efforts.

Several reefs were recently installed with placement of rock and shell veneer. Additional reefs will be placed this fall, a press event as part of an installation will be held on Governors Island on October 6th and at Soundview Park later in October. Monitoring will start this fall and continue through 2012.

RESTORATION WORK GROUP:

Bob Nyman provided an update on the Restoration Work Group. A draft structure/charge for the work group was discussed. Organization names will remain, but individual names will be removed from the charge. The Trust for Public Land will be added as a member at the request of the Policy Committee. The Policy Committee approved the charge and asked that the group consider modifying its name to better represent “protection/acquisition” along with restoration.

The USACE has an internal group for its projects and environmental review process which will screen and prioritize projects and identify potential partners. This group will be revamped to implement the CRP. A focus will be on acquisitions and partnership opportunities for restoration work. Chris Zeppie noted that funding for acquisition out of capital budgets may be more available than funding for restoration. Several observers suggested potential additional members. These suggestions will be brought to the Work Group.

The group discussed the timing of prioritization and what to do with projects placed on low priority by ACE. Members noted that the information produced by the USACE process would be useful to others in moving projects forward in advance of or in place of USACE action.

COMPREHENSIVE RESTORATION PLAN:

Lisa Baron of the Army Corps provided a brief overview of the feasibility study for the CRP. She noted that public outreach meetings had been conducted and the plan would be revised in Spring 2011. The feasibility analysis will include: evaluation of more than 296 CRP sites/projects harbor-wide and within each planning region, identification of new restoration opportunities, further “State of the Science” for each TEC, development of implementation strategies, and work with the HEP Restoration Work Group throughout. She also identified a current opportunities for restoration.

The feasibility analysis is designed to identify what is necessary to move a project forward within USACE. As each site is evaluated it will be posted. Each project will have a general cost, phases for implementation and local sponsors. This process can move in parallel with other restoration initiatives.

CITIZEN ADVISORY COMMITTEE:

Michelle Doran McBean and Roland Lewis provided an update of the CAC. The CAC met recently to review work on the presentation and table at the League of Municipalities Conference. The CAC will be reviewing the budgeting process at its December meeting. There has been improved use of technology to improve transparency and enhance decision making. Regional Administrator Enck is hosting a meeting of multiple CACs on Oct 5th. They encourage HEP and Metropolitan Alliance and the City to integrate plans on the waterfront in tie for these to be included in the City's plan.