



Technical Assistance Services for Communities
Contract No.: EP-W-07-059
TASC WA No.: TASC-01-R5
Technical Directive No.: TASC-1

Bay Harbor CKD Site Regional Stakeholder Group Organizational Meeting

Meeting Summary

Site Name: Bay Harbor Cement Kiln Dust (CKD) Site
Meeting Location: City of Petoskey Office Building, Petoskey, Michigan
Meeting Date: October 29, 2009
Meeting Time: 1:00 p.m. - 4:30 p.m. EST

The October 29, 2009 Regional Stakeholder Group (RSG) Organizational Meeting represents the first stage in forming a comprehensive stakeholder group to inform and provide community input on the final remedy selection for the Bay Harbor CKD site (the Site). Additionally, the affirmed RSG membership formed three working groups to begin prioritization of: 1) Technical; 2) Legal and Policy; and 3) Education and Outreach topics of interest, and to request assistance under EPA's Technical Assistance Services for Communities (TASC) program.

PARTICIPANTS

The primary meeting participants were representatives from twenty stakeholder groups and organizations which form the core group of the RSG. This core group includes the following:

Community/Homeowners Associations

- The Preserve Homeowner Association and Bay Harbor Community Council – Bob Walker
- The Cliffs Homeowner Association and Bay Harbor Community Council – Joe Sproles

Environmental/Conservation Groups

- Friends of the Jordan River Watershed – Ray Bier
- Michigan Environmental Council – Brad Garmon
- Tip of the Mitt Watershed Council – Jennifer McKay
- Walloon Lake Association – Rick Gross
- Three Lakes Association – Gary Knapp

Native American Interests

- Little Traverse Bay Bands of Odawa Indians, Environmental Services – Rachel Smolinski

Local Business Interests

- Petoskey Regional Chamber of Commerce – Carlin Smith

Local Government

- City of Petoskey – Dan Ralley
- Emmet County – Lyn Johnson
- Resort Township – Robert Wheaton
- Antrim County – Laura Stanek
- Star Township – Richard Steel

Ex-Officio: Agencies and Parties Involved in Remediation Efforts

- Northwest Michigan Community Health Agency – Scott Kendzierski
- Environmental Protection Agency (EPA) Region 5 – Ralph Dollhopf
- Michigan Department of Environmental Quality (MDEQ) – Bob Wagner
- CMS Energy – Gary Kelterborn
- Boyne USA – Steve Kircher
- Bay Harbor Company and Bay Harbor Properties – Dennis Brya

In addition to core RSG membership representation, sixteen observers were present for the meeting. Observers included alternate representatives for stakeholder parties, agencies, representatives of five different environmental/conservation groups, and two members of the press. The attendance list is included at the end of the summary.

MEETING GOAL AND OBJECTIVES

The goal of this meeting was to organize a Regional Stakeholder Group to provide community input to inform the selection of a final remedy for contamination associated with the Bay Harbor CKD site in Petoskey, Michigan. Key meeting objectives included: the official formation of the RSG; adoption of operating procedures; an update on site-related activities; and prioritization of RSG goals, tasks, and objectives, and requests for technical and/or educational assistance under EPA's TASC program.

MEETING SUMMARY

Agenda Item 1: Orientation and Process

Facilitator Melinda J. Holland called the meeting to order at 1:00 p.m. in the Community Room at the City of Petoskey Office Building in Petoskey, Michigan. As per the agenda (see attached Addendum 1), Ms. Holland welcomed all participants and introduced herself and agency representatives. Introductions were followed by a review of meeting agenda items and the ground rules for conduct at meetings. The 20 core group members present introduced themselves to the larger group and shared relevant skills and experiences that they could offer to the group, as well as personal interests and hobbies.

After the introductions, Ms. Holland explained the project's background, leading to the selection of the stakeholder representatives present at the meeting and the goals of the organizational meeting.¹ She recognized that stakeholders have varying positions and diverse approaches towards issues and goals for the Site's remediation. She acknowledged that the stakeholders will need to work towards building understanding of each member's underlying needs and interests to find common ground and increase communication and trust between interested parties. Additionally, she noted that the group can help build understanding in the wider community by sharing progress with their respective constituencies and the general public.

Ms. Holland clarified that the RSG will serve in an advisory capacity to the remedy selection process and that project responsibilities will involve additional work outside of RSG meeting times in order to achieve project objectives. She described an effective RSG as one which includes key involved stakeholder parties, a balanced representation of stakeholders, and yet is small enough to allow for dialogue between parties. Ms. Holland asked whether the gathered parties thought that they adequately represented stakeholder interests.

Stakeholder suggestions for possible additions to the RSG included:

- A representative from the Convention and Visitors Bureau – Representatives from the Petoskey Regional Chamber of Commerce and the Friends of the Jordan River Watershed expressed that they were not opposed to adding a Convention and Visitors Bureau representative. However, both parties stated that they felt they could adequately represent tourism and business interests on the RSG.
- A representative from the Bay Harbor Golf Club – The representative from Boyne Resorts USA felt that the Bay Harbor Community Council representative, who also sits on the Bay Harbor Golf Club Advisory Committee, could adequately represent the Club's interests.

The representative from the Health Department of Northwest Michigan noted that several key parties that had previously been absent from the process were now present. A representative from the Bay Harbor Community Council expressed concern that additional key stakeholders may inadvertently be excluded from the process by affirming the RSG's core membership at the meeting. Ms. Holland clarified that affirming the RSG's core membership would not limit stakeholders' ability to propose additional parties for membership in future meetings.

The 20 RSG members present voted unanimously to affirm the RSG Core Group members proposed in the Stakeholder Assessment Report (see participant groups listed on page 1 above) as the official membership of the RSG.

Agenda Item 2: Site Update

¹ The Stakeholder Assessment Report may be found at: http://0069d75.netsolhost.com/docs/TASC-2-R5_Bay_Harbor_Stakeholder_Assessment_Report_10-19-09.pdf.

CMS Site Update Presentation

Greg Kelterborn and Tim Petrosky of CMS Energy presented an update to the RSG regarding recent site-related activities.² A brief history of the Site, investigative actions, and remediation activities to date were provided. CMS Energy signed an Administrative Order of Consent with EPA in 2005 under which CMS Energy will address elevated pH levels along parts of the lakefront. Interim response activities are being conducted primarily under EPA oversight, but long-term remedies will be conducted primarily under MDEQ oversight.

Approximately 2.5 million cubic yards of cement kiln dust (CKD) were consolidated and buried on the property beneath the present location of the Bay Harbor Golf Club. A leachate collection and treatment system has been installed as an interim response action. Currently, trucks transport leachate from the collection trenches to one of two treatment centers, but residents have complained about these activities. An underground pipeline to transport leachate to the treatment centers is currently under construction.

Extensive sampling from ground water monitoring wells has been used to inform ground water flow models for the area. Results from these models were used to design upgradient diversion wells in the East Park area, which have been installed but are not yet operational. CMS Energy plans to recommend the use of these wells as part of the Site's final remedy. Due to limitations in water treatment options, contaminated water is currently disposed of at a deep injection well near Johannesburg (60 miles southeast) or the treatment plant in Traverse City (70 miles southwest).

At present, an additional 28 mercury monitoring wells are being installed at 13 locations along the Bay Harbor shoreline to better delineate the affected area. Investigation into a local water disposal option is ongoing and includes the possibilities of a local injection well, disposal at the City of Petoskey wastewater treatment plan, and/or application for a National Pollutant Discharge Elimination System (NPDES) permit.

An RSG member raised several questions about how development at the Site was authorized when contamination issues were known and why this was not addressed in permitting processes or other regulations. The RSG decided to address these questions at a later meeting, potentially within a working group.

EPA Site Decision Process Presentation

Ralph Dollhopf of EPA Region 5 and Bob Wagner of MDEQ presented an overview of the agencies' decision-making process, the agencies' relationship to the RSG process,

² The CMS Site Update Presentation may be found at:
http://0069d75.netsolhost.com/docs/Oct_29_2009_RSG_CMS_site_update.pdf.

and identification of key areas where RSG could contribute to recommendations on the final remedy selection for the Site.³

An overview of the roles of the agencies and the remedy selection process was presented. In its present role of oversight under the Administrative Order on Consent, EPA coordinates closely with CMS Energy and MDEQ. Oversight of the project will be transferred to MDEQ after selection of the final (long-term) remedy. At present, data gaps are being identified and addressed and extensive operations and maintenance activities are scheduled to continue for the foreseeable future.

Two areas where RSG input could be most effectively incorporated in the process were identified:

- Inform agency comments in reviewing the Remedial Investigation/Alternatives Evaluation (RI/AE) document.
- Inform agency comments in reviewing the remedy selection document prior to execution of the final remedy.

The agencies reviewed the general project flow, presented in a flow chart. Two separate RI/AE documents are being prepared, one for the East Park Area and one for the Development Area.

The remediation work at East Park Area was prioritized by the CMS and the development companies, and thus this area's remediation is more advanced. Mercury flux and mass loading sampling to Lake Michigan are ongoing to fill data gaps. They do not anticipate that the final Approval of the East Park RI/AE will be achieved by the December 1, 2009 date noted on the flow chart; however, it should be ready for acceptance shortly after that date.

In the Development Area, EPA is reviewing CMS Energy data and has submitted comments on the RI/AE. Further revisions will be made after the RI/AE Addendum Third Quarter Sampling in early November 2009 and Fourth Quarter Sampling in early February 2010. It is anticipated that the revised Development RI/AE will be ready for review in April 2010.

After approval of the RI/AEs for the East Park and Development Areas, CMS Energy will prepare a Technical Impracticability (TI) document to indicate what methods can or cannot be used to effectively and efficiently address site-related mercury loading in Lake Michigan. Rule 716 allows MDEQ to waive criteria if it can be demonstrated that the party has done everything practicable to control the source and has been unsuccessful at

³ Handouts from EPA and MDEQ's presentation may be found at:
http://0069d75.netsolhost.com/docs/20090630_Activity_Flow_Update.pdf
http://0069d75.netsolhost.com/docs/102609_Attachments.pdf
http://0069d75.netsolhost.com/docs/102609_Development_RIAE_comments.pdf

achieving the goal. CMS Energy has already submitted a TI for the Development RI, and review and analysis will take place in the following months.

As part of the final cleanup agreement, the remedy will need to meet water quality criteria, addressing and controlling all site-related contaminants. The State will then negotiate a legal agreement with CMS for cleanup, anticipated to be completed in October 2010.

An RSG member asked whether the final legal agreement is a covenant not to sue. Mr. Wagner responded that it is similar to the previous agreement under part 201, but that he does not know whether there will be a covenant not to sue. Michigan's Office of the Attorney General will be negotiating the specific legal terms of the agreement. It is being called a final agreement in that it should address all aspects of site cleanup for a long-term remedy.

An RSG member asked how public input to the process will be incorporated into negotiation of the final agreement. Mr. Wagner responded that the state is looking to the RSG for thoughts and concerns to inform the recommended remedy. Ultimately, the final negotiations for terms in the agreement will be between CMS Energy and the Office of the Attorney General. Mr. Dollhopf also noted that the RSG could inform comments on the RI/AE review process, not just the final agreement. He stated that EPA and MDEQ are interested in receiving RSG comments in the RI/AE process, and urged them not to hold back comments until discussion of the final remedy. At that point, consideration of concerns may become more difficult.

An RSG member asked whether sampling has determined how much of the contamination is flowing into Lake Michigan, given that ground water flow to the lake cannot be stopped. He also asked how this might impact the applicability of the TI, since CMS Energy cannot control for environmental factors like precipitation effects on flow rates and locations of bedrock. Mr. Wagner responded that mercury flux studies have been performed to determine the flow and concentration entering the Lake. For the TI assessment, this information is balanced with what engineering controls can be applied to control the flow, assuming site-specific normal conditions. It may not be possible to remove every last molecule of mercury, in which case this would go in to the TI assessment if above cleanup standards. Ms. Holland noted that this topic should be added to a Technical Working Group.

An RSG member asked whether the agencies could provide dates by which receiving comments from the RSG would be most useful, to give the group a better idea of the window of opportunity for input. He expressed that it seemed that the optimum window for comment may already have past and wanted to be sure that the RSG members feel the urgency to act quickly. Mr. Wagner responded that the process is ongoing, with multiple reviews and iterations of the documents. There are no drop-dead dates for comments, but the general project flow gives an idea of the decision-making timeline for the Site's cleanup. He urged that the sooner comments are received; the earlier in the process they can be incorporated. Mr. Wagner also indicated that the RSG did not need to present a

document summarizing all comments at once. The agencies are willing to accept piecemeal comments if the RSG has comments about one part of the process or one part of a document. Comments can be received at any point from October 2009 to April 2010, when CMS Energy will submit the revised Development RI/AE. Comments on the East Park RI/AT are more pressing, since acceptance of this document is anticipated to occur by January 2010. Mr. Dollhopf added that, while EPA has turned in comments on the East Park RI/AE, there will be more revisions and iterations with opportunities to comment. As the process advances, less revisions are required, so the turnaround periods are shorter. For this reason, the RSG would need to be prepared to provide effective and rapid input.

Another RSG member noted that not all RSG members are scientists and some need to be brought up to speed to be able to speak the same language with CMS Energy and MDEQ. The facilitator responded that informational and educational requests will be addressed under TASC, and that the RSG will prioritize its educational needs.

Agenda Item 3: Opportunity for Brief Observer Comments

Three observers shared comments at this time.

An observer expressed an interest in being a part of the RSG, given his extensive research of the Site. The observer also suggested that Bay Harbor Township, the Shelby County Commissioner's Office, and Otsego County should be represented on the RSG.

An observer expressed concern that the remedy being considered is only looking at costs and effectiveness for 30 years. She suggested that a more effective remedy should take a longer timeframe into consideration.

Don de Blasio, the EPA Region 5 Community Involvement Coordinator for the site, introduced himself. He expressed that he is available and willing to assist with the process as the RSG sees opportunities to involve him, but that he is refraining from a more central role to ensure that the RSG maintains full leadership and direction over stakeholder involvement.

Agenda Item 4: RSG Operations and Planning

Operating Procedures

A draft version of suggested operating procedures for the RSG was circulated to the group as part of the Bay Harbor/Little Traverse Bay Cement Kiln Dust (CKD) Site Regional Stakeholder Group Draft Stakeholder Assessment Report. There was some discussion by RSG members of possible clarifications to the draft operating procedures.

The facilitator noted that if the RSG felt there were substantial concerns with the operating procedures, a sub-group could be formed to pursue desired modifications directly with the facilitator. Alternatively, she suggested that if the RSG felt comfortable with the suggested operating procedures, they could be adopted at this meeting and changes could be proposed and incorporated in the future, as needed.

The RSG members voted unanimously to adopt the suggested operating procedures as the official operating procedures of the RSG.

The facilitator requested volunteers to participate in an administrative committee to address possible future revisions to the operating procedures. There were no volunteers and Ms. Holland will continue to seek volunteers for the committee.

Future Meeting Times

The RSG members agreed on the following schedule for future RSG meetings:

- Wednesday, November 18, 2009, 1:00 p.m. – 4:30 p.m. Location TBD.
- Wednesday, December 16, 2009, 1:00 p.m. – 4:30 p.m. Location TBD.
- For calendar year 2010, the RSG will meet on the 4th Wednesday of each month at 1:00 p.m. Location TBD.

RSG Goals, Objectives, and Tasks

RSG members were asked to cast votes using stick-on dots to prioritize the top four RSG goals/objectives, the top five tasks to be undertaken by the RSG, and the top five requests for technical or informational assistance. The results of the voting were as follows:

The four RSG goals/objectives with the greatest number of votes

- 21 votes – Ensure true site clean up without simply shifting damage to other areas.
- 19 votes – Provide accurate information exchange related to CKD characteristics, established and innovative remediation techniques, environmental and health risks and effects, regulatory and policy considerations, and other pertinent information to gain fully understand the issues related to cement kiln dust leachate.
- 19 votes – Validate the direction for a quick local final closure plan.
- 17 votes – Communicate to EPA that their behavior on this matter will affect all future Brownfield efforts.

The five RSG tasks with the greatest number of votes

- 22 votes – Weigh in on which closure plans are the most logical and in the best interest of the affected parties.
- 20 votes – Clarify everyone's expectations, understand the goals and agreed-upon timelines.
- 17 votes – Background presentations on the CKD leachate issues, including history, documents guiding the cleanup process, and efforts to-date.
- 15 votes – Ensure engagement of all affected parties.
- 12 votes – Bring everyone up to speed on current proposed remediation plan.

The five requests for technical or informational assistance with the greatest number of votes

- 26 votes – Best local solutions for disposal of the CKD leachate (deep well injection, public utility waste water treatment plant, treatment on site).

- 15 votes – Conduct a workshop that focuses on mercury; CMS’s bench scale testing of mercury removal efficiencies using various treatment technologies, and mercury material balance modeling for Lake Michigan.
- 14 votes – Base case of situation pre-1994 versus current and proposed situation.
- 14 votes – Economic impact of various possible outcomes.
- 11 votes – Contamination caused by CKD leachate at Bay Harbor versus background contamination from other sources (like coal fired power plants, specifically mercury emissions).

RSG Work Group Formation

Based on the results of the voting, Ms. Holland suggested formation of: 1) a Technical Working Group; 2) a Community Outreach and Education Working Group; and 3) an Administrative Working Group of at least three representatives to review procedures, oversee elections, etc.

Representatives from the following constituencies volunteered to participate in the Technical Working Group:

- Rachel Smolinski - Little Traverse Bay Bands of Odawa Indians, Environmental Services
- Bob Walker - Bay Harbor Community Council
- Rick Gross - Walloon Lake Association
- Jennifer McKay - Tip of the Mitt Watershed Council
- Ray Bier - Friends of the Jordan Watershed Council
- Steve Kircher - Boyne Resorts
- Dean Branson - Three Lakes Association
- Dennis Brya - Bay Harbor Company

Carlin Smith, Petoskey Regional Chamber of Commerce, will form the Outreach and Education Working Group and will try to recruit other volunteers.

Brad Garmon, Michigan Environmental Council, suggested formation of a separate working group to address policy and legal issues. Representatives from the following constituencies volunteered to participate in the Policy and Legal Working Group:

- Brad Garmon - Michigan Environmental Council
- Gary Kelterborn - CMS Energy
- Jennifer McKay - Tip of the Mitt Watershed Council

The RSG members voted unanimously to affirm the membership of the Technical, Outreach and Education, and Policy and Legal Working Groups as described above.

Discussion, Prioritization, and Agreement on RSG Priorities for Request of Technical and/or Educational Assistance under TASC Program

Ms. Holland provided a brief overview of the TASC program and the types of services provided by the program.

The facilitator noted that the Technical Working Group would work on refining the top-vote getting requests for technical and/or educational assistance under TASC.

The facilitator will put the Technical Working Group in contact with Krissy Russell-Hedstrom, Ph.D., Technical Assistance Specialist with E² Inc. under the TASC contract, in order to further refine specific topics to be addressed within these assistance requests.

In response to a question, Ms. Holland responded that there will be opportunities to change work groups, and that new groups may be formed or groups that are no longer needed may be closed in the future, as needed.

Agenda Item 5: Opportunity for Brief Observer Comments

Three observers asked questions at this time.

An observer noted that RSG meeting proceedings are to be open to the public and recognized the logistical difficulty in gathering so many parties. She expressed an interest in remaining informed about the working group conference calls and asked how this information, as well as meeting summaries and minutes, will be shared with the public. Ms. Holland noted that the working groups will present an overview of the conference calls, as well as any results or resulting actions, with the RSG at its next meeting. Ms. Holland also noted that creation of a web site might facilitate dissemination of site documents and materials. She stated that she would investigate web hosting options prior to the next meeting. The representative from the Tipp of the Mitt Watershed Council offered space on the Council's web site if needed.

An observer indicated that he had signed up in August to be included on an email mailing list about events and activities, but had not yet received any messages. Ms. Holland indicated that a broader community e-mail list will be created to distribute announcements, minutes, and summaries. She indicated that the sign-in sheets from the August and October meetings will be used to build the initial e-mail list, and that additional interested party emails can be added over time.

An observer noted that many of the issues being discussed in these meetings are of interest to the broader community and will be covered by news media. He asked how the RSG will interact with media. Ms. Holland noted that under the operating procedures, none of the RSG members has the authority to speak for the RSG as a whole; they may only represent their individual constituency's interests to the media. She noted that the Education and Outreach Working Group will address a plan for dissemination of information about RSG activities.

Agenda Item 6: Adjourn

The facilitator thanked attendees for their participation and cooperation. Ms. Holland also thanked the City of Petoskey for providing a meeting space as well as snacks and beverages.

The meeting was adjourned at approximately 4:35 p.m. and the volunteers for the different working groups were asked to meet briefly after adjournment to establish a time to meet and organize prior to the November 18th RSG meeting.

ATTENDEES

Regional Stakeholder Group Members

Name	Affiliation
Ray Bier	Friends of the Jordan
Denny Brya	Bay Harbor Company
Brad Garmon	Michigan Environmental Council
Ralph Dollhopf	EPA Region 5
Bill Hicklen	Bay Harbor Community Council
Lyn Johnson	Emmet County
Gary Kelterborn	CMS Energy
Stephen Kircher	Boyne Resorts/Bay Harbor Golf Club
Gary Knapp	Three Lakes Association
Larry Levensgood	Health Department of Northwest Michigan
Betsy Lieberman	Walloon Lake Association
Jessica McGeorge	Petoskey Regional Chamber of Commerce
Jennifer McKay	Tip of the Mitt Watershed Council
Dan Ralley	City of Petoskey
Rachel Smolinski	Little Traverse Bay Bands of Odawa Indians: Environmental Services
Laura Stanek	Antrim County Commission
Richard Steel	Star Township Supervisor
Bob Wagner	Michigan Department of Environmental Quality
Bob Walker	Bay Harbor Community Council
Robert Wheaton	Resort Township Supervisor

Observers

Name	Affiliation
JoAnne Beemon	Friends of the Jordan
Rick Beemon	Press
Barb Bradford	Friends of the Jordan and the POWER Coalition
Dean Branson	Three Lakes Association
Norton Bretz	Three Lakes Association
David Clink	Environmental Petoskey Advocates
Don de Blasio	EPA Region 5 Community Involvement Coordinator
Peter Garwood	Antrim County
Brandon Hubbard	Petoskey News Review
Becky Norris	Three Lakes Association

Jack Norris	Friends of the Cedar River, Inc.
Elaine Pelc	Michigan Department of Environmental Quality
Tim Petrosky	CMS Energy
Mike Robbins	City of Petoskey
Ed Strzelmski	Friends of the Boyne River
John Teesdale	Friends of the Jordan
Cynthia Van Allen	Emmet County

Facilitator

Melinda J. Holland E² Inc.

Notetaker

Sabrina Foster E² Inc.

Addendum 1: October 29, 2009 Meeting Agenda

Draft Agenda

Bay Harbor CKD Site Regional Stakeholder Group Organizational Meeting

October 29, 2009: 1:00 p.m. - 4:30 p.m.

101 E. Lake St. - City of Petoskey Office Building - Community Room, 2nd Floor⁴

1. Orientation & Process (50 minutes)

- Welcome – Agency and facilitator introductions
- Review agenda
- Review ground rules for conduct at meetings
- Participant introductions - *Name; group represented; professional or life experience/qualifications which could add value to the RSG process; hobby or area of personal interest*
- Project background and goals for this meeting
- RSG membership - *Are any key interests missing from this group?*

10 minute break – *Please speak with 2 other members you did not know prior to this meeting*

2. Site Update (40 minutes)

- Update on recent site activities
- Agency decision-making process and relation to RSG process; site regulatory framework

3. Opportunity for Brief Observer Comments (10 minutes)

4. RSG Operations and Planning (1 hour 20 minutes)

- RSG Operating Procedures - *Ready to adopt? If not, create an ad hoc work group for refinement before the next meeting*
- Future RSG Meetings - *establish a routine meeting date/time/location(s)*

10 minute break

- RSG goals, objectives, tasks – *Including topics for upcoming meetings*
- Formation of Work Groups – *Topics, membership, goals and specific tasks, timeline, deliverables*
- Discussion, prioritization, and agreement on RSG priorities for request of technical and/or educational assistance under TASC
- Review action items, next steps, assignments

5. Opportunity for Brief Observer Comments (10 minutes)

6. Adjourn

⁴ Call 231-347-2500 for directions

Addendum 2: Operating Procedures adopted by the RSG at the October 29, 2009 organizational meeting.

Bay Harbor CKD Site Regional Stakeholder Group Operating Procedures

A5.1 Role, Mission Statement, and Goals

The Bay Harbor Cement Kiln Dust Regional Stakeholder Group (RSG) was established by stakeholders and the U.S. Environmental Protection Agency (EPA) to represent the interests of the communities and stakeholders, to receive and share information, and to provide advice and input regarding the remediation of the Bay Harbor/Little Traverse Bay Cement Kiln Dust Site (the Site).

The RSG is designed to serve as an ongoing vehicle for information-sharing, discussion, and, where possible, consensus-building regarding decision-making related to the Site. Its members represent a diverse cross-section of key stakeholder interests, including affected property owners, concerned residents, local governments, community groups, environmental groups, health experts, the business community, and others as appropriate.

The RSG's role is advisory only. While the RSG is encouraged to make recommendations and/or requests, those recommendations are not binding. RSG meetings are intended to provide an opportunity for all relevant points of view to be discussed constructively and openly.

EPA, Michigan Department of Environmental Quality (MDEQ), the Northwest Michigan Community Health Agency (NMCHA), CMS, Boyne USA, and Bay Harbor Company are non-voting, or ex-officio, participants.

RSG Goals and Objectives

- To develop a thorough and objective understanding of the Site from the standpoint of environmental and health implications, remediation options, and overall community objectives.
- To offer EPA and MDEQ informed realistic recommendations on short- and long-term actions to be taken regarding cleanup of the Site.
- The RSG will develop and modify as needed, the objectives, tasks, and schedules for accomplishing the goals.

Mutual Commitments

EPA and MDEQ agree to assist the RSG in accessing information that the RSG needs to provide informed input and consider RSG input along with public comments while making decisions about the site.

RSG members agree to consider the information and the needs of the community and its key stakeholders thoughtfully and to provide constructive advice, suggestions, and input to the agencies.

Either the agencies or the RSG may propose additional goals, as amendments to the RSG Mission and Operating Procedures.

A5.2 Roles and Responsibilities of the Participants

RSG Members

The role of the RSG members is advisory.

The RSG will advise EPA and MDEQ on issues regarding the Site. To do this, RSG members are expected to:

- Attend regular meetings, receive information and training, and complete homework assignments.
- Participate in work group activities.
- Openly communicate RSG progress with people or groups with whom they are affiliated.
- Present their concerns and issues as well as those of people and groups with whom they are affiliated, at RSG meetings.
- Handle, in a responsible manner, information and materials provided by the agencies.
- Comply with these Operating Procedures.
- Work civilly and collaboratively with other RSG members and strive towards consensus agreements.

1. Meeting Attendance and Alternates

The success of the RSG will depend largely on consistent attendance by the RSG members, EPA, and MDEQ. RSG members, and their alternates, are expected to make a concerted effort to attend all meetings of the RSG. Unless the RSG informs EPA, MDEQ, and NMCHA that their attendance is not requested at a meeting, their concerted effort to be present is also expected.

Members who fail to attend half of the scheduled meetings in a calendar year may be removed from the RSG by consensus of the RSG members present at the first scheduled meeting of each calendar year.

RSG members are encouraged to have an alternate attend a meeting in his or her place if the member is unable to attend and shall provide the name of one designated alternate. Each alternate is encouraged to represent the organizational interest or affiliation of the member, attend RSG meetings, and exchange full briefing information with the member, so that the presence of the alternate will not delay the progress of the RSG. The alternate's attendance at a meeting on behalf of the RSG member shall be considered as attendance by the RSG member. Interested parties can only serve as the alternate to one RSG member.

2. Length of Service and Maximum Number of Members

Terms of membership will be two years. Members may serve three terms for a total of six years. The maximum number of RSG members serving at any one time shall be XX [a number to be determined by the RSG] (including EPA, MDEQ, and NMCHA). EPA will periodically review RSG membership to promote and ensure appropriate community representation.

3. Right to Resign

Any RSG member may resign from the RSG at any time.

4. Replacement, Addition or Removal of RSG Members

Replacement or Adding New Members – Nominations for replacement of a RSG member should meet, as far as possible, the RSG’s existing stakeholder balance, diversity, and geographical distribution. A list of the current stakeholder interests and their numerical distribution is shown at Appendix 1. Nominees for new members should represent a stakeholder interest not currently represented.

Removal – Any member of the RSG or a work group may be recommended for removal from membership at a regular or special meeting called for that purpose by the affirmative vote of two-thirds of the RSG members then serving. A RSG member whose conduct is detrimental to the RSG or who refuses to render reasonable assistance in carrying out the purpose of the RSG may be considered for removal. Any such member proposed to be removed shall be entitled to at least five days notice in writing of the meeting at which such removal is to be voted upon and shall be entitled to appear before and be heard at such meeting. A work group chair may be removed from their office for misconduct or neglect of duty by an affirmative vote of two-thirds of the RSG members, with notice as provided above.

5. Voting on RSG Membership

When the RSG votes on membership issues, the RSG shall use the following procedure:

- The RSG facilitator shall announce at an RSG meeting any and all open RSG membership positions.
- Nominations shall be accepted in writing by an announced deadline. Nominations may be made by RSG members, alternates, and members of the general public.
- Nominations shall be submitted to the Administrative Committee only. Each nomination shall include the nominee’s full name and contact information as well as the nominee’s connection to a stakeholder interest as described herein. Nominations shall also include a resume or similar biographical data.
- The chair of the Administrative Committee shall contact each nominee to confirm that the nominee is willing to serve on the RSG. The chair of the Administrative Committee shall also notify the facilitator that the RSG is ready to hold a vote at the next scheduled meeting so that time can be set aside. The chair of the Administrative Committee shall circulate to all RSG members and designated alternates the names and background information on the nominees as submitted by the candidate.
- At the RSG meeting where the vote will be held, each nominee will give a two to three minute statement or presentation explaining his/her interest in serving on the RSG and what s/he can offer to the RSG. RSG members shall be allotted time to ask questions. Following the statements/presentations and any questions from the RSG members, the RSG shall go into Executive Session. Discussion will be held during Executive Session.
- Voting shall be by written ballot. In order to vote, a RSG member or his/her designated alternate must be present at the meeting. The written ballots shall be provided by the Rules Committee and the Rules Committee shall count the votes.
- A nominee shall need a majority vote of the members present and voting in order to be seated as a new RSG member; however, if a majority is not reached on the first ballot, a runoff vote between the two nominees receiving the most votes shall be immediately held, and the nominee with the most votes in the runoff vote shall be seated as a RSG member.

EPA and MDEQ

EPA and MDEQ are committed to participating in the RSG and carefully considering its advice regarding the Site. EPA and MDEQ will participate in the discussions of the RSG, openly discussing site knowledge including technical details, institutional constraints, and budgetary information, and will help to clarify previously disseminated information on activities affecting the Site. EPA and MDEQ will continue to hold agency-organized public meetings to share new information regarding sampling or activity at the Site with the public at large.

RSG Facilitator

If funding (or a qualified volunteer facilitator) is available, a neutral facilitator will lead and coordinate the RSG process and facilitate meetings. The facilitator's role includes:

- Helping maintain a level playing field for all participants.
- Helping clarify roles and purposes of the group.
- Helping parties identify and prioritize the issues that need to be discussed.
- Helping the RSG develop and implement meeting agendas, group goals, tasks, and work plans.
- Helping the RSG stay on task and schedule with meeting agendas and long-term work plans.
- Intervening to redirect non-productive communications, enforcing behavioral ground rules, and resolving conflicts.
- Helping resolve impasses that develop because of technical complexity, political visibility, poor communication, personalities, or past history.
- Assisting the group in developing/modifying procedural guidelines for the group process.
- Summarizing and documenting agreements to date and tracking action items.
- Coordinating and building linkages/trust among participants.
- Ensuring that all issues are addressed and all parties have an opportunity to be heard.
- Developing draft agendas in consultation with the facilitator, based on RSG input, to be approved by the Executive Committee.
- Working with RSG to set the times and locations for the meetings, and making logistical arrangements, if necessary.
- Distributing meeting notices and other information to members.

Technical Resources for the RSG

During its deliberations, the RSG will receive information from various technical resources including, but not limited to, EPA and MDEQ contractors and regulatory officials.

A5.3 Committees and Work Groups

Executive Committee

The Executive Committee membership shall be composed of the facilitator, and chairpersons of the Administrative Committee and work groups. The facilitator shall chair Executive Committee meetings. During the intervals between meetings of the RSG, the decisions involving the daily business operations of the RSG may be made by a majority vote of the Executive Committee; however, this committee shall have no authority to set RSG policy or to make any

recommendations to EPA or MDEQ concerning issues that fall within the scope of the RSG authority.

The Executive Committee shall endeavor to ensure that information is received by the RSG early enough in the decision-making process to allow meaningful and timely comments or recommendations by the RSG.

Administrative Committee

This Committee shall consist of no less than three members of the RSG. The members and chairperson of this Committee shall be selected by the RSG. The facilitator shall serve as a member of this Committee. This Committee shall advise the RSG on any issue that arises pertaining to the substance or scope of these Operating Procedures. Proposed amendments to the Operating Procedures shall be submitted to the Administrative Committee for recommendation to the RSG in accordance with the guidelines and procedure set forth in the section "Amendments to RSG Operating Procedures" below.

This Committee shall also conduct membership replacement functions.

Work Groups

Work groups may be formed to address specific topics or issues and make recommendations to the full RSG. The decision to form (or disband) a work group shall be made by agreement of at least three-quarters of the RSG present at the meeting where the proposal is made. Work group membership is voluntary. A work group chairperson will be selected by the work group membership.

Work groups might comprise RSG members and their alternates. Other volunteers may serve on work groups, if recommended and approved by at least three-quarters of the RSG members present at the meeting when the proposal is made. The work groups are not authorized to make decisions or recommendations for the RSG as a whole. Work group meetings will be held between full RSG meetings and scheduled at the convenience of the participants. Alternately, work group meetings may be held by teleconference. All RSG members, alternates, and other work group members will be notified of all work group meetings. Either the RSG facilitator or the work group chairperson will provide notification and written summaries of work group meetings.

A5.4 RSG Procedures

RSG Meetings

Meetings of the RSG will be open to the public. As needed, meetings will be held monthly on a regular date as agreed to by RSG members, unless the RSG adopts a different schedule. At any meeting of the RSG, the presence of fifty percent plus one of the members then serving shall be necessary to constitute a quorum. Special meetings of the RSG may be called any time at the request of a majority of members. All procedural requirements for a regular meeting shall apply to Special Meetings if the majority of RSG members are present.

Meetings will be held at convenient location(s) determined with input from the RSG. Work group meetings will be held as needed (in-person or by conference call) and may be closed to the public

at the discretion of the members. A brief summary of the deliberations of any closed session must be prepared and made available within a reasonable time.

Conduct at Meetings

Participants agree to follow the facilitator's guidance regarding conduct at meetings and agree to adhere to the following guidelines:

- Be on time.
- Listen as an ally, not as an adversary. Listen with an open mind and heart.
- Speak one at a time; interruptions and side conversations are distracting and disrespectful.
- Be concise. Speak only once on a particular issue, unless you have new or different information to share.
- Ask for clarification; do not assume you know what someone means.
- Disagree respectfully and openly, not in private.
- Focus on the issue, not the speaker.
- Treat each other with respect as you would like to be treated.
- Allow all members to participate equally; avoid dominating.
- Honor time limits.
- Turn off all beepers and cell phones; take or make all calls outside the room.

RSG Decision Process

1. Consensus

The RSG will endeavor to make substantive decisions or recommendations by consensus (agreement) of all members (or alternate if representing a member) that are present at the meeting. Ex-officio members will not participate in determinations of consensus. In the event of irreconcilable differences of opinion, the meeting summary will reflect the different viewpoints expressed. The use of straw votes is allowed to gauge the strength of the various viewpoints for discussion purposes. Procedural decision-making may be made by a vote of three-quarters the RSG members present at the meeting where the decision is made.

2. Majority/Minority Reports

If the RSG is unable to reach consensus on its comments or recommendations, the RSG may report its findings in majority and minority reports. In addition, RSG members wishing to abstain from any particular RSG position may request that the abstention be noted clearly in the meeting summary and in any documents prepared and submitted by the RSG.

3. Use of Consensus Recommendations

To the extent that the RSG reaches a consensus agreement on recommendations regarding the Site, EPA and MDEQ participants will convey the consensus recommendations to their respective agencies.

Amendments to RSG Operating Procedures

After adoption, these Operating Procedures may be amended only by consensus of all members present at the meeting in which the amendments are presented for adoption. Members shall be given reasonable advance notice of proposed amendments.

Observers

All persons attending meetings who are not RSG participants are considered observers. Observers may speak only at times designated for observer comments on the meeting agenda. Members of the public may also offer written comments to the RSG by submitting comments to the facilitator. The RSG may schedule special meetings for extended interaction with interested members of the public.

Media Relations

No RSG member will speak for the RSG to the media without the consensus of the RSG. Any RSG member who chooses to speak to the media without approval of the RSG must specify that he or she is not speaking on behalf of the RSG. RSG members may develop a specific plan for interacting with media representatives.

Meeting Summaries

Draft summaries of the RSG meetings will be prepared by the facilitator (or EPA, MDEQ, an RSG member, or other volunteer) and reviewed by the RSG members, and EPA and MDEQ. Also, summaries will be made available to all RSG members at least one week prior to the next regular RSG meeting and sent to all individuals on a mailing or electronic distribution list developed by the RSG.

Agendas

RSG meeting agendas will be drafted by the facilitator in consultation with the Executive Committee, RSG members, and ex-officio members. The agenda will be reviewed at the beginning of each meeting and will be revised, if agreed by the RSG. Committee and work group meeting agendas will be developed by their leadership in consultation with Committee and work group membership.

Administrative Support

EPA, together with state agencies, local government(s), local universities, and others may assist the RSG with administrative support.

Resources permitting, agency administrative support for the RSG may include the following:

- Arranging for meeting space in a central location.
- Preparing and distributing meeting notices and agenda.
- Taking notes during meetings and preparing meeting summaries.
- Duplicating site-related documents for RSG review.
- Duplicating and distributing RSG review comments, fact sheets, and other materials.
- Providing mailing services and postage.

- Preparing and placing public notices in local newspapers.
- Maintaining RSG mailing lists.

Annual Organizational Meeting

The RSG shall hold its annual organizational meeting as part of its December meeting. At this meeting elections will be held (if scheduled) and the RSG process and progress will be evaluated.

A5.5 Safeguards for the Participants

Good Faith

All participants agree to act in good faith in all aspects of the RSG's deliberations. In order to encourage the free and open exchange of ideas, views, and information prior to achieving consensus, participants agree not to use specific offers, positions, or statements made by another participant outside the RSG process. No RSG member will speak for the RSG without the consensus of the RSG.

Personal Attacks

Personal attacks and prejudiced statements will not be tolerated. As provided in Section A.5.2(4), A RSG member (or work group member) whose conduct is detrimental to the RSG process may be considered for removal.

**Bay Harbor CKD Site Regional Stakeholder Group Operating Procedures
Appendix 1 – RSG Membership as of October 29, 2009**

Community/Homeowners Associations

- The Preserve Homeowner Association and Bay Harbor Community Council – Bob Walker
- The Cliffs Homeowner Association and Bay Harbor Community Council – Joe Sproles

Environmental/Conservation Groups

- Friends of the Jordan River Watershed – Ray Bier
- Michigan Environmental Council – Brad Garmon
- Tip of the Mitt Watershed Council – Jennifer McKay
- Walloon Lake Association – Rick Gross
- Three Lakes Association – Gary Knapp

Native American Interests

- Little Traverse Bay Bands of Odawa Indians, Environmental Services – Rachel Smolinski

Local Business Interests

- Petoskey Regional Chamber of Commerce – Carlin Smith

Local Government

- City of Petoskey – Dan Ralley
- Emmet County – Lyn Johnson
- Resort Township – Robert Wheaton
- Antrim County – Laura Stanek
- Star Township – Richard Steel

Ex-Officio: Agencies and Parties Involved in Remediation Efforts

- Northwest Michigan Community Health Agency – Scott Kendzierski
- Environmental Protection Agency (EPA) Region 5 – Ralph Dollhopf
- Michigan Department of Environmental Quality (MDEQ) – Bob Wagner
- CMS Energy – Gary Kelterborn
- Boyne USA – Steve Kircher
- Bay Harbor Company and Bay Harbor Properties – Dennis Brya