



**BAY HARBOR/LITTLE TRAVERSE BAY  
CEMENT KILN DUST (CKD) SITE**

**REGIONAL STAKEHOLDER GROUP**

**DRAFT STAKEHOLDER ASSESSMENT REPORT**

**October 19, 2009**

**Prepared for U.S. Environmental Protection Agency Region 5  
and Bay Harbor/Little Traverse Bay Community Stakeholders  
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## Section 1: Introduction

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### ***1.1 Background***

The U.S. Environmental Protection Agency (EPA) Region 5 and the Michigan Department of Environmental Quality (MDEQ) have been actively working with stakeholders at the Bay Harbor Cement Kiln Dust (CKD) Site (the Site) since 2005.<sup>1</sup> Stakeholders approached EPA to request support in forming a stakeholder group for the Site. EPA offered assistance under its Technical Assistance Services for Communities (TASC) contract to conduct a stakeholder assessment and convene a regional stakeholder group that would be representative of the diverse interests of the communities and stakeholders around the Site. TASC is an EPA-sponsored program to provide independent, non-advocacy educational/technical assistance to communities. This assessment was conducted by E<sup>2</sup> Inc., TASC program's prime contractor, under Work Assignment Numbers TASC-1-R5 and TASC-2-R5 and Technical Directive Number TASC 1.

### ***1.2 Successes - History of the Site and Stakeholder Engagement***

The Site is located along a 5-mile stretch of the Little Traverse Bay shoreline of Lake Michigan, part of an area used from about 1870 through 1980 for limestone mining and cement manufacturing operations.<sup>2</sup> During the 1990s, the Site was sold to the Bay Resorts Properties Limited Partnership (Bay Resorts). Pursuant to the provisions of an Administrative Agreement and Covenant Not to Sue with the State of Michigan's brownfield site reuse program, the company built the Bay Harbor Resort, a mixed-use residential, commercial, and recreational facility on the Site.

In 2004, reddish-brown seeps (percolation of water through the soil from sources such as ditches, watercourses, or water storage facilities) were observed along the Little Traverse Bay shoreline, prompting MDEQ and the Michigan Department of Community Health (MDCH) to investigate. Elevated pH levels<sup>3</sup> were found in leachate coming from CKD piles at the Site; MDCH concluded that the leachate posed a public health hazard.<sup>4</sup> The Northwest Community Health Agency issued public health advisories in September 2004 advising the public of the contamination and recommending that the public avoid the affected areas of the shoreline. Also in 2004, the Little Traverse Bay Bands of the Odawa Indians (LTBB) requested the assistance of EPA. Little Traverse Bay is used by LTBB for licensed commercial and subsistence fishing.

In 2005, the parties involved in the development of the Site, Bay Harbor Company, Boyne USA, and CMS Land and CMS Capital LLC (CMS), entered into discussions with EPA and MDEQ regarding cleanup of the Site. Ultimately, CMS signed an Administrative Order on Consent with EPA to investigate and clean up the contamination. Under this administrative settlement with EPA, the responsible parties

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<sup>1</sup> The Site is also known as the Little Traverse Bay CKD Release site.

<sup>2</sup> EPA's January 2009 *Site Update* and other site documents are available at: <http://www.epa.gov/region5/sites/littletraverse/#factsheets>; the EPA Community Involvement Plan, Little Traverse Bay CKD Release Site is available at: <http://www.epa.gov/region5/sites/littletraverse/pdfs/Final%20Little%20Traverse%20Bay%20CKD%20Release%20Site%20CIP.pdf>

<sup>3</sup> A pH exceeding 9.0 represents an acute hazard to aquatic life, and a potential hazard to people through direct contact.

<sup>4</sup> Michigan Department of Community Health Public Health Consultation, April, 4, 2005: [http://www.michigan.gov/documents/Bay\\_Harbor\\_Cement\\_Kiln\\_Dust\\_Seep\\_Discharge\\_121873\\_7.pdf](http://www.michigan.gov/documents/Bay_Harbor_Cement_Kiln_Dust_Seep_Discharge_121873_7.pdf)

assumed responsibility for the environmental cleanup work at the Site with EPA and MDEQ oversight.<sup>5</sup> As part of the settlement, the responsible parties agreed to provide site security and restrict access to site areas with high pH levels, study the pollution and construct a system to collect the contaminated seepage, and prevent new leachate releases. Initial cleanup activities at the Site began in 2005. A draft Remedial Investigation and Alternatives Evaluation (RI/AE) has been prepared for the development area (the Bay Harbor Resort) and East Park (an area donated by Bay Harbor Development to Resort Township for the creation of a park).

The Beeland Group, a subsidiary of CMS, received a permit from EPA and MDEQ in 2007 to construct an industrial waste disposal well. The proposed well was to be located in Alba, Michigan (in Star Township, Antrim County), a rural area south of Bay Harbor. An environmental organization, local government, and others filed a lawsuit opposing the disposal well. In August 2009, the court granted an indefinite stay of the litigation with the agreement of all parties. This stay provides time and space for the parties to participate in the Regional Stakeholder Group process and conduct other negotiations.

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<sup>5</sup> Administrative Order on Consent for Removal Action, February 22, 2005.

## Section 2: Stakeholder Assessment Methodology

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This section provides a brief summary of the stakeholder assessment methodology. More details on the process can be found in Appendix 1.

Stakeholders were notified of the assessment and associated interviews via e-mail and follow up phone calls. On July 10, 2009, the TASC facilitator sent stakeholders an introductory letter, which summarized the project's goals: to document stakeholder interests, issues, and priorities and evaluate the possible formation of a regional stakeholder group (Appendix 2).

The stakeholder interviews were the cornerstone of this assessment. A preliminary list of 20 to 25 interviewees was developed based on background research. Interviews were primarily conducted in person in August 2009 with some interviews conducted by telephone. Secondary interviews were conducted based on findings and contact information provided during initial interviews. Thirty-nine individuals were interviewed or provided important information for this assessment (Appendix 3). An interview guide was used to solicit responses from stakeholders (Appendix 4).

This assessment provides a summary of key findings from the stakeholder interviews as well as a set of recommendations based on those findings. This report is intended to provide a high-level overview of key stakeholder concerns and priorities at the Site. Every effort has been taken to avoid attribution of comments to specific individuals or organizations.

Based on the project's information gathering, stakeholder interviews, and independent research and analysis, this report recommends membership in the Core Group for the Bay Harbor CKD Site Regional Stakeholder Group (RSG), as explained further in Section 5. This report also recommends a facilitated, collaborative process with all interested parties to guide the RSG's formation and future activities.

This report will be distributed to all interviewed stakeholders and posted on EPA's Web site at: <http://www.epa.gov/region5/sites/littletraverse>. Copies of the report are available to all interested parties.

## Section 3: Key Findings Summary

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This section summarizes the key findings identified during the assessment process. Key findings are presented in three categories: Stakeholder Concerns, Stakeholder Goals, and Information Requests for the RSG Process. These findings are not listed in any particular order, nor do they reflect how many interviewees expressed that concern or goal.

### 3.1 Summary of Stakeholder Concerns

#### **The Protection of Human Health and the Environment**

Interviewees expressed concerns regarding the potential human health and environmental impacts of the site's contamination. Interviewees focused on both the elevated pH and levels of dissolved metals (particularly mercury) in area surface water and ground water. Interviewees expressed concern that the site's contamination could impact local drinking water wells in Petoskey as well as regional drinking water supplies, and further noted that the site's contamination has also limited recreational access to affected areas of the Little Traverse Bay shoreline.

In terms of environmental impacts, interviewees expressed concern that the site's contamination could lead to mercury bioaccumulation in lake species, especially fish consumed by humans. The LTBB, for example, rely on Little Traverse Bay for licensed commercial and subsistence fishing.<sup>6</sup>

#### **The Cleanup Process**

Interviewees requested additional clarity regarding proposed plans for the site's cleanup as well as administrative and site regulatory issues and site cleanup responsibilities.

Regarding site cleanup, interviewees indicated interest in comparing the site's proposed remedy to the remedies implemented for other CKD sites. Interviewees requested additional information regarding disposal options and alternative remedies for site leachate, expressing an underlying concern that disposal options discussed to date, and particularly the use of the injection well in Alba<sup>7</sup>, pose concerns for local stakeholders. Interviewees also expressed concern regarding potential health risks from the site's cleanup, during leachate transportation, as well as the potential impacts of fluctuating lake water levels on the site's remedy over the long term. Interviewees stressed the desire for a final remedy that would perform satisfactorily over an extended period of time.

Regarding administrative and regulatory site issues, interviewees requested a better understanding of EPA and MDEQ's regulatory processes and approvals for the Site, including the site's Administrative Order on Consent, discharge limits, permit processes, and associated legal issues, and how these processes may impact the site's cleanup. Interviewees also expressed interest in understanding the future roles and

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<sup>6</sup> LTBB harvested approximately 46,000 pounds of lake trout and 26,000 pounds of whitefish in 2008. LTBB's 2007/2008 *Annual Harvest Report* provides additional information: <http://www.ltbodawa-nsn.gov/Departments/NaturalResources/2008%20Harvest%20Report.pdf>.

<sup>7</sup>Concerns about the Alba well include: It would be close to the headwaters of Jordan River valley; risk that injected waste could reach potable ground water or exit into surface water; possible impacts of high pH and mercury; moving contamination from the Site to an uncontaminated area; and risks from truck transportation of leachate.

responsibilities of EPA and MDEQ at the Site and any cleanup implications of the transition in regulatory oversight and authority from EPA to MDEQ.

Finally, interviewees sought additional clarity regarding CMS' role in the cleanup decision-making process and whether additional responsible parties could be identified. Interviewees also expressed interest in ensuring that CMS remains engaged at the Site over the long term and that the company's previous cleanup activities do not limit consideration of future cleanup options for the Site.

### **Community Quality of Life**

Interviewees emphasized that the site's contamination has already significantly affected the community's quality of life, with contamination and stigma issues leading to reduced property values/sales and negative tourism and other economic impacts from the public health advisories for the Little Traverse Bay shoreline. Interviewees also expressed concern that, if not handled appropriately, the site's cleanup could impact the region's economy and community quality of life over the long term, threatening the value and viability of local businesses, the Bay Harbor resorts and golf courses, and residential communities. Interviewees emphasized that the region's economy relies on the area's natural resources, scenic beauty, and tourism. Interviewees indicated that there is public resistance to the idea of waste from a site located in an affluent area being disposed of in a poor, rural area. Finally, interviewees stated that using a waste injection well for the site's cleanup could set an undesirable precedent for the creation of additional disposal wells in the region.

### **The RSG Process**

Interviewees expressed support for the concept of a facilitated RSG process for the Site, while cautioning that the process would need to be well-designed in order to be effective and successful.

Interviewees requested that the process ensure that the RSG include all key stakeholders, yet not be overly large, and that all stakeholders have an equal voice in RSG meetings and decision-making. RSG participants would need to be willing to listen to each other and to work together collaboratively to review site information and develop findings and recommendations. Interviewees indicated that the inclusion of CMS representatives in the RSG process would be very important, alongside requests that the company participate in good faith and share data transparently. Concerns were raised about balance of power within the RSG, as CMS' political and economic power exceeds that of the other potential participants. Interviewees also stated that the RSG would function optimally if EPA, MDEQ, and CMS each work to build trust, transparency, and relationships with the community as part of the RSG process.

Interviewees requested additional information regarding how the RSG process would inform the site's remedial investigation and cleanup and stated that the RSG's mission, goals, and operating procedures would need to be carefully thought through. Interviewees stated that the RSG participants will need technical assistance in order to serve as informed participants and that the RSG process would need to move quickly to mesh well with EPA and MDEQ's one-year (late 2010) timeline for decision-making regarding the final remedy for the site's cleanup.

### **3.2 Summary of Stakeholder Goals**

The goals mentioned by interviewees fell into four major categories as outlined below:

#### **Human Health and Environmental Protection Goals**

- Protect the quality of the area's surface and ground water resources.
- Protect the area's natural resources, tourism industry, property values, and high quality of life.
- Prevent/reduce mercury (and other contaminant) loading in Little Traverse Bay.
- Ensure the proper long-term monitoring of the Site.

### **Community Quality of Life Goals**

- Protect the natural resources, scenic beauty, and tourism values that help fuel the local economy.
- End/reduce the disruptions and nuisance associated with site cleanup efforts.
- Prevent the site's final disposal/cleanup option from negatively affecting surrounding communities.

### **Site Cleanup Goals**

- Investigate and consider all viable cleanup alternatives.
- Consider a cleanup alternative that does not dispose of leachate off site.
- Avoid the injection well in Alba as an alternate location for leachate disposal.
- Seek ways to reduce ground water infiltration into and through the CKD on the Site.
- Select a long-term final remedy that is acceptable to all key stakeholders that will not need to be redone in the future.
- Complete the cleanup process in a manner that minimizes negative effects on area businesses and tourism.

### **RSG Process Goals**

- Develop collaborative dialogue to restore communication, understanding, and trust among local stakeholder organizations.
- Ensure that the RSG has a real effect on the cleanup decision-making process.
- Review and understand site findings and provide RSG comments to EPA and MDEQ regarding the site's remedial investigation and cleanup alternatives.
- Understand that the RSG's role is advisory; informing the site's remedial investigation and cleanup rather than dictating decisions to other parties.
- Deepen stakeholders' understanding of site-related technical and other information through the RSG process.
- Be highly focused and productive to be able to provide meaningful input within the timeline for the site's remedial investigation and cleanup.
- Develop creative solutions and win-win outcomes for site cleanup that can be accepted by all key stakeholders.
- Ensure that the RSG provides public outreach and community education as part of its mission. An RSG Web site could provide an opportunity to disseminate information within the group and to the larger community.

### 3.3 Information Requests for RSG Process

Interviewees stated that the provision of independent technical assistance would be an important component of the RSG process, ensuring that all RSG participants have access to and understand site-related information and are able to provide informed feedback to EPA and MDEQ regarding the site's remedial investigation and cleanup. Interviewees also stated that regular site updates from EPA and MDEQ would be an important component of the RSG process.

General information requests included:

- An overview of the site's contaminants of concern, their potential impacts on human health and the environment, and cleanup levels and strategies.
- Detailed understanding of mercury as a primary site contaminant of concern, including its impacts and risks, chemical forms, regulation, flux model analysis, and treatment technologies.
- A review of applicable state and federal regulations and regulatory agency responsibilities and timeframes at the Site.
- A review of the site's Administrative Order on Consent and CMS' commitments.
- Presentation of remediation approaches used at other CKD sites and comparison with cleanup alternatives for the Site.
- Potential long-term remedy implications of water level fluctuations in Lake Michigan.
- Leachate reduction techniques and consideration of the impact of golf course watering on leachate volumes.

Specific information requests related to the site's remedial investigation and alternatives evaluation (RI/AE) included:

- EPA and MDEQ overview of the RI/AE.
- Independent technical advisor review of RI/AE information and report to the RSG, including a summary of key RI/AE concepts written for a general audience.
- Access to an independent technical analysis of RI/AE supporting data, models, and documentation.
- An overview of the risk assessment process, and cost/benefit analysis to help the RSG understand and consider how cost/benefit analysis relates to risk reduction (the cost of reducing risk to the next level of protection).
- Ecological investigation of data and results.
- Information on leachate reduction and the diversion of upgradient ground water.
- Geological, hydrogeological, and ground water modeling for cleanup alternatives.

## Section 4: Analysis

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The contamination and cleanup of the Bay Harbor CKD site is a highly visible issue of public concern in northern Michigan. The Petoskey/Bay Harbor area has few other major environmental contamination problems in comparison with urban parts of the state and a highly educated, relatively affluent population. These factors may have increased the level of interest and attention that this site has received.

### **4.1 Overview of Key Stakeholder Issues and Concerns**

Most interviewees stressed that one of their most important concerns is ensuring a permanent site remedy that will not need to be redone periodically. Most interviewees were also concerned about the site's discharge of mercury into Lake Michigan. Many interviewees stated that CMS must participate in the RSG process for the process to be worthwhile. Some stakeholders and local government representatives are primarily focused on opposition to the use of the injection well in Alba for off-site leachate disposal. Some stakeholders are focused on particular watersheds and lakes that could be affected by future leachate disposal options. Other stakeholders are focused on broader regional environmental concerns related to the Site.

Many interviewees expressed a lack of trust in the site's regulatory agencies and CMS. Some interviewees have concerns regarding the regulatory agencies' ability and willingness to take sufficient additional actions to assure a long-term protective remedy for the Site. The lack of trust is partly based on actions and approvals taken by the State of Michigan prior to the redevelopment of the Site, as well as the perceived lack of coordination between EPA and MDEQ's cleanup programs and the approval process for the Alba injection well permit. Many interviewees view CMS as providing site information that suits its public relations efforts and withholding other pertinent information. Many interviewees feel that the lack of trust also stems from misinformation and inadequate information about a wide range of site-related issues.

### **4.2 Overview of Key Stakeholder Goals**

Protection of the environment, natural resources, scenic values, tourism, and recreation assets were stressed as important goals by most interviewees. Almost all interviewees supported reaching consensus on site cleanup recommendations as a potential goal for the RSG. Becoming knowledgeable quickly regarding site information such as the RI/AE data, related technical issues, and remedial options would also be an important goal for the RSG. The importance of relationship-building with other site stakeholders, regulatory agencies, and CMS was mentioned by many interviewees. Providing community outreach and education regarding the Site was also mentioned as an important goal for the RSG process.

### **4.3 Opportunity for a Successful RSG Process**

The TASC facilitator believes that there is a high likelihood that an RSG process for the Site would be successful. The stakeholders interviewed as part of the assessment are very interested in the Site and the proposed RSG process. Many interviewees are very knowledgeable about the Site and related technical issues and are willing to share their technical expertise with the RSG.

Although the interviews revealed that there is a history of mistrust between several of the stakeholder groups as well as among site stakeholder groups and the site's regulatory agencies and CMS, there is also a strong interest among the stakeholders in forming an RSG to work with EPA, MDEQ, and CMS to

provide the community with a civil, balanced forum in which to discuss community concerns and goals. CMS representatives indicated during the assessment that the company would be willing to participate in an RSG process for the Site. The recent agreement that has led to an indefinite stay of the litigation between local government/stakeholders and CMS provides a window of time within which the RSG process could proceed.

Based on the interviews, the TASC facilitator is optimistic that an RSG process could successfully facilitate agreement within the communities near the Site regarding its cleanup. The RSG process could also provide an opportunity for in-depth discussions between members and the agencies with the goal of building mutual understanding, respect, and trust.

The TASC facilitator found that the level of stakeholder knowledge regarding the Site, agency activities, and technical issues ranges widely. Improving stakeholder understanding of site information, agency activities, and technical data, as well as the legal/regulatory authorities and limitations related to the Site would be an important part of the RSG process. Independent technical assistance from recognized experts who have credibility with the RSG could be an effective way to provide the educational and technical support needs outlined in Section 3 of this report.

## Section 5: Recommendations for RSG Formation and Membership

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### 5.1 RSG Formation Recommendations

Key process design guidelines for a successful stakeholder group process include:

- The group is small enough to allow productive dialogue with all members.
- The group has a balanced membership which reflects all key stakeholder interests.
- Members work collaboratively, commit adequate time, and do their “homework” between meetings.
- Meetings are public with opportunities provided for observer comments.

As part of this assessment, the TASC facilitator reviewed EPA’s *Guidance for Community Advisory Groups at Superfund Sites*, which is designed to help EPA staff convene and work with community advisory groups.<sup>8</sup> This document discusses general approaches for forming and operating a group, emphasizing that the group should reflect the composition of the community and represent the diversity of local interests. For the proposed RSG for the Site, the TASC facilitator recommended, and EPA/MDEQ endorsed, the approach of having the TASC facilitator recommend composition of a Core Group based on the findings of the stakeholder assessment. The members of this Core Group would then make the final decision on membership and composition of the RSG, with the goal of a final membership that represents the diverse interests of the community. In the TASC facilitator’s best professional judgment, 15 to 25 members is the optimum size for the RSG, which will allow for meaningful, productive dialogue where all members can be heard.

Some of those suggested for Core Group membership are recommended as ex-officio or non-voting members. Ex-officio members should participate actively in the RSG process but would not be part of voting or determinations of consensus by the RSG. The regulatory agencies, as the recipients of the RSG’s recommendations and comments, will be ex-officio members. EPA Guidance<sup>9</sup> states that it may be appropriate to designate Potentially Responsible Parties (PRPs) as ex-officio members to prevent potential conflicts of interest or domination of the group process. CMS, Boyne USA, and Bay Harbor Company have received notice designating them as PRPs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund). Boyne USA and Bay Harbor Company also have state law obligations for due care as contaminated site property owners. Based on these considerations, CMS, Boyne USA, and Bay Harbor Company are recommended as ex-officio members of the RSG.

### 5.2 RSG Core Group Membership Recommendations

During the stakeholder assessment, the TASC facilitator worked carefully to locate and speak with a wide range of stakeholders within the communities potentially affected by or interested in the site. The list below presents stakeholder organizations and individuals whom the TASC facilitator recommends to form the initial Core Group for the RSG process.

#### **Community/Homeowner Associations**

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<sup>8</sup> Available at: <http://www.epa.gov/superfund/community/cag/resource/guidance/caguide.pdf>

<sup>9</sup> EPA Guidance for Community Advisory Groups at Superfund Sites, Section 4.2 - Membership Composition; <http://www.epa.gov/superfund/community/cag/resource/guidance/caguide.pdf>

- The Preserve Homeowner Association and Bay Harbor Community Council—Bob Walker, Bay Harbor Community Council Environment Committee chair.
- The Cliffs Homeowner Association and Bay Harbor Community Council—Joe Sproles, Bay Harbor Community Council Environment Committee member.

### **Environmental/Conservation Groups**

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

### **Native American**

- Little Traverse Bay Bands of Odawa Indians—Rachel Smolinski, Environmental Services Director.

### **Local Business Interests**

- Petoskey Regional Chamber of Commerce—Carlin Smith, President.

### **Local Government**

- City of Petoskey—Dan Ralley, City Manager.
- Emmet County—Lyn Johnson, Controller.
- Resort Township—Robert Wheaton, Supervisor.
- Antrim County—Peter Garwood, Coordinator.
- Star Township—Richard Steel, Supervisor.

### **Ex Officio (non-voting)**

- Northwest Michigan Community Health Agency—Scott Kendzierski, Director of Environmental Health.
- EPA Region 5—Ralph Dollhopf.
- MDEQ—Robert Wagner.
- CMS—Gary Kelterborn, Project Coordinator.
- Boyne USA—Stephen Kircher, President.
- Bay Harbor Company and Bay Harbor Properties—Dennis Brya, Director of Development and Operations.

The absence of anyone who was interviewed from the Core Group list is no reflection on the suitability, talent, or interest of those individuals; rather it is that in developing these recommendations, the TASC facilitator endeavored to limit each organization, or stakeholder interest, to one Core Group member to keep the total Core Group members to a reasonable number.

## Section 6: RSG Process Design Recommendations

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### 6.1 RSG Operating Structure

This section of the report highlights some of the considerations that will be important in organizing and operating the RSG to maximize its success. To be effective, the group must have operating procedures, a clear mission, good facilitation, and leadership. Ongoing communication systems must be established and ground rules and logistics support must be put in place to help the RSG achieve its goals and ensure productivity. These include proper meeting location, accessible meeting times, skilled neutral facilitation, access to information, technical assistance, and meaningful productive agendas.

Proposed draft RSG operating procedures are provided in Appendix 5. These procedures provide details regarding the potential management of the RSG process. Topics covered include:

- RSG role, mission, and goals.
- Participant roles and responsibilities.
- Leadership.
- Committees and work groups.
- RSG procedures.
- Process safeguards for participants.

### 6.2 RSG Process Information and Research Needs

Based on the findings of this assessment, the RSG will have a strong interest in obtaining in-depth technical information and analysis support related to the Site. Some form of independent technical support (such as the technical assistance available through the TASC program) would greatly improve the chances of a successful RSG process. If the RSG has independent technical advisors to help members interpret and evaluate technical information from the RI/AE, it is anticipated that this assistance will increase stakeholder understanding and trust of information provided by CMS and the site's regulatory agencies. This technical support is also important in helping the RSG to successfully review and provide comments to the agencies on the site's RI/AE and final remedial action decision-making process. Individuals with scientific and engineering expertise have also been recommended as Core Group members for the RSG, so that the RSG will also have internal technical expertise available.

### 6.3 RSG Process Support Needs

In the initial year of the RSG's operation, skilled, neutral facilitation services will be important for assisting the group in setting goals and priorities, staying focused on the RSG's mission, goals, and agenda topics, building trust between the parties, and developing areas of agreement.

A professional, neutral facilitator at RSG meetings could:

- Maintain a level playing field for all participants.
- Help clarify roles and purposes of the group.
- Help identify and prioritize the issues that need to be discussed.
- Help develop and implement meeting agendas, group goals, tasks, and work plans.
- Help the RSG stay on task and schedule with meeting agendas and long-term work plans.

- Intervene to redirect non-productive communications, enforce behavioral ground rules, and resolve conflicts.
- Help resolve impasses that develop because of technical complexity, political visibility, poor communication, personalities, or past history.
- Assist in developing/modifying procedural guidelines for the group process.
- Summarize and document agreements to date and track action items.
- Maintain schedules and the momentum of the process.
- Coordinate and build linkages/trust among participants.
- Ensure that all issues are addressed and all parties have an opportunity to be heard.

Additional resources needed to support the RSG may include administrative support tasks such as arranging meeting logistics and preparing meeting summaries and handouts. EPA and MDEQ active participation in the RSG process will be important to the success of the RSG.

#### **6.4 Initial RSG Core Group Meeting**

After the Stakeholder Assessment Report has been distributed, TASC will send invitation letters to the RSG Core Group members and contact Core Group members to schedule the first meeting.

At the initial Core Group meeting, the Group should review and, if possible, adopt the RSG's Operating Procedures. The Group should also discuss if the RSG membership needs to be expanded or otherwise changed. Under this approach the Core Group will be responsible for approving the final RSG membership. If Core Group members wish to expand or change the RSG's membership to complete its formation, time must be allotted to discuss the process for finalizing RSG members.

The following topics should be addressed at the first or second Core Group meeting:

- Discussion and adoption of Operating Procedures.
  - RSG mission, goals, and process.
  - Ground rules for conduct at meetings.
  - Agreements on when and how RSG participants will discuss group activities with other parties.
  - Media relations.
  - Participant and facilitator roles.
  - Replacement process for RSG members.
  - Alternates for RSG members.
  - Meeting logistics—time, date, and duration.
  - Role of observers.
- Process for keeping members' constituencies and the public informed and involved.
- Future meeting location(s)—consideration of travel distances, costs, and regional distribution.
- Discussion and categorizing of concerns and issues that the RSG wants to address (for future agendas, white papers, work group action, etc.).
- Discussion about topics and goals for future meetings.
- Technical or educational information support requests.
- Formation of workgroups to address high priority issues, assignment of workgroup activities, membership, schedule, and methodology.

One of the initial meetings could also include a role-play exercise, selected and organized by the facilitator, to help participants experience the advantages of effective communication and of using a

collaborative approach to problem solving. This exercise would help group members break through preconceived ideas or stereotypes about each other, and develop the skills of collaborative dialogue. Early in the RSG process, a site tour could be offered to interested RSG members by CMS and agency personnel.

### **6.5 Ongoing RSG Meeting Activities**

It is likely that the RSG will need to meet at least monthly. The RSG could select a regular date each month to meet to allow members to set aside time for future meeting dates.

#### **Moving the Process Forward Between RSG Meetings – (use of workgroups, conference calls, and electronic document review)**

A considerable amount of work will need to be completed between RSG meetings to accomplish the goals for this process in a timely manner. It is recommended that the RSG set up small, topic-based work groups at one of the early RSG meetings. As most or all of the work of a RSG is done by volunteers, it is advisable to involve the members' alternates in working groups to spread the responsibilities for reviewing and drafting documents, research, data analysis, education, etc. Work group members may meet via conference call or in person. Documents drafted by the work groups should be shared with the full RSG prior to the RSG meeting at which the work group's product is to be addressed.

Work groups will continue activities initiated at full RSG meetings and share progress updates at subsequent RSG meetings or via other venues, as appropriate. Work group topics would be based on the highest priority issues/activities identified by the stakeholders at the first or subsequent RSG meetings. Each work group would be encouraged to include members from all stakeholder "interests" to the greatest extent possible. Work groups could also include some individuals, like technical experts or other resources, who are not RSG members, if their participation is acceptable to the RSG.

#### **Developing Consensus**

If the RSG decides that it would like to develop consensus recommendations or documents as part of the RSG process, the facilitator should guide the group through a consensus building process, which might include:

- Careful framing of the question needing an answer.
- Incorporating diverse interests into the problem statement.
- Identifying and categorizing key issues and concerns.
- Identifying information or education needed to assist in issue resolution.
- Envisioning various scenarios and evaluating consequences of those scenarios.
- Developing options to address the problem statement and to resolve key issues/concerns.
- Discussing values and criteria by which to evaluate a consensus decision.
- Developing agreements on options.
- Developing straw proposals, white papers, and draft recommendations text.
- Facilitating/mediating negotiations to reach consensus.
- Finalizing consensus recommendations.
- Refining specific aspects of the decision and ensuring its implementation.

## **6.6 Measures of Success and Evaluation Plan**

With the assistance of the neutral facilitator, the RSG should develop its own measures of success and a process for evaluating its progress. If facilitation support is available to the RSG, the facilitator should assist the RSG in developing and administering a periodic evaluation plan or survey.

## **Section 7: Conclusion**

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The stakeholders interviewed as part of the stakeholder assessment exhibited a high level of interest and commitment to the cleanup of the Bay Harbor CKD site. With assistance, these well-informed, dedicated stakeholders should be able to create and sustain a highly successful RSG process.

## Appendix 1: Stakeholder Assessment Methodology

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Stakeholders were notified of the assessment and associated interviews via e-mail and follow up phone calls. On July 10, 2009, the TASC facilitator sent stakeholders an introductory letter which summarized the project's goals: to document stakeholder interests, issues, and priorities and evaluate the possible formation of a Regional Stakeholder Group (Appendix 2). The letter also explained that the facilitator's role during the assessment would be to serve as a neutral advocate for a fair, balanced, open, inclusive, and collaborative dialogue process.

Stakeholder assessment tasks included:

- Identifying and interviewing a diverse range of site stakeholders.
- Identifying stakeholders concerns and areas of conflict.
- Analyzing the feasibility of a collaborative stakeholder process for the Site.
- Assessing stakeholders' level of site knowledge and the potential informational, technical, and educational needs of a stakeholder group.
- Providing recommendations to ensure that a site stakeholder group could represent and reflect the diverse community interests and perspectives engaged at the Site.
- Developing recommendations to guide the successful formation and operation of a stakeholder group for the Site.
- Providing a Stakeholder Assessment Report that summarizes the outcomes of the above tasks.

A public meeting to explain the stakeholder assessment was held in Petoskey, Michigan, on Saturday, August 29, 2009. The meeting was facilitated by TASC Facilitator Melinda Holland, assisted by Don de Blasio and Ralph Dollhopf from EPA Region 5 and Bob Wagner from MDEQ. Approximately 21 people attended the meeting.

Agency representatives explained that activities for the stakeholder group could include:

- Exchanging facts and information.
- Developing an understanding of stakeholder views and desired outcomes.
- Providing a vehicle for community understanding of site-related information.
- Providing community input to EPA and MDEQ.
- Working collaboratively toward common goals and developing consensus recommendations.
- Advising EPA and MDEQ in the decision-making process.

The TASC facilitator described her experience with assessment and convening activities to the participants at the public meeting. The public meeting concluded with a question and answer session and discussion where participants suggested technical or educational information needs of a stakeholder group, which have been incorporated into this report.

The stakeholder interviews were the cornerstone of this stakeholder assessment. Stakeholders interviewed included:

- Community residents.
- Neighborhood associations and residents' organizations.
- Environmental and non-governmental organizations.

- Federal and state regulatory agencies.
- Local government entities, including Emmet, Antrim, and Grand Traverse Counties, the City of Petoskey, Star Township, and Resort Township.
- Other government entities, such as health agencies.
- Little Traverse Bay Bands of Odawa Indians.
- Site owners.
- CMS.
- Local business owners.

During the interviews, the TASC facilitator encouraged all interviewees to share their experiences, interests, concerns, and goals for the Site and the formation of a RSG. The interviews explored:

- Key concerns and issues.
- Potential roadblocks facing the resolution of key concerns and issues.
- Outcomes desired from addressing key concerns and resolving key issues.
- Existing relationships among the various parties involved/interested in the Site.
- The types of information that might be needed by participants in a stakeholder process.
- Goals for the Site and a potential stakeholder group process.
- Interviewee interest in participating in a stakeholder group.
- Potential stakeholder group participants, including additional stakeholders that could be contacted for interviews.

## Appendix 2: Introductory Letter

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My name is Melinda Holland and I am a neutral facilitator conducting a community assessment evaluating the issues, concerns, and needs of those with an interest in activities surrounding the remediation of the Little Traverse Bay Cement Kiln Dust site. The U.S. Environmental Protection Agency is sponsoring the assessment under the Agency's Technical Assistance Services for Communities (TASC) Program.

My first endeavor will be to facilitate an informational meeting for site stakeholders and to interview individuals or groups who have unique interests or concerns regarding the Little Traverse Bay Cement Kiln Dust site. You are receiving this message because you have been identified as representing a unique interest. If you are willing, I would like to interview you as part of the assessment. This interview would be entirely confidential and will allow you the opportunity to candidly discuss your goals for the site and your thoughts on convening a Regional Stakeholder Group.

Based on my discussions with various individuals and groups, I will recommend whether a Regional Stakeholder Group has a reasonable likelihood of success if formed and recommend potential candidates for membership. I will also recommend a collaborative process (i.e., a process that provides the opportunity for all interest groups to participate civilly in a balanced format) by which the Regional Stakeholder Group may be formed and conduct its activities.

If you are interested in participating in this process, please click on the following Web link and complete the "Doodle Scheduler": <http://doodle.com/fi26tdnv6zxvn8yy> This tool will allow us to easily see which week(s) are optimal for conducting interviews and holding the informational meeting in the Little Traverse Bay area.

If you prefer not to use the Doodle scheduler, please e-mail Annie Stein (who will be assisting me with scheduling), the days/times you are not available for an interview between now and August 14, 2009 at [astein@e2inc.com](mailto:astein@e2inc.com).

Based on the results of the Doodle scheduler, we will contact you by e-mail to set up a day and time for an interview. Depending on my schedule and your availability, the interview may be in-person or by telephone. I will also notify you of the time and place for the informational meeting.

To give you a bit of background on myself and EPA's TASC program, a brief biographical sketch and program summary are below. I look forward to speaking with you soon.

Melinda J. Holland, Esq.  
Collaborative Solutions Group Leader  
Senior Facilitator/Mediator  
E<sup>2</sup> Inc.  
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Columbus, North Carolina 28722  
828-894-5963  
cell: 828-817-0883  
[mholland@e2inc.com](mailto:mholland@e2inc.com)  
[www.e2inc.com](http://www.e2inc.com)

## Biographical Sketch

Melinda Holland has 20 years of experience managing and facilitating environmental consensus-building processes involving diverse stakeholders and contentious topics. Her facilitation and mediation experiences include numerous conflict/convening assessments, community advisory panels, Federal Advisory Committees (FACs), public meetings, workshops, training programs, arbitrations and cost allocations. She has facilitated well over 200 meetings with groups of 15 to 300 participants. Ms. Holland has conducted 12 neutral situation or convening assessments involving a wide range of environmental conflict situations including hazardous and nuclear waste, water quality, air quality, and energy technology. Ms. Holland has been a member of the U.S. Institute's "National Roster of Environmental Conflict Resolution and Consensus Building Professionals" since its creation.

Ms. Holland has served as convener and facilitator for three Federal Advisory Committees (FAC), two for the U.S. EPA Office of Water. These complex FAC groups usually had more than 40 to 50 members in attendance and involved numerous working groups and caucus meetings. Ms. Holland facilitated each of these FAC groups for over three years. Ms. Holland has also successfully convened and facilitated a range of other citizen advisory groups. She convened and facilitated the Valley Citizen's Task Force over a period of 10 years to develop consensus recommendations on a wide range of regulatory, policy, and technical issues related to the cleanup of the West Valley Nuclear Services site in West Valley, New York. She also conducted a convening assessment, designed a process for, and facilitated a U.S. EPA Region 3-sponsored community advisory group at the controversial BoRit Asbestos Site in Ambler, Pennsylvania.

Prior to joining E<sup>2</sup> Inc., Ms. Holland was Senior Program Manager for the U.S. Institute for Environmental Conflict Resolution; preceding that position she was the principal with Holland & Associates providing facilitation, public involvement and mediation support services. Previously, she was Director of State Programs for Clean Sites Inc. [a non-profit environmental organization in the Washington D.C. area] where she provided legal, public policy and mediation/arbitration support for numerous state environmental agency Superfund programs.

Technical Assistance Services for Communities (TASC) is a U.S. Environmental Protection Agency (EPA) program which provides independent, non-advocacy educational and technical assistance to communities affected by hazardous waste sites regulated by the RCRA and Superfund programs, including sites on federal facilities and tribal land. EPA offers this assistance to help community members better understand hazardous waste issues, so they can participate in the decision-making process more effectively. TASC technical advisor services are provided through a national EPA contract with E<sup>2</sup> Inc., a contractor based in Charlottesville, Virginia. Technical assistance is provided by a dedicated team of Technical Assistance Specialists located in eight different states. E<sup>2</sup> Inc. also maintains an online database of public health, outreach, engineering, and scientific experts to address highly specialized technical assistance needs.

E<sup>2</sup> Inc. is an environmental consulting company committed to sustainable development, environmental responsibility, and social equity. Our staff includes public participation specialists, mediators, facilitators, environmental scientists, engineers, economists, environmental planners, GIS analysts, industrial ecologists, attorneys, landscape architects, and land use and redevelopment professionals.

E<sup>2</sup> Inc.'s corporate focus areas include:

- Scientific Analysis and Technical Communication.
- Policy and Innovations.
- Collaborative Solutions.

- Community Planning and Design.
- Mission Support Services.

E<sup>2</sup> Inc. is a HUB-Zone certified woman-owned small business (WOSB) located in Charlottesville, Virginia.

## Appendix 3: Interviewees

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### Local Government

**Lyn Johnson**, Controller, Emmet County

**Peter Garwood**, Coordinator, Antrim County

**Charlie Koop**, Prosecutor, Antrim County

**Laura Stanek**, Vice-chair, Antrim County Board of Commissioners

**Chris Christensen**, Chair, Charlevoix County Board of Commissioners and Realtor

**Ross Childs**, Interim Director of Public Works, Grand Traverse County, Public Services Building

**Alan Terry**, Director of Finance, City of Petoskey

**Mike Robbins**, Director of Public Works, City of Petoskey

**Robert Wheaton**, Supervisor, Resort Township Board of Trustees (business owner, Wheaton Masonry)

**Richard Steel**, Supervisor, Star Township Board of Trustees (business owner, The Blossom Shop)

**Scott Kendzierski**, Director of Environmental Health, Northwest Michigan Community Health Agency

### CMS

**Michael Sniogowski**, Executive Project Manager

**Gary Kelterborn**, Project Coordinator, CMS

**Timothy D. Petrosky**, Area Manager, CMS Land

### Environmental

**Brad Garmon**, Lands Program Director, Michigan Environmental Council

**Jennifer McKay**, Tip of the Mitt Watershed Council

**Dr. John Richter**, President, Friends of the Jordan River and POWER Coalition (and local business owner)

**Ray Bier**, Vice President, Friends of the Jordan River (and local business owner)

**Rick and JoAnne Beemon**, Friends of the Jordan River and POWER Coalition

**Susan Topp, Esq.**, Attorney for Friends of the Jordan, Antrim County, et.al.

### **Tribal / Odawa**

**Rachel Smolinski**, Environmental Director, Little Traverse Bay Bands of Odawa Indians

### **Associations**

**Betsy Lieberman**, Executive Director, Walloon Lake Association

**Rick Gross**, Board member, Walloon Lake Association

**Gary Knapp**, Board member, Three Lakes Association; (previously Antrim County Coalition United Through Ecology [ACUTE])

**Norton Bretz**, Executive Director, Three Lakes Association

**Dean Branson**, Three Lakes Association

**Bob Walker**, Chair, Environment Committee, Bay Harbor Community Council; The Preserve Association member [*full time Bay Harbor resident*]

**Joe Sproles**, Member, Environment Committee, Bay Harbor Community Council; The Cliffs Association member [*full time Bay Harbor resident*]

**Jim Cordes**, President, Cliffs at Bay Harbor Association

**Jeffrey Modell**, President, Coastal Ridge Association

**Joe Strawn**, President, Lakeshore Village Association

**Phil Trotter**, President, Coastal Cliffs Association

### **Businesses**

**Stephen Kircher**, President, Boyne USA Resorts

**Dennis Brya**, Director of Development & Operations, Bay Harbor Company & Bay Harbor Properties

**Carlin Smith**, President, Petoskey Regional Chamber of Commerce

### **EPA Region 5 and State of Michigan**

**Don de Blasio**, EPA Community Involvement Coordinator

**Ross Del Rosario**, EPA Remedial Project Manager

**Ralph Dollhopf**, EPA Removal Project Manager and Site Manager for EPA in Petoskey area

**Bob Wagner**, MDEQ Cadillac District Multi-Media Coordinator and Remediation & Redevelopment Division Supervisor

## Appendix 4: Interview Topic Guide

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Thank you for agreeing to this telephone interview about your interest and experience related to the Little Traverse Bay Cement Kiln Dust Site in Northern Michigan. Please refer to the introductory fact sheet I sent to you previously via e-mail for more detail about this project. I will be pleased to answer any questions you may have during our interview.

The following is the initial list of topics I would like to cover in our discussion. Based on your involvement and experiences with this issue, our actual discussion will likely focus more on some areas than others.

- Please provide/confirm your name, title, affiliation (if any), address, e-mail address, Web site (if any), phone and fax numbers.
- Please describe your interests, concerns, or past involvement with the Little Traverse Bay Cement Kiln Dust Site.
- Key issues that need to be resolved regarding the Little Traverse Bay Cement Kiln Dust Site. (i.e., most important concerns for you, your organization, or constituency group).
- Key roadblocks to resolving those issues and preferences for resolution of the issues described.
- Goals for the future of the site and how those goals could be achieved.
- Relationships between the various players involved with or concerned about the site.
- Perspectives about the involvement of local government, state, and federal regulatory agencies (if known).
- Understanding of and concerns regarding the scope of existing legal/regulatory authorities to address problems/goals regarding the Little Traverse Bay Cement Kiln Dust Site.
- Understanding of, or need for information on, technical or other issues related to site cleanup.
- If a stakeholder group was formed, what type of process do you think would be the most beneficial – information exchange focus, collaboration/consensus focus?
- Interest in (or concerns about) participating in a collaborative dialogue as part of a Regional Stakeholders Group (RSG)?
- Availability to participate in RSG (day, time of day, frequency of meetings, etc.).
- What can you contribute to the RSG process?
- Recommendations for additional stakeholders I should contact.
- Other comments or anything else you would like to tell me?

Thank you very much for taking the time to talk to me about these issues. I will use your responses in my assessment report and to help me make recommendations on possible formation of, and potential membership for, the Little Traverse Bay Cement Kiln Dust Site RSG, and the issues/topics that may be covered by the RSG in its initial meetings. In the assessment report I will not attribute any statements to you and will respect any request for confidentiality that you make.

## Appendix 5: Suggested Operating Procedures

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### ***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 X [to be added after membership is finalized by the RSG]. 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.