VB/I-70 Superfund Community Advisory Group (CAG) Meeting Notes

Date of Meeting: Tuesday, January 9, 2017

CAG members present: Lloyd Burton, Roberto Eaton, Kim Morse, Jim Garcia, AE, Drew Dutcher, Candi CdeBaca, Bridget Walsh

Ex-officio present: Celia VanDerLoop, Jack Peterson, Jennifer Luthi, Kerra Jones, Andrew Ross, Jesse Aviles, Jennifer Chergo

Facilitator: Elizabeth Suárez

Introduction: Ms. Suárez invited everyone at the table to introduce themselves with their affiliations. Each CAG member received the monthly folder with printed materials. Ms. Suárez briefly reviewed the agenda for the night’s meeting.

The November meeting notes with the additions and comments were approved by consensus vote. The December meeting notes were also approved by consensus vote.

In response to Mr. Burton’s email regarding the role of Ms. VanDerLoop, Ms. Luthi explained that Ms. VanDerLoop is currently working as a contractor hired by DDPHE. Ms. VanDerLoop announced this transition in employment status (from Denver employee to Denver-hired contractor) in former meetings. Mr. Burton explained that his confusion arose from what he felt was a violation of the non-delegation law, which defines allowable roles to be delegated to government hired contractors. Mr. Burton cited an email sent from Ms. VanDerLoop that contained an estimated cost associated with retrieving certain documents. Ms. Luthi clarified that she herself had calculated this estimate and that Ms. VanDerLoop had forwarded the estimate under Ms. Luthi’s direction.

Mr. Aviles addressed the CAG; he asked for input from the CAG members in order to better understand each member’s goal for the CAG. He then proposed a variety of formats to communicate this feedback. A round robin format was decided upon.

AE explained that she believes the CAG’s primary function is to follow the progress of the construction project and provide oversight on behalf of the affected community to ensure that all best practices are followed to protect public health and the environment. She also shared that it is the CAG’s responsibility to serve as an intermediary for all information to be shared with the entire community.

Mr. Garcia replied that the CAG’s job is to ensure that technical information regarding the project is delivered in a transparent manner.

Ms. Morse stated that she wants to ensure that the project is executed in a manner that is safe and protective of the health of the community.

Mr. Paterson said that the CAG is a vehicle for the EPA to conduct their structured Superfund process, obtaining community feedback and delivering technical information to the community. It also promotes valuable interaction and cooperation between various levels of government employees. The CAG enables the delivery of technical information that is easier to digest than a website publication.

Mr. Eaton responded that as an employee of Pepsi his goals are to learn more about all aspects of OU2 which is situated beneath the Pepsi property. He also seeks to ensure the health of workers on the Pepsi property.
Mr. Burton explained that his role as a member of the Sierra Club is to partner with local organizations, and support advocating for the health, and well-being of community members in the neighborhood. Neighborhood concerns include questions regarding the adequate protection of the health and well-being of the local community resulting from the project undertakings. Mr. Burton called for more independent sources of scientific and technical information during future CAG communications. Ms. Walsh responded that the CAG is by definition a community-driven organization rather than an agency-driven organization. One of her goals is to secure real-time access to all referenced documents in order to improve the flow of direct scientific results and reports towards the CAG and their technical advisors.

Ms. CdeBaca hopes for a process that caters more to community concerns regarding health and safety. She shared concerns that there is a lag between construction activities and the sharing of construction plans and relevant reports which she feels has undermined the CAG’s ability to do its job effectively. Mr. Dutcher believes that the CAG process has begun too late, after the projects are well underway. He explained that his goal is to better understand what are the environmental issues regarding contaminated soil, water, and air and their impact on the health of the community members. He feels that the city’s public outreach effort has failed, with negative repercussions for the CAG’s ability to provide valuable feedback.

Mr. Aviles then summarized everyone’s comments to ensure that he understood everyone clearly. Ms. Walsh emphasized that she would like access to all of the technical documents for review. Ms. Luthi replied that she has worked with great effort to provide all relevant documents since before the construction began. She requested more specific examples of documents that the CAG requires. AE highlighted the difference between information being intentionally hidden and information simply being difficult to find. Engineers and scientists on the front line are not IT professionals; in her experience, this common misunderstanding – hidden vs buried information, combined with the limitations of time can interfere with the collaborative efforts of everyone involved.

Mr. Burton discussed the requirement of a Time Critical Removal Action, which he stated requires that work must begin within 6 months, an engineering assessment, and a human health impact study. In his opinion, these requirements were not met in accordance with the law.

Construction update: (Ms. Luthi)

In response to concerns expressed for the temporary failure of one air monitoring station, Ms. Luthi explained that DDPHE elected to operate four monitoring stations in total, which provides for proper monitoring in the event of any technical difficulties. 148,000 cubic yards of potentially asbestos-containing material have been excavated, and 120,000 gallons of water have been collected, treated, and discharged to date. Ms. Luthi presented a table for influent and effluent data. The monitoring levels for selenium were low, as in months prior, providing additional verification that the previous month’s selenium exceedance was an anomaly. She presented updated aerial photographs of the GLO construction site.

Mr. Dutcher asked where the construction progress is in relation to the original contractual agreement for the construction of the Globeville Landing Outfall.

Mr. Banwart introduced himself as the Denver city project manager from Public Works. He replied to Mr. Dutcher that currently the schedule shows the tentative completion date (operational completion) is scheduled for June of 2018. They are working with the contractor to accelerate the operational completion, which was originally scheduled for December of 2017. Mr. Banwart explained that this delay has been largely attributed to the higher than anticipated volumes of groundwater entering the construction areas. He explained that operational completion means the outfall water delivery system is
in a functional state of completion. Minor tasks relating to the finished site construction will remain following achievement of operational completion.

Mr. Burton asked if the contractors have beforehand knowledge of when the air quality samples are drawn. Ms. Luthi replied that no, not directly, but they could deduce it, as the air monitoring schedule is publicly available on the DDPHE website.

**Groundwater and surface water Q and A:** (Mr. Bowen, Mr. Ross, Mr. Banwart, and Mr. Novick)

Ms. Morse thanked Mr. Novick for the data that he had provided previous to the meeting; however, she stated she was looking for other data sets that would provide insight into the pre-construction contaminant and water flow patterns. A community member asked how the GLO construction design has been altered in response to the higher conductivity of groundwater encountered.

Mr. Banwart explained that Denver didn’t anticipate the higher rate at which the groundwater entered the construction site. The design did not change except for one detail -- designers decided to leave the sheet pilings in place indefinitely in order to keep the groundwater levels lower in one area of the site. The original design stipulated the removal of the sheet pilings once the construction had been completed. Mr. Burton asked if there are potential dangers to human health in the event of a heavy rainfall event, which might further accelerate groundwater movement.

Mr. Bowen replied that he did not believe this posed a threat because the movement of groundwater through the subsurface is still relatively very slow. Also the area of higher than anticipated hydraulic conductivity is limited to a small area in the southernmost portion of the site, furthest away from the historical landfill that contains the highest concentrations of contaminated material within the site.

Mr. Norris said that if groundwater is moving ten times more quickly than anticipated, then there is ten times as much water moving through the system, which must involve significant physical and chemical impacts. In the absence of data being provided, it’s difficult for the CAG to provide input. Mr. Norris emphasized that now, at the time of new model construction with new assumptions and parameters, the CAG’s experts might provide valuable input. He said that these changes are a concern to the CAG and should be of concern to the EPA. He encouraged those present to consider, “How good of a grasp do we have on this site?” Mr. Norris added that there seems to be very few known parameters regarding surface water movement at the site and surrounding areas, as allowed by the permit. He noted that Addendum D has been added to the site characterization document and asked if there are any projections being made to make adjustments for the permanent installation of the sheet piling.

Mr. Bowen replied that yes, he believes that adjustments for the permanent sheet piling are being accounted for in the new model that the EPA is currently working on.

Mr. Norris requested that the CAG and their experts be permitted to take a more active role in this new modeling and decision-making process.

Mr. Aviles asked if there is another expert in addition to Mr. Norris that is working with the CAG. Mr. Aviles would like for the technical experts to meet with EPA and other agency experts to come together in order combine their knowledge, when possible and allowable by protocols. He cautioned that the legal framework does not allow for open collaboration at all stages of the Superfund process, although it does require input and review before any final decisions are pursued. Mr. Aviles asked if the CAG’s time might be best honored by allowing the CAG’s technical experts to meet separately with other agency experts (in this case, hydrogeologists), allowing the CAG to pursue other valuable interests related to the site and process.

Mr. Burton responded that he values these scientific discussions in the presence of the CAG members, and feels that they should, at least in part, take place amongst everyone present as these discussions facilitate valuable insights into the technical environmental considerations at hand.
AE shared that she has observed a high level of ethical commitment amongst engineers and scientists in general, and believes that city professionals are equally committed to these ethics. She praised the standard of communication established by Mr. Norris, which was shared by several other members. Mr. Dutcher asked for a more detailed explanation of the sheet pilings left in place. Mr. Banwart replied that the sheet pilings are walls of steel that have been driven and vibrated into place. They will be cut off at the top later in the project to below the final grade so they will not be visible at the surface, but will be left in place indefinitely to abate groundwater flows and provide additional security to the geotechnical liner from potential groundwater forces on the liner from below. Ms. Luthi further emphasized that this additional measure only contributes to the over-engineering within the site design, rather than address a likely risk to the system. Mr. Dutcher asked what are the implications for potential future work at this site. He asked if the increased groundwater flows outside of the sheet pilings will affect potential future construction throughout the site? Ms. Luthi explained that this will only pertain to the increased groundwater flows in the southernmost portion of the site, a small segment of the site. Mr. Bowen added that there will be some elevated water flows immediately around the sheet pilings as water is diverted, much like around a rock placed in a stream, but the effects should be highly localized. Regarding questions of the participation of the CAG technical advisors, Mr. Norris stipulated that his future participation as the CAG’s hydrogeologist is contingent on active collaboration during the modeling and design process, not after designs have been approved for public release. Ms. Walsh asked if the government agencies would commit to work with Mr. Norris under the conditions he has proposed. She expressed frustration with what she felt were unnecessary impediments to a more collaboratively, and integrated effort. Mr. Aviles committed to making his best effort to facilitate a collaborative meeting amongst the agency experts and CAG technical representatives. Ms. Morse requested that officials and CAG members take a close consideration of changing land use and associated environmental evaluations associated with Denver’s proposed zoning changes in the area of 38th and Blake, as the Denver City Council will be voting on these changes at the beginning of February. Ms. CdeBaca asked if the EPA would please review the process of land use changes in this area, which may include properties within the boundaries of OU1 and OU2. Mr. Aviles replied that the EPA does not have purview on land zoning changes; it is under the authority of the City. As EPA project manager, Mr. Aviles explained that the EPA does have an active role in determining cleanup standards within the Superfund site, which does factor the intended land use. He then presented an overview of the environmental site investigation process. He explained that the initial Phase I environmental assessment evaluates historical uses of a given property and surrounding properties with the purpose of identifying any recognized environmental conditions (RECs), which is a known or potential release that may have introduced contamination into the environment. The Phase I generates a list of potential environmental concerns. Next, the Phase II is conducted, if deemed necessary, to further investigate in more detail and characterize the extent of the recognized environmental conditions generated from the Phase I study. Mr. Aviles explained that, by analogy, the Superfund investigation process has similarities to the environmental assessment investigation process. A discussion amongst community members ensued regarding concerns for properties that may change land use designation within the Superfund site, the potential effects of previous investigations by the EPA based on a former land use, and which entities or processes might oversee these transitions to ensure the protection of public and environmental health. Ms. VanDerLoop stated that zoning changes from commercial to residential use are provided with oversight to ensure protective conditions. She referenced Denver’s concept review process, which evaluates land use changes to protect public health,
as well as institutional controls, and the Voluntary Cleanup Program (VCUP), which are all programs or measures to protect environmental and public health.

Mr. Aviles elaborated on the concept of the institutional control, which can take many forms. It could be a notice attached to a deed, an engineering control, an educational requirement, a land or resource use restriction, or take other forms.

Ms. CdeBaca asked what is the trigger for further environmental investigation regarding the zoning change from industrial to residential within the Superfund site.

She explained that the proposed 38th and Blake zoning overlay extends beyond the streets of 38th and Blake.

Mr. Aviles replied that the City can zone however they wish, but the EPA will make the final determination if the remedy is appropriately protective for the designated use.

AE advised that the CAG members need to develop their understanding of the authorities, in order to best direct the CAG’s efforts to achieve their desired goals. She added that if the rezoning can facilitate further remediation of certain properties, then perhaps this will help achieve CAG goals and benefit the health of the environment and the community.

Ms. CdeBaca requested that the EPA review the zoning overlay in conjunction with known environmental data to evaluate which properties might be of concern if transitioned from commercial to residential land use standards.

Ms. VanDerLoop clarified that cleanup standards would be based on the zoned allowable use, and clarified that there are no final soil cleanup standards established for OU2; these have yet to be determined. For whatever zoning and allowable land use that is selected, EPA will then establish appropriate cleanup standards when a final remedy is selected. However, some comparison values might be compiled with reference to cleanup standards for other, analogous projects.

Mr. Burton motioned for a vote amongst CAG members to elect Mr. Norris as a technical advisor and representative for CAG.

The CAG by majority approved the motion.

Mr. Aviles announced that the EPA is moving toward a partial deletion of OU1, the final stage of the Superfund process.

Several members present requested for the halt of the partial deletion of OU1. Mr. Aviles replied by briefly describing the amount of sampling, cleanup, outreach, and institutional controls that have been implemented for OU1.

Potential items for February agenda:

Soil contamination in OU2 presentation and discussion

Open community member discussion:

Ms. Fetter commented, that as a resident who lives within feet of the 39th Ave greenway, she is confused as to why the land use designation is changing (from industrial to park), but the corresponding OU designation level or environmental remediation is not also changing.

Mr. Aviles shared his contact information and invited her to contact him so that he might discuss some of the mechanisms that address this concern with regards to evaluating potential environmental conditions and the protection of public health and the environment. He noted that this falls outside of the jurisdiction of the Superfund process.

Elizabeth Suárez bade everyone a good night.