Judith A. Enck, Regional Administrator
US Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

August 20, 2014

Dear Administrator Enck,

We are writing on behalf of the Passaic River Community Advisory Group for the Lower Passaic River Restoration Project. Since our formation in 2009, we have carefully studied the technical approaches, concerns and issues related to the clean up of the Passaic River broadly. Our group has representation from and engaged with a broad cross section of stakeholders that care about the future of this river. We have also benefited from past and current technical assistance grants and technical assistance support contracts to examine critical areas of technical expertise. Throughout this process, we have remained committed to our core values we developed as group and have stayed focus on a full review of all the possible avenues to achieve a clean and healthy river.

In 2010, The CAG identified a series of community values that provide a detailed understanding of the breadth of concerns of the many communities along the Passaic River and the great importance that a restored Passaic can play in our lives. These values are included as part of our comments on the Proposed Plan. While all are important for EPA to consider in making and implementing the final decision, we repeat here the specific values on Environmental Protection and Restoration, which are perhaps most directly relevant to the decision at hand:

- Make all decisions in light of a long-term goal to eventually return the river to a fishable, swimmable condition
- Restore the Passaic to a living river and a viable natural resource, with coordinated short and long-term efforts to conduct wetlands, habitat, and wildlife restoration
- Place a high priority on locating natural resource restoration activities in the local communities that have been directly affected by the long-term pollution of the river
- Protect against cross contamination to air, groundwater, and other environmental media
- Clean sediments to a level that supports the above conditions and limits the potential for recontamination.

While we believe that any remedy short of complete removal of contamination will fall short of these values, we do understand the tradeoffs necessary to implement a project of this scope. There are significant concerns about future interaction with a cap from economic, recreation, and riverfront development perspectives. We generally believe that many of these concerns can be overcome, but only with EPA's commitment to continue to work with all communities along the River to ensure that the cleaned River connects people to the water, provides environmental diversity, and supports the wide range of benefits that communities can expect from a healthy waterway.

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It is important to note that not everyone in the community believes that the challenges and uncertainties associated with capping are acceptable, including several members of the CAG. The concerns of dissenting CAG members are articulated in the comments of the New Jersey Sierra Club and Harvey Morginstin of the Passaic River Boat Club which were sent to EPA under separate cover, and which the CAG recognizes as a minority opinion within our membership.

The attached comments and concerns reflect the general consensus of opinions across all the CAG members at this time based on careful deliberation and review. These questions focus on the potential impacts to the community, and other issues of community concern. We understand that many of the issues most important to the community will be decided during the design phase. EPA has committed to the community to continue its robust community involvement program through that phase of the project and we look forward to that ongoing interaction.

With the full understanding of the many concerns and recommendations detailed in the attached comments, The CAG generally supports the US EPA's proposed cleanup plan for the lower eight miles of the Passaic River. This proposal calls for Alternative #3 which includes bank-to-bank dredging to remove 4.3 million cubic yards of sediment, followed by the installation of an engineered cap and off-site disposal of the dredged materials in a certified landfill.

Sincerely,

Ana Baptista, Co-Chair Debbie Mans, Co-Chair

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Comments and Questions in Response to the Proposed Plan for the Lower Eight Miles of the Lower Passaic River Superfund Site

Passaic River Superfund Site Community Advisory July 2014

The CAG generally supports the US EPA's proposed cleanup plan for the lower eight miles of the Passaic River. This proposal calls for Alternative #3 which includes bank-to-bank dredging to remove 4.3 million cubic yards of sediment, followed by the installation of an engineered cap and off-site disposal of the dredged materials in a certified landfill.

In 2010, The CAG identified a series of community values that provide a detailed understanding of the breadth of concerns of the many communities along the Passaic River and the great importance that a restored Passaic can play in our lives. These values are a key component of the CAG's overall guidance to EPA and are included in this submittal.

While we believe that any remedy short of complete removal of contamination will fall short of these values, we do understand the tradeoffs necessary to implement a project of this scope. There are significant concerns about future interactions with a cap from economic, recreation, and riverfront development perspectives. We believe that many of these concerns can be overcome, but only with EPA's commitment to continue to work with all communities along the River to ensure that the cleaned River connects people to the water, provides environmental diversity, and supports the wide range of benefits that communities can expect from a healthy waterway as are articulated in the Community Values.

The attached comments and concerns reflect the general consensus of opinions across the CAG members at this time based on careful deliberation and review. The comments and areas of community concern are organized according to key topics in the decision itself. The CAG understands that many of the issues most important to the community will be decided during the design phase. EPA has committed to the community to continue its robust community involvement program through that phase of the project and we look forward to that ongoing interaction. There are many community concerns outlined below that the CAG will hope to discuss and address throughout the design and into remedial action phases. The CAG looks forward to regular reporting and the opportunity to provide community input as appropriate, and in sufficient time to help influence the final decisions on the key community concerns articulated below.

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CAD and CDF Disposal

The CAG supports off-site disposal of contaminated sediments and does not wish to see a CAD cell in Newark Bay or the development of new on site or near site thermal treatment facilities. The CAG does not believe there is a sufficient history of reliable data about the effectiveness of CAD cells, and does not wish to see any remedy that further contributes to the cumulative environmental harm in the greater Newark area. FFS Appendix F discusses a confined disposal facility (CDF) alternative (p. 3-26). A CDF is an enclosed disposal facility; in this case, dredged sediments would be placed in an enclosed area along a shoreline and would be used to create new dry land.

- The CAG would like to know whether the EPA may still decide to build a CDF at this site. The CAG would oppose the development of such a CDF.

Navigation Channel

The CAG supports the navigational dredging of the river to the largest extent possible. What happens to the navigational channel will affect the potential use of the river in perpetuity, thus it is important to the cities of Newark, Harrison, and Kearny to consider the economic impacts. The limited dredging of only 2.2 miles is a relatively short stretch of the commercial portion of the River. The City of Newark who sits as a representative on the CAG has expressed support for a more extensive dredging of the navigational channel throughout the entire lower eight miles to support future anticipate industrial and commercial riverfront development in the northern reaches of the waterfront. Additionally you should consider the following:

- EPA must produce a thorough and accurate economic analysis to support the extent of the dredging upriver and this data should be presented and explained to local communities.
- EPA needs to plan for and explain how maintenance dredging will be performed for the navigational channel with the cap in place and how the coordination and hand-off of responsibilities will work between EPA, CPG, and the Army Corps.
- Does EPA expect these new dredged materials to be clean? EPA must plan for contingencies for removing contaminated material during dredging.

Reasonably Anticipated Future Use And Natural Resource Restoration

The CAG strongly recommends that the issue of natural resource restoration and future uses be taken into account during the design phase of the cleanup. All possible coordination should be conducted to ensure that future restoration projects are not precluded unnecessarily due to cap design and placement. Future development along the river, including waterfront parks, is a critical component in community and river recovery. Reasonably anticipated future use of the river was not covered extensively by EPA and should be a key issue in all future activities. The design needs to take into account reasonable future uses and provide the flexibility for local communities to design and build reasonable waterfront facilities that one would expect on a healthy and vibrant waterway.

- EPA needs to explain and plan for the integration of restoration (including USACOE work) to ensure that possible future projects are not prevented by the cap and associated institutional controls.

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- EPA must consider current and potential future public access (docks, boat ramps, lifts, moorings, etc.) into remedial design.
- A restored river means more desire for use and access. EPA must plan for how the cap can be reasonably modified, moved or penetrated for expected and reasonable future uses on the waterfront, and the processes that local governments and landowners would need to perform to ensure the safety and the integrity of the cap.
- EPA needs to plan for and explain how the remedy deals with the soft edges/littoral zone of the river.
- EPA needs to plan for and explain how dilapidated bulkheads will be treated during the bank-to-bank dredging.
- EPA needs to plan for and explain the specific measures that must be taken in shallow areas to prevent erosion from wind, waves, prop wash and other forces.

Long-Term Monitoring and Maintenance

As EPA is leaving the majority of contamination in place, the long-term maintenance of the cap ultimately determines the actual effectiveness of the remedy. The 30 year monitoring period assumed in the FFS is wholly insufficient given that this remedy must work in perpetuity.

- EPA should prepare a much more robust analysis and plan with regard to how they will ensure the cap will remain protective and effective in perpetuity, including the financial, legal, and practical requirements and responsibilities for carrying out all monitoring and maintenance.
- EPA should prepare a cost estimate for the proposed cleanup that uses a monitoring and maintenance period much longer than 30 years, as well as a "no discounting" scenario, to more accurately reflect the length of time that monitoring and maintenance will be needed. Such a cost estimate is consistent with EPA guidance and would allow a more accurate comparison with the site's other cleanup options.
- EPA should prepare a detailed plan and process for long-term coordination with local governments, boat clubs, and other relevant parties to make sure people have the information they need to plan for new activities over time as the maintenance plan moves ahead.

Use of Local Workforce, Local Procurement

The CAG would like to continue the good record of access to jobs by local workers, and expand access to procurement opportunities to local companies.

- The CAG supports the implementation of an expanded Superfund Jobs training program (Super JTI) during this phase of the cleanup process.
- EPA should encourage to the extent possible local contracting, hiring and procurement during the lower eight miles cleanup project.
- EPA or the CPG should establish a website similar to the Hudsonworks Marketplace (http://www.hudsonworks.net) to encourage local contracting and procurement for the project.

Adaptive Management

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The CAG seeks to understand how this term "adaptive management" will be applied in the cleanup process. We understand the any major changes to the remedy will require an amended ROD, however there may be changes significant to the community that do not trigger a ROD amendment, and the CAG would like the opportunity to understand these changes as they are proposed.

- The CAG would like more information on how EPA specifically plans to use adaptive management strategies and who will have decision authority.
- In the coming months, the CAG would like to have a presentation on how EPA incorporated adaptive management techniques during the Hudson River cleanup process.

Bank-To-Bank vs. Hot Spot Removal

The CAG strongly supports a comprehensive approach, not a hot spot removal or Alternative 4 type of option.

Boating

The boating community is important to the current and future life of the River and adjacent communities. Currently, 10 high school rowing teams and 2 adult rowing clubs utilize the River, amounting to upwards of 700 rowers on the River at any given time. Access and ability to use the river in all phases of the cleanup process and as a priority outcome of the clean up itself are important. Significant restrictions on boat use following remediation significantly negate the value of restoring the river.

- It is important that the project coordinate with crew teams and boating clubs on barge schedules to help both ensure safety during routine practice (which can occur up to 7 days a week) and minimize impacts on major boating events, a detailed plan should be developed for this purpose.
- EPA should consider using the fish window as an opportunity for boating clubs to coordinate their more intensive activities.
- Permanent no wake zones would prevent much of the boating that a healthy river should provide and should be avoided to the maximum extent possible.
- Widespread restrictions on anchoring also need to be avoided. Boats need to anchor.
- It is important that the design minimize impacts to rowing shells from the use of armor stone and other possibly harmful materials. Where possible, consideration should be given to increasing the water depths of the River. Input from the boating community should be sought in designing any final smoothing layer. The armor stone can ruin a shell, and significant stone was left at the surface of RM10.9 creating a boating hazard.

Sediment Processing Facility

The CAG would like to know more details regarding plans for the 26- to 40-acre processing facility after cleanup is completed. The siting and operation of this facility will have a major impact on the community. Significant coordination with the target community will be very important to ensure the health and safety of surrounding areas.

- What criteria will be used in siting the facility? It is important that community values and concerns be taken into account.

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- Locations with direct rail access to the facility are highly desirous to minimize truck traffic.
- Regarding Table 3-3 in Appendix G of the FFS, community members would like to request that EPA identify the two sites with rail access located less than two miles from the Diamond Alkali plant, and the two sites with rail access located two to five miles from the plant, given that these four sites may be top candidates for the sediment processing facility.
- The CAG would like to request that EPA build a sediment processing facility that is enclosed within a building that is designed to minimize the impacts (such as noise, vibration, dust and odors) on nearby communities and residents.
- The CAG recommends that this facility be completely decommissioned following completion of the project and not accept and process sediments from other cleanup projects. If the facility should be sold or used for another purpose, the community would like to be informed of that intended use.

Flooding, Sedimentation, and Scouring

The CAG wants to ensure that the remedy will not exacerbate future flooding.

- We understand the details of this will be worked out during design and the CAG would like a full report on the considerations and implications of flooding and scouring at the appropriate time. Some of the questions that should be addressed include:
  - What is the projected sedimentation rate over time of the River once the cap is in place?
  - We assume this will be higher for the navigational channel, to what degree?
  - How will ongoing sedimentation contribute to flooding?
  - What are the likely impacts to the cap from significant flooding events?

Off-site Incineration

We understand that RCRA requirements will require some fraction of the dredged material be incinerated prior to disposal. The CAG understand this incineration will be conducted at the off-site disposal facility and no local incineration will be conducted.

- The CAG reiterates its opposition to any local incineration and would ask to be notified immediately should that become a possibility.
- Please provide information to the CAG identifying the contaminants and triggers that will drive the amount of material requiring incineration at the off-site disposal facility.

Bridges

The CAG would like to see all possible efforts made to improve and coordinate the operations and traffic on the 15 affected bridges well before the remedial design is complete. This will require a great deal of time and energy to achieve and much of this is outside of the purview of EPA and the Superfund program.

- The project should evaluate actual traffic and community impacts because of bridge movement, including the actual data from the RM 10.9 removal action.
- EPA needs to carefully assess the repair and maintenance needs of each bridge in being

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able to support the projected openings required of the project and identify cost and time requirements to achieve these repairs. EPA needs to produce a detailed plan as to how these bridge repairs can be conducted and financed in time for the project to begin.

- EPA needs to produce a plan and process to assess fair distribution of cost to additional bridge operations throughout the life of the project, so that local governments are not bearing undo costs to meet project requirements.
- EPA must produce a plan to coordinate bridge openings to keep the overall impacts on traffic as modest as possible, particularly during peak hours.

Impact on River Traffic

The CAG recognizes that significant impact on the river and river traffic during construction is unavoidable, however there are already rumors that the entire river will be shut down for the duration of dredging and capping. This has certainly not be the case for other major sediment projects, and the CAG would like more insight into how these decisions will be made.

- How large a work area is anticipated at any given time?
- Will work be done in channels to allow boats to pass or will it be necessary to close the river bank to bank during any given section?
- Are options other than barging materials being considered?
- How will barge schedules be determined?
- How will the fish window impact construction?

Quality of Life Impacts During Construction

Light, noise, traffic, closing areas of the river and other activities will all cause significant quality of life impacts on local communities during construction. While we recognize these impacts are unavoidable, they can be mitigated through proper planning and interaction with communities ahead of time. The CAG requests that the EPA develop comprehensive Quality of Life Performance Standards such as those implemented at the Hudson River site in coordination with the CAG. The CAG would like to be involved in developing clear guidance and protocols for minimizing impacts during the remediation phase and beyond. The CAG recommends that the EPA and CPG parties consult with the CAG at minimum quarterly prior to the beginning of the clean up and then on a monthly basis during the clean up phase of the project during regular monthly CAG meetings.

- Please explain the plans for mitigating quality of life impacts on local communities and interacting with local communities to provide needed information throughout the project.
- Please provide more clarity on the length and intensity of the construction period as that information becomes available.
- Traffic is a key component of any major project, what will be done to limit truck traffic on area roadways?
- How will sand be delivered to the site, are barge and rail under consideration?

Cleanup of the Phase 2 Removal Location, and Sampling of the Upper 9 Miles

The discussion of this area has been on hold for some time. It is imperative that this area be

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completed commensurate with the lower eight mile cleanup.

- The CAG would like to see discussion of this Phase 2 removal area accelerated.
- What are the results of the CPG sampling and modeling of the upper nine miles of the river? How will this work be coordinated with the lower 8 activities? The CAG would like to get a presentation on the status and results of this sampling in the near future.

Dioxin

There is a relatively small amount of dioxin by volume.

- Does dioxin require different disposal?
- Will it be possible to determine the amount of dioxin being removed from given areas of the river?

Additional Design Questions That Will Require Community Input

- Selection of final dredging technology
- Materials used in the cap layers

Communication and Information

This is a highly complex and long-term project. Regular communication will be critical for the community to understand activities, impacts, and progress, and manage interaction with key activities over time.

Community Values in the Cleanup and Restoration of the Passaic River
Passaic River Superfund Site Community Advisory Group 2010

The following values were developed by the Passaic River Community Advisory Group to represent the consensus ideals of the Passaic River community. These values are intended to guide federal agencies and other stakeholders in making sustainable decisions and taking responsible action regarding all aspects of the cleanup, restoration, and stewardship of the Passaic River.

Protection of Public Health

- Design all decisions and activities to protect the health and safety of residents, visitors, and workers

Environmental Protection and Restoration

- Make all decisions in light of a long-term goal to eventually return the river to a fishable, swimmable condition
- Restore the Passaic to a living river and a viable natural resource, with coordinated short and long-term efforts to conduct wetlands, habitat, and wildlife restoration
- Place a high priority on locating natural resource restoration activities in the local communities that have been directly affected by the long-term pollution of the river
- Protect against cross contamination to air, groundwater, and other environmental media

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- Clean sediments to a level that supports the above conditions and limits the potential for recontamination

Economic Benefits

- Plan and manage activities in order to protect ongoing commercial uses of the river
- Create living wage jobs for local residents to the maximum extent possible
- Engage local businesses in cleanup, restoration, and long-term stewardship activities to the maximum extent possible
- Incentivize and support environmentally sustainable development of waterfront properties
- Recognize the long-term economic value of creating recreational, park, and open space along the river as part of the cleanup and restoration process
- Strike an appropriate balance between sustainable business and river restoration
- Design all new development and redevelopment with the river in mind, creating connections to the river, presenting a useful and attractive front to the river, and taking into account river views and uses.

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Community Values in the Cleanup and Restoration of the Passaic River (continued)
Passaic River Superfund Site Community Advisory Group 2010

Community Benefits

- Enhance area aesthetics through river beautification and litter removal
- Protect local culture and heritage
- Preserve and memorialize the decisions and information regarding the CAG in order to take into account, reflect, and help to communicate the history of the community and the river
- Enhance and maintain the positive perception of the local community
- Provide positive physical and societal connections between people and the river
- Engage in ecological education for local residents, and particularly for youth
- Recognize the importance of environmental justice in all decisions and activities

Recreational Opportunities

- Develop greenways, parkland, recreational opportunities, open space, and natural areas along and connected to the river
- Create convenient, attractive, sustainable, and safe public access for both passive and active recreation along and on the river, including non-motorized boating

Cleanup Process Effectiveness

- Ensure positive stewardship of the cleanup process by supporting community information, interest, and involvement, and listening to their concerns
- Ensure transparency and effective communication of all cleanup information and openness in information exchange
- Work in partnership with all stakeholders, including the community, to address issues and solve problems
- Expedite and prioritize cleanup decisions and action to realize near-term results for river restoration, access, and use
- Consider the full range of alternatives for cleanup and restoration, maintaining a strong overall focus on the long-term goals for river restoration

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