PUBLIC PARTICIPATION PLAN
PHASE I: REVIEW OF THE DRAFT SCOPE OF THE HUDSON RIVER NRDA PLAN

HUDSON RIVER NATURAL RESOURCE DAMAGE ASSESSMENT

HUDSON RIVER NATURAL RESOURCE TRUSTEES

STATE OF NEW YORK

U.S. DEPARTMENT OF COMMERCE

U.S. DEPARTMENT OF THE INTERIOR

FINAL DRAFT
PUBLIC RELEASE VERSION

JULY 1998

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National Oceanic and Atmospheric Administration
Hudson River NRDA, Lead Administrative Trustee
Damage Assessment Center, N/ORR31
1305 East-West Highway, Rm 10219
Silver Spring, MD 20910-3281

FINAL
Hudson River Natural Resource Damages
PUBLIC PARTICIPATION PLAN
Phase I: Review of the *Draft Scope of the Hudson River NRDA Plan*

Prepared by the Hudson River Natural Resource Trustees
Steven Jay Sanford
NYSDEC

2 July 1998

PHASE I: REVIEW OF THE *DRAFT SCOPE OF THE HUDSON RIVER NRDA PLAN*

SECTION I. PURPOSE

The purpose of this plan is to describe and interrelate all of the activities needed to involve the public in our initiation of the Natural Resource Damage Assessment (NRDA) planning process. It is intended as an internal document for use by the Hudson River Natural Resource Trustee Council. The primary goal is to use information from the responsible parties and the interested public to develop a *Hudson River NRDA Plan* which is fair, thorough and accurate. Our approach is to involve these publics at each step where information from the public could improve our products. A secondary goal is to increase public understanding of the NRDA process. The first step, scoping the NRDA Plan, is discussed in this document. Subsequent phases will be addressed in future plans.

SECTION II. NOTICE OF REVIEW OF PERIOD, DOCUMENT AVAILABILITY AND PUBLIC MEETINGS

A. NOTICE OF REVIEW PERIOD

Notice of opportunities for the review of the *Draft Scope of the Hudson River NRDA Plan* will be provided both formally and informally. Formal notice will consist of publication in Federal Register and the New York State *Environmental Notice Bulletin*. Informal notice will be given on the New York State Department of Environmental Conservation (NYSDEC) and other websites, through federal and state press releases and by direct mailings. Mailing lists will be developed from existing federal and state lists.

Details pertaining to the above are provided in *Appendix A, Notice of Review Period*.

B. DOCUMENT AVAILABILITY

Documents will be available directly from designated Trustee contacts, on agency websites and at information repositories. The Administrative Record will be available at a limited number of locations as decided by the Trustees.

Details pertaining to the above are provided in *Appendix B, Document Availability*.

C. PUBLIC MEETINGS

A series of public meetings will be held in order:

1) to inform the concerned public about NRDA in general;

2) to inform the concerned public about the relationship of NRDA activities to other remedial (U.S. Environmental Protection Agency [EPA] and NYSDEC) and management efforts (HREMP);

3) to inform the concerned public about the status of NRDA efforts planned for Hudson River;

4) to describe to the concerned public the purpose of an NRDA Plan; and

5) to take comments (either at meetings or subsequently via mail) from the concerned public on the *Draft Scope of the Hudson River NRDA Plan*.

Three meetings will be planned. In order to cover effectively the geographic range of this NRDA, one each will be convened in the upper, middle and lower Hudson Valley.

Bruce Bentley and Karl Berger from NYSDEC Division of Public Affairs & Education have offered to assist us in the planning and implementation of our public participation efforts. Both bring considerable knowledge of Hudson River issues as well as real expertise in citizen participation to this task. They are skilled facilitators and have offered to provide that service at any meetings.

Bruce and Karl have recommended that we use a focus group to help us plan the public meetings. Specifically, the groups would:

1) help us be sure that we involve all relevant perspectives in our process;
2) assist in the development of roadmaps (agendas) for our meetings; and
3) suggest or validate locations, times, duration and structure of the meetings.

Focus groups should include representatives from each of the relevant perspectives, such as:

Responsible parties
Local government
Recreational anglers
Commercial fishermen
Boaters
Small business - water-dependent
Small business - non-water-dependent
Conservation organizations
Riverside residents

At a minimum, the focus group would meet once to assist us with public participation efforts for the review of the *Scope*. They may also be useful later on in the Hudson NRDA process. The focus group members would be selected by a team which represents each of the Hudson River Trustees; the same team would actively participate in managing the focus group process.

SECTION III. DOCUMENTS TO SUPPORT PUBLIC PARTICIPATION

In addition to the *Draft Scope of the Hudson River NRDA Plan*, other documents will be needed to fully implement the public participation process. One document, an "official announcement," will be used as a letter in the mailed invitations and will also be "published" on the NYSDEC and other websites. A second document, specifically intended as a plain-language explanatory tool, will be used as a handout at meetings; put on the NYSDEC and other websites; and included in mailed invitations. This latter document will be prepared in a question and answer format. Taken together, these documents will also be used as the basis for press releases.

Drafts of these documents are attached as *Appendix C. Draft "Official" Announcement and Appendix D. Frequently Asked Questions*.

SECTION IV. USE OF INPUT FROM PUBLIC PARTICIPATION EFFORTS

A. PUBLIC INPUT

As discussed above, selected representative members of the concerned public will be given an opportunity to be involved in the very first step, which is to participate in the focus group, and therefore to help design both the public participation process and the scope of the NRDA. In both instances, their role will be to provide comments and information to the Trustees; the Trustees will retain all decision-making authority.

The Trustees will maintain a record of all comments voiced at public meetings, however, all formal comments must be provided in written form. They can be delivered: in person; via conventional mail; or electronically. NYSDEC (Steve Sanford) will be designated as the recipient of all comments. Public comments from the formal *Scope* review process will be used to help the Trustees develop the final scope of the *NRDA Plan*.

B. RESPONSIVENESS SUMMARY

A Responsiveness Summary will be prepared which describes the comments on the *Scope* (on a categorical basis) and the Trustees' disposition of those comments. The Summary will be available through all of the outlets described previously in this document, including direct mail to those who provided written comments or oral comments at meetings. The Summary will be presented as a statement (*fait accompli*) and will not be subject to a formal review process.

SECTION V. TIMELINE FOR PUBLIC PARTICIPATION ACTIVITIES

Time Required	Action	Product	Who
As needed	Trustee Council conference call	1. Approve a PubPart Plan for the scoping process; 2. Assemble a PubPart Team which represents each Trustee	1. Trustees 2. Trustees
30 days	Invitations to focus group; provide potential group members with a general background information.	Fully representative group which commits to meet for one day	PubPart Team
1 day (target Aug. 17)	Focus group convenes	Recommendations for public meetings, document availability, etc.	PubPart Team
10 days	1. Review/refine documents 2. Refine press releases 3. Prepare websites	1. Recommendations for formal notices, meeting notices, invitations, FAQs, etc. 2. Approved press releases 3. Websites ready-to-go	1. PubPart Team 2. PubPart Team 3. PubPart Team
1 day	Trustee Council conference call	Final design for public meetings	Trustees
60 days (target: Sept. 1 through Oct. 30)	1. NOI mailed/ delivered 2. Notice & Publication 3. Mailings of Notices and Scope 4. Documents to repositories 5. Comment Period 6. Public Meetings (3 days w/in first 30 days of Comment Period)	1. Satisfy regulatory obligation 2,3,4. All notices sent on schedule 5&6. Provide information and receive comments	1. A. Giedt 2-6. PubPart Team
20+ days	Summarize comments	Draft Responsiveness Summary	IEc & Trustee team
2 days	Trustee meeting to develop final scope	*Final Scope of Hudson River NRDA Plan*	Trustees
variable	1. Begin contract process for *Hudson NRDA Plan* 2. Distribute *Responsiveness Summary*	1. RFP/award 2. Complete *Phase I* of *Public Participation Plan*	1. Trustees, NOAA - lead 2. PubPart Team

APPENDIX A

NOTICE OF REVIEW PERIOD

1. FORMAL PUBLICATION

a. *Environmental Notice Bulletin* Text must be submitted by close of business Wednesday for the following Wednesday's publication. Text can be e-mailed to: enb@envbulletin.com

b. *Federal Register* Text must be submitted 21 days in advance of the publication date.

2. INFORMAL NOTICE

a. *NYSDEC website* Text must be converted into html and then submitted 5 days in advance to Mary Kadlacek. It must be approved through the correspondence control system.

b. *Press Releases*:

	Contact(s)	Lead time
NYSDEC	Gary Sheffer/Steve Sanford	1 week
NOAA	Lisa DiPinto	1 week
DOI	Anne Secord	1 week
NYSDOL	Marc Craig	1 week

c. Direct mail:

Federal mailing lists (EPA - Anne Rychlenski - 212- 637- 3672)

NYSDEC mailing lists (NYSDEC - Bill Ports, Bruce Bentley)

APPENDIX B

DOCUMENT AVAILABILITY

1. TRUSTEE CONTACTS

Steve Sanford
New York State Department of Environmental Conservation
Natural Resource Damages Unit (NYSDEC-NRDU)
Room 403
50 Wolf Road
Albany, NY 12233-1090
Phone: (518) 457-7987
Fax: (518) 485-8424
email: sxsanfor@gw.dec.state.ny.us

Lisa DiPinto
National Oceanic and Atmospheric Administration
Damage Assessment Center (NOAA/DAC)
1305 East-West Highway
SSMC4 Rm 10218
Silver Spring, MD 20910
Phone: (301) 713-3038 x 187
Fax: (301) 713-4387
email: Lisa.DiPinto@noaa.gov

Anne Secord
US Fish and Wildlife Service
US Department of the Interior
3817 Luker Rd
Cortland, NY 13045
Phone: (607) 753-9334
Fax: (607) 753-9699
email: Anne_Secord@fws.gov

2. WEBSITES

NYSDEC's web page: **www.dec.state.ny.us**
The Hudson NRD information is under *"Outdoors", "Natural Resources Reports and Data"*.

NOAA's web page: **www-orca.nos.noaa.gov/darp**

DOI's web page: **www.doi.gov/oepc/frlist.html**

EPA's web page: **www.epa.gov/r02earth/superfun/hudson.htm**

3. Information Repositories

The repositories currently being used by EPA are as follows:

Adriance Memorial Library*
93 Market St.
Poughkeepsie, NY 12601

Catskill Public Library
1 Franklin St.
Catskill, NY 12414

Troy Public Library
100 Second St.
Troy, NY 12180

Crandall Library*
City Park
Glens Falls, NY 12801

Cornell Cooperative Extension
New York Sea Grant
74 John St.
Kingston, NY 12401

USEPA-Region 2*
Superfund Records Center
290 Broadway, 18th Floor
New York, NY 10007-1866

NYSDEC-Region 4
2176 Guilderland Ave.
Schenectady, N.Y. 12406

NYSDEC-Region 5
Route 86
Ray Brook, NY 12977

NYSDEC - Region 3
21 South Putt Corners Rd.
New Paltz, NY 12561

New York State Library
CEC Empire State Plaza
Albany, NY 12230

County Clerk's Office
Washington Co. Office Bldg.
Upper Broadway
Fort Edward, NY 12828

Saratoga County EMC
50 W. High Street
Ballston Spa, NY 12020

Saratoga Spr. Pub. Library
320 Broadway
Saratoga Spr., NY 12866

White Plains Pub.Library
100 Martine Avenue
White Plains, NY 12601

Ossining Public Library
53 Croton Ave.
Ossining, NY 10562

NYSDEC Central Office
Div. of Environ.Remed.
50 Wolf Rd
Albany, NY 12233

(Note: *Administrative Record File available at these locations.)

APPENDIX C

DRAFT "OFFICIAL" ANNOUNCEMENT

Note: This document will be: 1) used as a letter in the mailed invitations; 2) put on the NYSDEC (and other) website; and 3) used, along with the *"Frequently Asked Questions"*, as the basis for a NYSDEC Press Release.

"Dear Concerned Citizen:

The Hudson River Natural Resource Trustee Council is planning to perform an assessment of natural resource damages in the Hudson River. As that process gets under way, the Trustees are seeking the participation of the concerned public. Specifically, we are offering for comment a draft outline which will be used to establish the scope of the *Natural Resource Damages Assessment (NRDA) Plan*; this outline is called the *Draft Scope of the Hudson River NRDA Plan*. The *Draft Scope* and related information are available from several sources, including a series of public meetings. Comments will be received until _____, 1998. Sources for the *Draft Scope* and related documents, general information about the Hudson River NRDA process, the schedule for the public meetings and contact persons are detailed in the enclosed literature.

We look forward to your participation in developing the *Natural Resource Damages Assessment Plan for the Hudson River*.

The Hudson River Natural Resources Trustee Council"

APPENDIX D

DRAFT INFORMATIONAL DOCUMENT (Q&A FACT SHEET)

Note: This document will be: 1) used as a handout at meetings; 2) put on the NYSDEC (and other) website; 3) included in mailed invitations; and 4) used as the basis for press releases.

Facts about the Natural Resource Damage Assessment process for the Hudson River

Frequently Asked Questions

1. WHAT IS A NATURAL RESOURCE DAMAGE ASSESSMENT?

Several federal statutes authorize federal and state officials to act on behalf of the public to restore natural resources affected by releases of oil and other hazardous materials. Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), parties responsible for contaminating the environment and causing injury to natural resources are also liable for natural resource damages (or compensation), which are to be used to restore the injured resources. The NRDA process involves determining the nature and extent of injury to the public's natural resources in order to restore them to the state they would have been in but for the release of hazardous materials. Through the NRDA process, the public is compensated for the losses they suffer as a result of the contamination. Monies recovered as a result of an NRDA must be used to restore either the injured natural resources themselves or the services provided by the natural resources. For example, if recreational fishing is injured, recovered damages must be used both to restore the fishery itself and to restore the recreational use of the fish. Only designated state and federal trustees are authorized to pursue damages for injury to natural resources from hazardous material releases.

2. WHO ARE THE NATURAL RESOURCE TRUSTEES FOR THE HUDSON RIVER?

The Hudson River Trustees are the NYSDEC, NOAA, and the United States Department of the Interior (DOI). In September 1997, a Trustee Council was formed to develop and coordinate state and federal damage assessment activities and to plan for the restoration of the River's resources.

3. WHAT HAVE THE TRUSTEES DONE SO FAR?

In October of 1997 , the Trustees released the *Preassessment Screen Determination for the Hudson River, New York*. This document, known more simply as the *PAS*, is an overview of readily available information that describes major contaminants in and potential injuries to the River and its environment. The review ensures that there is a reasonable probability of making a successful claim for damages before money is expended to plan or conduct a more elaborate NRDA. The release of the *PAS* indicates that the Trustees have determined that it is appropriate to undertake an NRDA of the Hudson River.

4. What will the Trustees be Doing Next?

The next step will be the development of a *Natural Resource Damages Assessment Plan for the Hudson River* (consistent with the DOI Natural Resource Damage Assessment regulations at *43 CFR Part 11*). The *Assessment Plan* will describe studies the Trustees will undertake to assess natural resource injuries and to evaluate and support appropriate restoration options for the Hudson River environment. To develop the NRDA Plan the Trustees must first establish its scope, i.e., determine which injuries, resources and public uses should be examined in the damage assessment. The Trustees will be seeking input from the public at this stage.

The Trustees anticipate that 12 months will be needed for completion of the NRDA Plan. A Draft NRDA Plan will be offered for formal public review and comments will be used to develop the Final NRDA Plan. The assessment will be pursued when the Final NRDA Plan is complete.

5. How can I get Involved?

The Trustees will actively solicit public input throughout the damage assessment and restoration process. Notices on the availability of information and the opportunity for public input will be posted on NYSDEC's web page and through other media (e.g., New York and NOAA postings). Those who would like to be added to the Hudson River Damage Assessment mailing list should notify the NYSDEC contact listed below.

Public meetings to discuss the scope of the *Natural Resource Damages Assessment Plan for the Hudson River* have been scheduled for the spring of 1998. There are three sessions planned:

	DATE	TIME	LOCATION
Upper River			
Mid-River			
Lower River			

6. Why is the Public Being Given an Opportunity to Comment on the NRDA Plan Before it is Written?

The Trustees would like to give all concerned parties ample opportunity for participation in the NRDA. Federal NRDA regulations describe a need for public participation and mandate a minimum level (see 43 CFR Part 11, 11.32 and 11.90). The Trustees want to capitalize on the considerable knowledge of the responsible parties and the interested public and also want to consider public perspectives on the relative importance of injuries and services.

7. WHERE CAN I GET A COPY OF THE *DRAFT SCOPE OF THE HUDSON RIVER NRDA PLAN*?

Copies of the Draft Scope are available on NYSDEC's web page (www.dec.state.ny.us.; see *"Outdoors", "Natural Resources Reports and Data".*), or by contacting one of the following:

Steve Sanford
New York State Department of Environmental Conservation
Natural Resource Damages Unit (NYSDEC-NRDU)
Room 403
50 Wolf Road
Albany, NY 12233-1090
Phone: (518) 457-7987
Fax: (518) 485-8424
email: sxsanfor@gw.dec.state.ny.us

Lisa DiPinto
National Oceanic and Atmospheric Administration
Damage Assessment Center (NOAA/DAC)
1305 East-West Highway
SSMC4 Rm 10218
Silver Spring, MD 20910
Phone: (301) 713-3038 x 187
Fax: (301) 713-4387
email: Lisa.Dipinto@noaa.gov

Anne Secord
US Fish and Wildlife Service
US Department of the Interior
3817 Luker Rd
Cortland, NY 13045
Phone: (607) 753-9334
Fax: (607) 753-9699
email: Anne_Secord@fws.gov

8. How and Where can I get Additional Information about the Hudson River Natural Resource Damage Assessment and Restoration Process?

Additional information about the Hudson River site and the damage assessment process is available from the contacts listed above or from:

NYSDEC's web page: **www.dec.state.ny.us**
The Hudson NRD information is under *"Outdoors", "Natural Resources Reports and Data"*.

NOAA's web page: **www-orca.nos.noaa.gov/darp**

DOI's web page: **www.doi.gov/oepc/frlist.html**

Materials are also available at the following document repositories. Ask for *"Hudson River NRDA"*.

Adriance Memorial Library*
93 Market St.
Poughkeepsie, NY 12601

Catskill Public Library
1 Franklin St.
Catskill, NY 12414

Troy Public Library
100 Second St.
Troy, NY 12180

Crandall Library*
City Park
Glens Falls, NY 12801

Cornell Cooperative Extension
New York Sea Grant
74 John St.
Kingston, NY 12401

USEPA-Region 2*
Superfund Records Center
290 Broadway, 18th Floor
New York, NY 10007-1866

NYSDEC-Region 4
2176 Guilderland Ave.
Schenectady, N.Y. 12406

NYSDEC-Region 5
Route 86
Ray Brook, NY 12977

NYSDEC - Region 3
21 South Putt Corners Rd.
New Paltz, NY 12561

New York State Library
CEC Empire State Plaza
Albany, NY 12230

County Clerk's Office
Washington Co. Office Bldg.
Upper Broadway
Fort Edward, NY 12828

Saratoga County EMC
50 W. High Street
Ballston Spa, NY 12020

Saratoga Spr. Pub. Library
320 Broadway
Saratoga Spr., NY 12866

White Plains Pub.Library
100 Martine Avenue
White Plains, NY 12601

Ossining Public Library
53 Croton Ave.
Ossining, NY 10562

NYSDEC Central Office
Div. of Environ.Remed.
50 Wolf Rd
Albany, NY 12233

(Note: *Administrative Record File available at these locations.)

9. How do the Trustees' Restoration Planning Efforts Relate to EPA's Remedial Activities?

Remediation describes cleanup activities at hazardous waste sites designed to reduce or eliminate significant risks to human health, welfare or the environment posed by contamination of the environment. *Restoration* in the context of NRDA is actions to restore, replace or acquire the equivalent of natural resources that are lost or harmed by such contamination. *Remediation* reduces environmental risks but does not restore any of the natural resource losses.

NRD restorations can be of two types, either primary or compensatory. Primary restoration is intended to replace resources that have been lost. Compensatory restoration is designed to compensate for the losses of these resources and the services they provide from the time they are injured until they are restored.

The EPA is performing a study of the Hudson River PCB (polychlorinated biphenyl) Superfund site to reassess their 1984 decision to not remediate contaminated sediments at the site. The Hudson River PCB Superfund site includes approximately 200 miles of the Hudson River between Hudson Falls and the Battery in New York City. This *Reassessment* will determine how and to what extent PCB-contaminated sediments in the Upper Hudson River will be remediated.

The Trustees are coordinating their restoration efforts closely with EPA's ongoing *Reassessment*. The *Hudson River NRDA Plan* cannot be fully implemented until remediation is complete; some of the studies can be performed in the near future, others will have to wait until the success of remedial efforts can be measured.

> Note: For additional information about EPA's *Reassessment*, see EPA's *Hudson River PCB Reassessment RI/FS* web site (www.epa.gov./r02earth/superfun/hudson.htm).

10. Why is the Process of Cleaning up the Hudson Taking so Long?

The Hudson River is a large and very complex system, and a detailed assessment of the contamination in the River requires extensive scientific study. EPA's Reassessment, which began in 1990, is being performed in three phases. Phase 1 included the collection of existing data on the Hudson River from a wide variety of sources and placing that data into a single database. Analysis of that data uncovered significant data gaps to be filled by additional data collected in Phase 2 of the Reassessment. Phase 2 (which is currently being performed by EPA) consists of field sampling and analysis, computer modeling and human and ecological risk assessment. Data generated during Phase 2 will fill previously existing data gaps in order to provide a comprehensive understanding of the contaminated sediments in the Upper Hudson and the impact of those sediments on the site. Phase 3, in which EPA will evaluate possible remedial alternatives for the site, will be conducted after Phase 2 is complete. EPA presently expects to make a remedial decision for the site in late 2001.

11. Will the Trustees Dredge the River if EPA doesn't?

The *Final NRDA Plan* will include an evaluation of possible restoration options for the River. At present, the Trustees expect to evaluate dredging as one option among many when they reach that phase of the assessment. This evaluation will take into account the results of EPA's *Reassessment* and their remedial decision, which is expected in 2001. The scope of EPA's remedy will affect the Trustees' restoration decisions because a more extensive remedy will be likely to restore natural resources more quickly than a less comprehensive cleanup. As with all other aspects of the NRD process, the Trustees will seek public input prior to implementing any restoration plans.

U.S. DEPARTMENT OF THE INTERIOR
MARCH 3, 1849

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NOAA
U.S. DEPARTMENT OF COMMERCE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
NEW YORK STATE