
PHASE 1 PROPERTY ACCESS PLAN

Appendix E

to

Remedial Action Work Plan for

Phase 1 Dredging and Facility Operations

HUDSON RIVER PCBs SUPERFUND SITE



Prepared for:

GENERAL ELECTRIC

**319 Great Oaks Boulevard
Albany, NY 12203**

Prepared by:

PARSONS

GE Company – Parsons Project Office
381 Broadway, Bldg 40-2
Fort Edward, NY 12828
Phone: 518 746-5311
Fax 518 746-5307

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ACRONYMS AND ABBREVIATIONS

CD	Consent Decree
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
cfs	cubic feet per second
CPR	Delaware & Hudson Railway Company d/b/a Canadian Pacific Railway
EPA	United States Environmental Protection Agency
FDR	Final Design Report
GE	General Electric Company
GPS	Global Positioning System
NYSCC	New York State Canal Corporation
NYSDEC	New York State Department of Conservation
NYSDOT	New York State Department of Transportation
NYSOGS	New York State Office of General Services
PAP	Property Access Plan
Parsons	Parsons Engineering of New York, Inc.
QoLPS	Quality of Life Performance Standards
RA	Remedial Action
RAM QAPP	Remedial Action Monitoring Program Quality Assurance Project Plan
RAWP #3	Remedial Action Work Plan for Phase 1 Dredging and Facility Operations
ROW	right of way

SECTION 1

INTRODUCTION

1.1 PURPOSE OF PLAN

The purpose of this *Phase 1 Property Access Plan* (PAP) is to identify the procedures that General Electric Company (GE) will follow to obtain access agreements, easements, or title, as the case may be, with respect to all properties to which access is needed for purposes of implementing Phase 1 dredging operations and sediment processing facility operations, consistent with Paragraphs 34 and 35 of the Consent Decree (CD) (EPA, 2005) and in accordance with Section 2.3.2.2.3 of the Statement of Work (SOW) for Remedial Action and Operations, Monitoring and Maintenance (which is Appendix B to the CD). This PAP also describes the steps already taken by GE to obtain such access, easements, or title prior to the submission of this plan.

This PAP is Appendix E to *Remedial Action Work Plan for Phase I Dredging and Facility Operations* (RAWP #3). It is consistent with the *Phase 1 Final Design Report* (FDR) (Blasland, Bouck & Lee, 2006), as modified by subsequent submissions and approved by the United States Environmental Protection Agency (EPA), and with agreements with EPA.

1.2 PLAN SCOPE

This PAP identifies the types of access to private and public property that will be needed to implement Phase 1 of the Remedial Action (RA), the places where access is or might be needed, and the process that GE has followed and will follow to gain access. This plan is not intended to identify all properties to which access will be needed, nor the steps to be followed in each individual case. Those detailed, individual agreements will be worked out on a case-by-case basis.

1.3 PROPERTY ACCESS PLAN ORGANIZATION

This PAP is organized as follows:

Section 1 – Introduction: gives the purpose, scope and organization of this plan.

Section 2 - Property Access Required During Phase 1: describes potential property access needs during Phase 1 implementation.

Section 3 – Status of Access Agreements Already in Place and Ongoing Efforts to Obtain Access: describes access agreements already in place, steps already taken by GE to obtain access agreements at the time this plan was prepared, and ongoing property-access efforts.

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Section 4 – Process to Gain Property Access: describes the procedures that GE will follow in the future to obtain property access permission as necessary to implement the work required by the CD.

Section 5 - References: provides a list of references used in the plan.

SECTION 2

PROPERTY ACCESS REQUIRED DURING PHASE 1

2.1 LONG-TERM AND CONSTRUCTION ACCESS

Long-term access is access to a particular property that is required for all or a substantial portion of the RA, and/or involves the installation of structures or otherwise modifies the property in some way. Long-term access may be needed for installation of permanent structures such as sheds for housing of far-field river monitoring equipment. Access may also be needed to cross private property for servicing or installing equipment, or may require easements or right-of-ways (ROW) for the installation of roads. It is likely that long-term access will require formal access agreements.

Construction access may be needed to cross property for delivery of construction materials or equipment to areas that are not otherwise accessible or for installation of materials in the river from the shore. Construction access is included under long-term access because, while it may be required for only a short time, it is likely to involve access by construction vehicles or other heavy traffic and may require modifications to the property.

The following activities have been identified which may require or have already required long-term access.

2.1.1 Sediment Processing Facility

The EPA selected the 100-acre Energy Park property located between the Champlain Canal and Towpath Road in the Town and Village of Fort Edward for construction of the project's sediment processing facility, where sediments will be dewatered and prepared for off-site transport. Construction and operation of this facility required access from the Delaware & Hudson Railway Company d/b/a Canadian Pacific Railroad (CPR), another private landowner and the New York State Canal Corporation (NYSCC). GE secured access for construction of the sediment processing facility through leases with CPR and the other private landowner and through an access order from EPA to the NYSCC followed by EPA's acquisition of the NYSCC property via taking, as described in Section 3.1 below.

2.1.2 Main Access Road Construction

In order to reduce project-related traffic through the town of Fort Edward, GE constructed a new main access road following an existing, unpaved NYSCC service road along the west side of the Champlain Canal (within land owned by the NYSCC and two private landowners) connecting to the north with Route 196. The existing intersection at Route 196 was shifted approximately 80 feet to the west. Property easements with two private landowners and access to NYSCC property were necessary to modify this intersection. Access to an approximate

2-mile long corridor adjacent to the canal owned by NYSCC and two private landowners was required for construction of the road. GE obtained easements from the private landowners and obtained access from the NYSCC through an order from EPA followed by EPA's taking of the NYSCC property, as described in Section 3.2 below.

2.1.3 Work Support Marina

To reduce the number of project vessels going through Lock 7, a marine staging area is being constructed on the western shore of the river on New York State-owned property accessible from West River Road in the Town of Moreau. The construction of this Work Support Marina is described in Section 1.4.1 of the FDR (Blasland, Bouck & Lee, 2006). The necessary access was obtained through an EPA order to the NYSCC followed by EPA's taking of the NYSCC property and through access agreements with other landowners, as described in Section 3.3 below.

2.1.4 Far-field River Monitoring

Permanent far-field automated river monitoring stations are being installed at Thompson Island Dam, Schuylerville, and Waterford. Each of these monitoring stations will consist of a small shed on the shore which will house the sample compositing equipment and instrumentation. Access agreements are required for installation of and access to some of the monitoring sheds as detailed below.

- **Thompson Island Dam** - The proposed location for the Thompson Island monitoring station is on private property. Efforts to obtain an access agreement with the property owner are underway and discussed in Section 3.4.
- **Schuylerville** – Access permission from the NYSCC has been obtained for this monitoring station, as described in Section 3.4 below.
- **Waterford** - The location for this monitoring station is on the Village of Waterford water treatment facility property. Access permission from the Waterford Board of Water Commissioners has been obtained, as discussed in Section 3.4.

The far-field stations at Bakers Falls, Fort Edward, Stillwater, Cohoes (Mohawk River), Albany, and Poughkeepsie will be sampled manually and will not require permanent installations. These stations are currently being sampled under the Baseline Monitoring Program and access to these stations is already available by public rights-of-way.

2.1.5 Resuspension Control Installation

Several resuspension control measures will be installed during the course of the Phase 1 RA. The following have been identified so far:

- A rock dike will be installed at the northern end of the east channel of Rogers Island to limit flow in the east channel to approximately 100 cubic feet per second (cfs). The

installation of this rock dike is described in Section 2.3.4 of the FDR (Blasland, Bouck & Lee, 2006). Access to shoreline areas on the west side of the rock dike will be required from the Village of Fort Edward, since the western edge of the rock dike abuts the northern tip of Rogers Island on Village of Fort Edward property.

- A silt curtain and gate will be installed at the southern end of the east Rogers Island channel. GE intends to accomplish the installation of this silt curtain from the river, but it is possible that agreements with the property owners will be needed where the silt curtain contacts the shoreline.
- A series of resuspension control structures will be installed at the East Griffin Island dredge area during Phase 1 to test the efficacy of different structures during dredging. As above, GE intends to accomplish the installation of these structures from the river, but it is possible that agreements with the property owners will be needed where the structures contact the shoreline.

The location of the Rogers Island resuspension controls is shown in Figure 2-1. The location of the Griffin Island resuspension controls is shown in Figure 2-2.

2.1.6 Loading of Backfill Material and General Support

The material used for backfilling/capping will be acquired from local or regional quarries, transported to barge loading areas on the river by truck, and conveyed by barges and tugboats to dredged areas. The quarries to be used will be selected by the Dredging Contractor. As discussed in Section 2.12.2 of RAWP #3, it is anticipated that the majority of the backfill/cap materials will be transported by truck to a barge loading areas located in the Town of Moreau, which is described in that section of RAWP #3. GE has obtained an access license agreement from the private landowner for access to this site.

As also discussed in Section 2.12.2 of RAWP #3, it is anticipated that a property located on Route 4 in Fort Edward may be used for loading a small portion of the capping materials to be used in Phase 1 onto barges, and will also be used for staging of equipment and other materials and for general support activities. GE acquired this property in December 2008 and executed a Use and Occupancy Permit with the NYSCC in February 2009 for the NYSCC property between the GE-owned parcel and the river. See also Section 3.6 below.

GE and the Dredging Contractor are continuing to evaluate other potential sites for loading of backfill and cap materials in the event that additional such areas are necessary for Phase 1. Access to such sites, if necessary, will be the responsibility of the Dredging Contractor and is not within the scope of GE's access requirements.

2.1.7 Quality of Life Monitoring of Processing Facility and Barge Traffic

Monitoring of the processing facility operations for attainment of the Quality of Life Performance Standards (QoLPS) for air quality, noise, lighting, and (if necessary) odor is

expected to be accomplished with monitoring stations either within or on the facility boundary. However, some permanent or semi-permanent stations are likely to be needed outside of the facility boundary. In particular, a monitoring station is currently planned to be located across the canal from the processing facility. The locations of the QoLPS monitoring stations in the vicinity of the processing facility are shown in Figure 2-3. Monitoring stations will also be installed in the vicinity of Lock 7 to monitor air quality and, potentially, to monitor tug and barge traffic in and around the lock. GE has obtained access permission to place and operate monitors on the property across the canal from the processing facility, and GE anticipates that the NYSCC will allow access permission for the monitoring at Lock 7.

2.1.8 Utility Construction Access

Power and communication service is required for the operation of the processing facility and Work Support Marina. The third-party utilities require easements and/or ROW agreements to provide this service. A summary of the utility access requirements is provided below:

- Access from numerous property owners is needed for National Grid to provide permanent power to the processing facility site. National Grid has obtained ROW easements from all of the relevant property owners for the electric lines necessary to provide such service, as well as an easement to provide service to the traffic signal at the intersection of Lock 8 Way and Route 196.
- Easements from National Grid are necessary for Verizon to provide communication service to the processing facility. Verizon has obtained the necessary easements.
- To provide electrical service to the Work Support Marina, National Grid has obtained an easement from EPA, which has acquired that site from the NYSCC through a taking.
- Verizon has obtained an easement from the New York State Department of Transportation (NYSDOT) and EPA for a pole guy reconfiguration for the Work Support Marina.
- To provide electrical service to the Moreau Barge Loading Area, National Grid needs easements from a private property owner for the electrical lines necessary to provide such service. National Grid is in the process of negotiating the necessary easement agreement, as discussed in Section 3.5.
- An easement from National Grid is necessary for Verizon to provide communication service to the Moreau Barge Loading Area. Verizon is in the process of obtaining such an easement, as discussed in Section 3.5.
- To provide electrical service to the General Support Property, National Grid needs an easement from GE and a private property owner for the electrical lines necessary to

provide such service. National Grid has obtained the necessary easements, as discussed in Section 3.5.

- Easements from National Grid are necessary for Verizon to provide communication service to the General Support Property. Verizon is in the process of obtaining such easements, as discussed in Section 3.5

2.2 SHORT-TERM ACCESS

Short-term access is required for a short duration or on a one-time basis and does not involve permanent modification to the property. Short-term access may be needed, for example, for technicians using portable monitoring instruments, for placement of temporary monitoring instruments, for survey and survey controls, for cutting of brush along the river bank, or for placement of warning barriers marking construction zones. Short-term access may require only an informal access agreement, such as the verbal permission of the property owner. However, in the event that a property owner requests a formal access agreement, GE will work with the property owner to develop such an agreement as needed. The following activities have been identified which may require short-term access.

2.2.1 Quality of Life Monitoring During Dredging or Other On-River Operations

Monitoring for achievement of the QoLPS during dredging will be conducted using portable monitors on the shore near the dredging operation, which will be moved as the dredging operation moves. Short-term access may be needed to the shoreline to carry out this monitoring. Short-term access may be required for contingency monitoring in the event of exceedance of a standard, or for monitoring at a receptor location.

An example of monitoring locations near dredging operations is shown in Figure 2-4.

2.2.2 Fish Monitoring

Access to private property may be needed to implement the fish monitoring program (e.g., in the Ft. Miller Pool) as described in Section 3 of the *Remedial Action Monitoring Program Quality Assurance Project Plan* (RAM QAPP) (Anchor QEA, 20096; currently under revision). As noted in Sections 2.1.4 and 3.4, GE is currently negotiating with a private landowner located on the west side of the river just south of Thompson Island to obtain access to construct the Thompson Island far-field water monitoring station; this property would also be used to provide river access for fish monitoring activities. The landowner has agreed to provide access and a draft access agreement is under development.

2.2.3 Dredging Support

Access to shoreline property may be needed before, during, and after dredging for cutting brush, removing debris or shoreline restoration (e.g., installation of riprap). In general, shoreline areas where access will be required are owned by New York State; the New York State Office of

General Services (NYSOGS) owns the river bottom and shoreline areas and NYSCC has property rights up to elevation 122.1 feet NAV88 (123.9 feet Barge Canal Datum). While these activities will primarily be conducted from the river, it may be necessary for personnel to access the shoreline in some instances. If property access is required beyond the limits of State ownership, the Construction Manager will coordinate with shore-side private property owners and obtain access approval as needed.

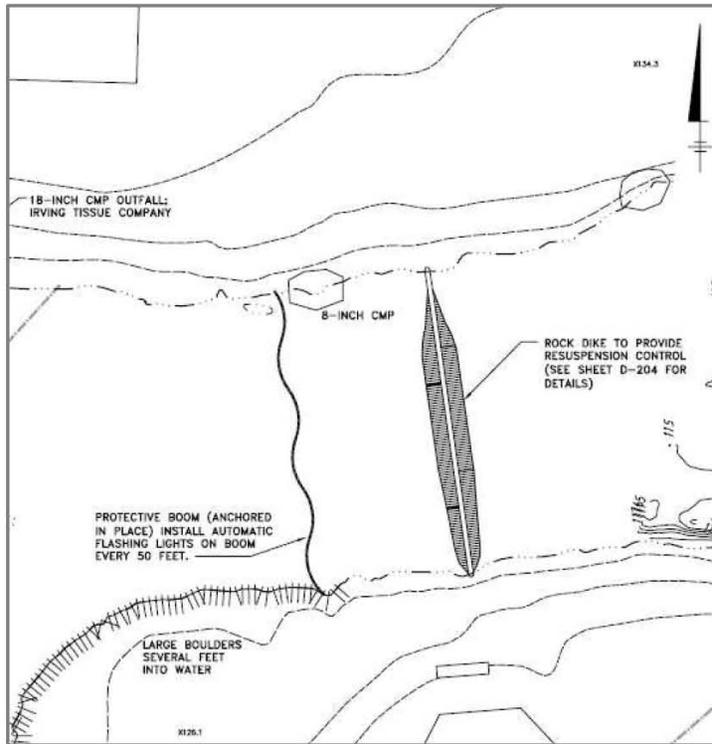
2.2.4 Other

The following additional activities have been identified which may need short-term access:

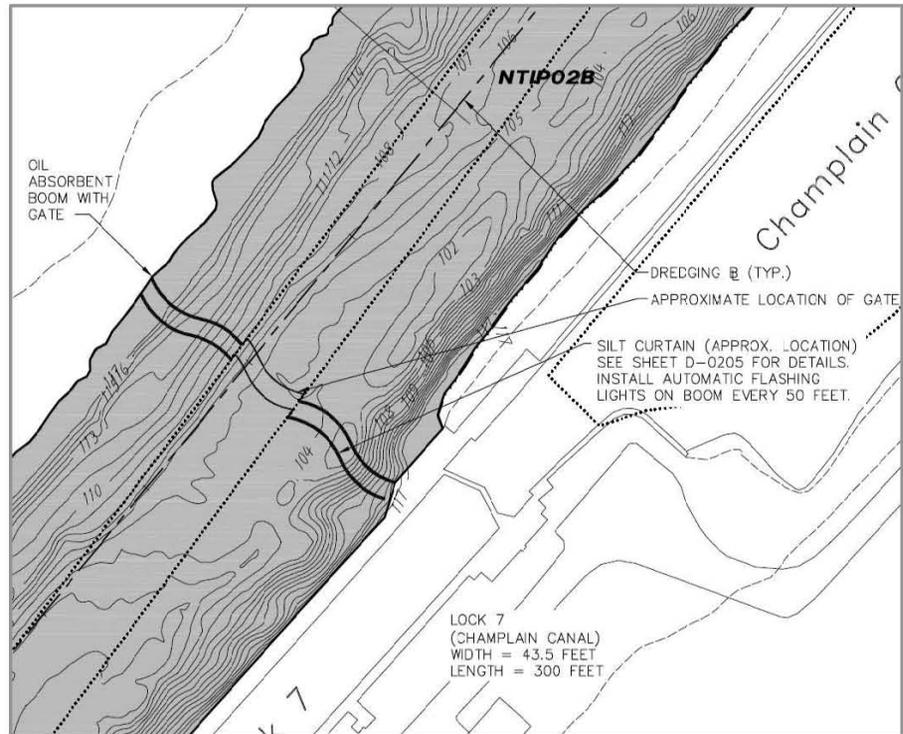
- Surveyors may need short-term access to benchmarks in order to verify and validate preconstruction surveys. Also, hydrographic surveyors or the Dredging Contractor may need short-term access to riverfront properties to install river height boards, automatic river height gauges, or to set up automatic tracking total stations and Real-Time Kinematic GPS base stations.
- Access may be needed for QoLPS monitoring at receptors in the vicinity of the processing facility in case of an exceedance or a complaint during facility operations.
- Occasional shoreline access may be needed for maintenance of resuspension structures.
- Access agreements may be needed for working in and around utilities and private and publicly owned structures in or near the river.
- Access agreements may be needed for habitat reconstruction in riverine fringing wetlands which will require access for people to plant vegetation.

Any other short-term access needs identified during the course of the Phase 1 RA will be handled according to the procedures given in Section 4.

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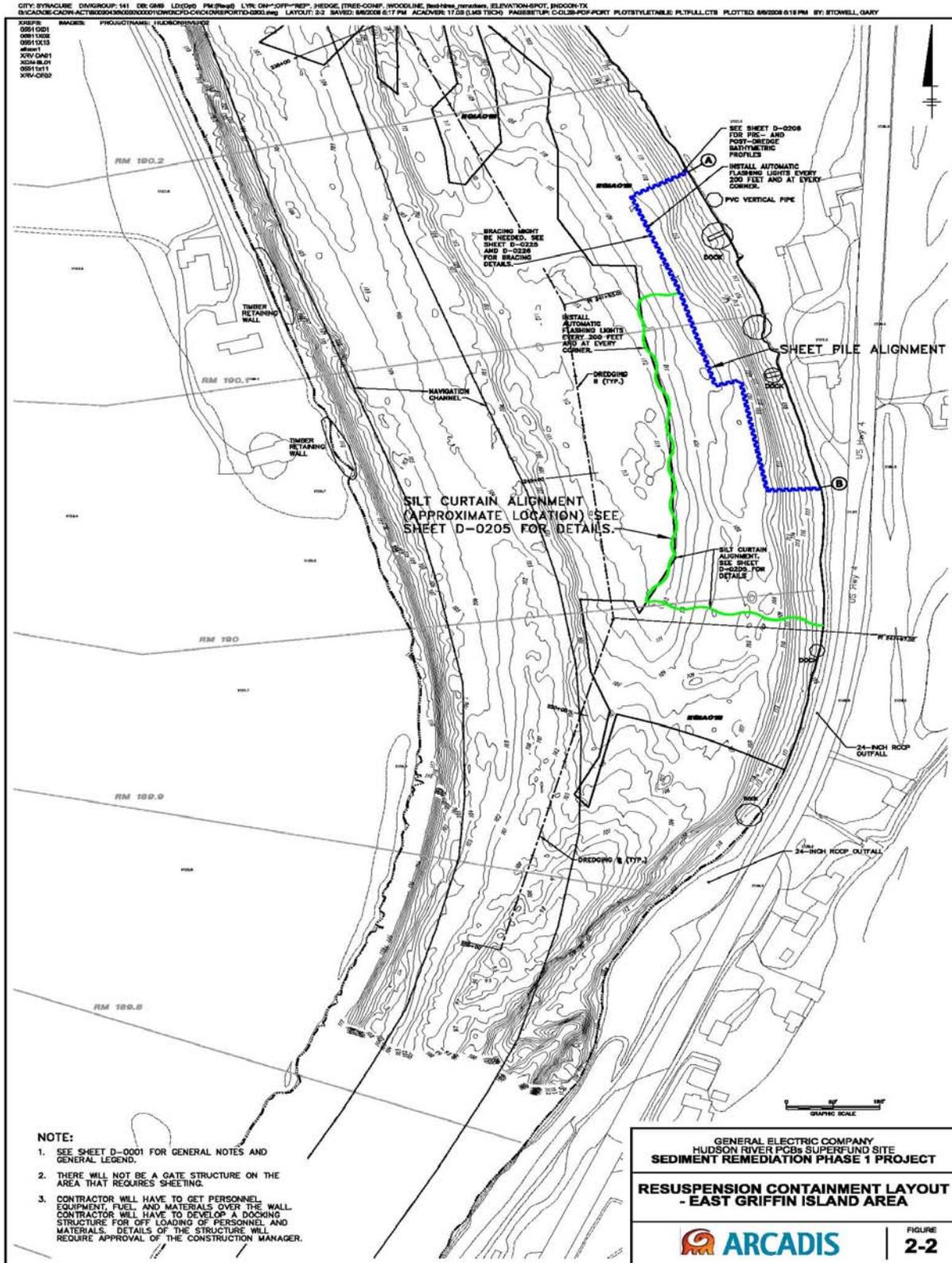
Rock dike at north end of east channel of Rogers Island



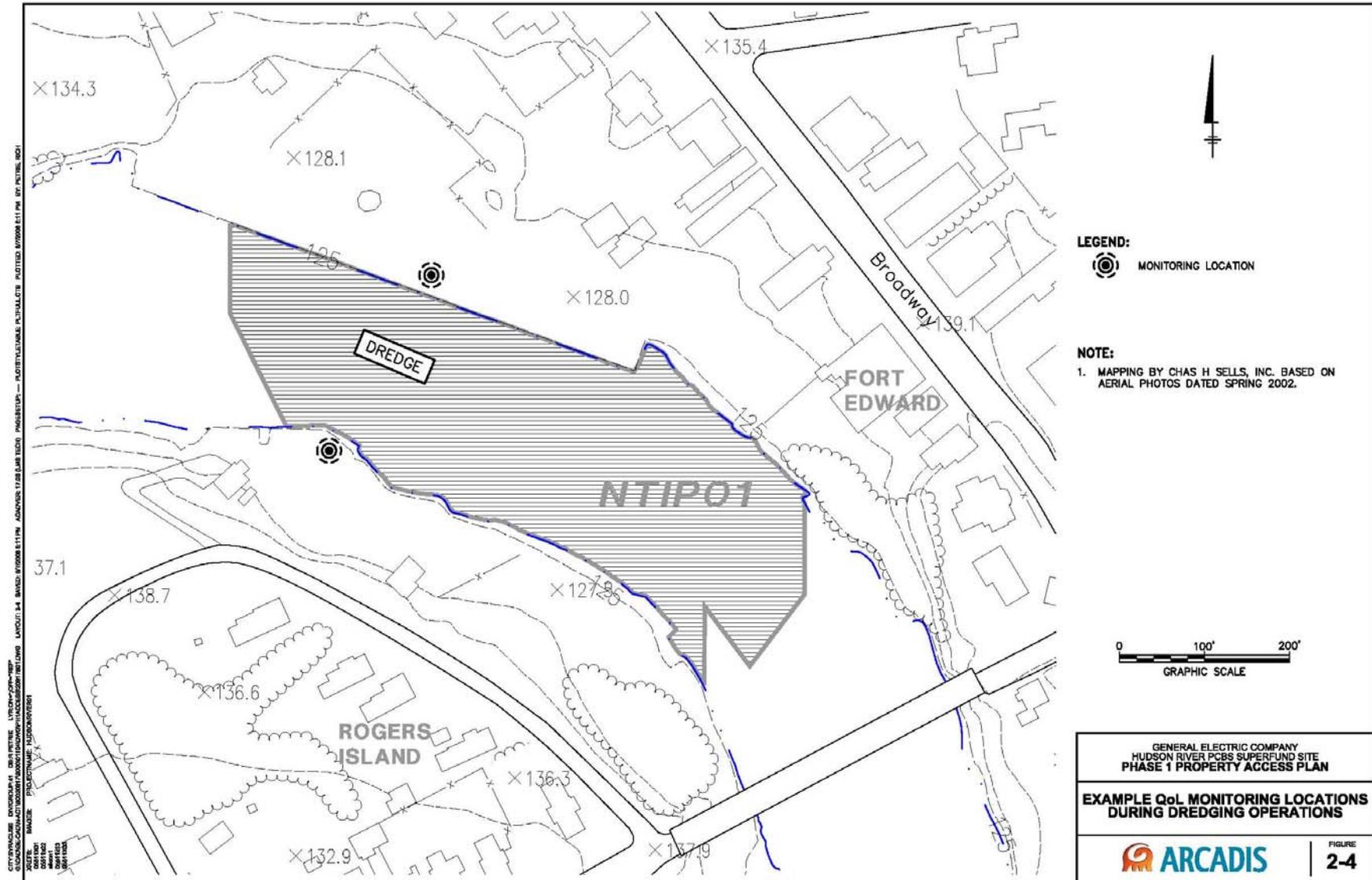
Silt Curtain at south end of east channel of Rogers Island

Figure 2-1 Locations of Rogers Island Resuspension Controls

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SECTION 3

STATUS OF ACCESS AGREEMENTS ALREADY IN PLACE AND ONGOING EFFORTS TO OBTAIN ACCESS

3.1 SEDIMENT PROCESSING FACILITY

In order to construct and operate the sediment processing facility on the “Energy Park/Longe/NYSCC” site selected by EPA during the facility siting process, GE was required to enter into property leases with CPR, one other private landowner, and the NYSCC. The parcels are located in the Village and Town of Fort Edward, New York. A lease of 94.62 acres of property comprising portions of tax parcel maps 163.45-1-4 and 163.20-2-20.1, owned by the non-railroad private landowner, was executed with that landowner on April 2, 2007. A lease of 14.03 acres owned by CPR was executed on May 2, 2007. Following prolonged negotiations with NYSCC to lease the remaining 25 acres needed for construction, GE was unable to reach agreement with NYSCC. As a result, EPA issued an Administrative Order Directing Compliance With Request For Access (Index No. CERCLA-02-2007-2012) to NYSCC on March 29, 2008, and subsequently acquired this property through a judicial taking in an action in the federal district court. Through these means, GE has been provided access and has constructed the facility with the consent of EPA, which is now the property owner.

3.2 MAIN ACCESS ROAD

GE required access from two private landowners and the NYSCC to construct an approximately two-mile-long Main Access Road that runs parallel to the Champlain Canal and connects existing Route 196 to the sediment processing/transfer facility. The Main Access Road is located in the Towns of Kingsbury and Fort Edward, New York. GE obtained easements from two private landowners of 0.03 and 11.18 acres comprising portions of tax parcel maps 155-3-5 and 155-1-13 for the entrance of the Main Access Road at Route 196. The easements were executed on April 2, 2007 and March 30, 2007, respectively. The property on which the Main Access Road was constructed is primarily on property owned by NYSCC and consists of portions of tax map parcels 163.-2-15.1, 163.-2-15.2, and 139.-2-1. EPA obtained access to the NYSCC property through issuance of the Administrative Order Directing Compliance with Request for Access as described in Section 3.1, and subsequently acquired this property through a judicial taking in the same proceeding described in Section 3.1.

3.3 WORK SUPPORT MARINA

GE required access from NYSCC to construct a Work Support Marina located on property along the western shore of the Hudson River in Moreau, New York. The property will serve as a marina for boats that will be used to support dredging operations and to oversee GE’s

implementation of the remedy. The Work Support Marina property consists of a portion of tax map parcel no. 65-1-10. EPA obtained access to the NYSCC property through issuance of the Administrative Order Directing Compliance with Request for Access described in Section 3.1, and subsequently acquired this property through a judicial taking in the same proceeding described in Section 3.1. GE also required access from a private landowner and the New York State Department of Environmental Conservation (NYSDEC) to the private road which provides access to the Work Support Marina. An access agreement with the private landowner was executed on March 26, 2008. An access agreement with NYSDEC was executed on April 7, 2008. Finally, GE required approval from the NYSOGS to make alterations to the Work Support Marina property shoreline needed to construct the facility. The NYSOGS provided such approval on May 12, 2008.

3.4 FAR-FIELD MONITORING STATIONS

GE required access from the NYSCC to construct and operate a far-field river monitoring station at Lock 5, located in the Village of Schuylerville. The NYSCC issued a Use and Occupancy Permit for the construction and operation of the monitoring station on July 17, 2006.

GE also required access from the Village of Waterford to construct a far-field water monitoring station on the property of the Waterford Waterworks. At the request of EPA, GE evaluated other potential locations for the station and determined that the Waterford Waterworks property is best suited for the monitoring activity. On February 10, 2009, the Waterford Water Commissioners granted GE access to construct this far-field monitoring station.

Finally, GE is currently negotiating with a private landowner located on the west side of the river just south of Thompson Island to obtain access to construct the Thompson Island far-field water monitoring station. The landowner has agreed to provide access and a draft access agreement is under development.

3.5 UTILITY ACCESS

The access required for National Grid and Verizon to provide power and communication service to the processing facility, and the Work Support Marina, the Moreau Barge Loading Area, and the General Support Property on Route 4 and the status of their efforts to obtain such access were described in Section 2.1.8. All necessary utility access has been obtained for processing facility and the Work Support Marina. The current status of the remaining activities needed to obtain such access to the Moreau Barge Loading Area and the General Support Property is as follows:

Moreau Barge Loading Area Power Line Easement – National Grid is negotiating an easement agreement with a private land owner to bring power to the Moreau Barge Loading Area.

Moreau Barge Loading Area Phone Line Easement – Verizon is negotiating an easement agreement with National Grid to bring phone lines to the Moreau Barge Loading Area.

General Support Property Power Line Easement – National Grid has obtained the easements required from GE and a private property owner to bring power to the General Support Property.

General Support Property Phone Line Easement – Verizon is negotiating an easement agreement with National Grid to bring phone lines to the General Support Property.

3.6 OTHER EFFORTS

GE continues to work on obtaining long-term access for a number of other properties needed for implementing the project. A summary of GE's efforts to date is provided below:

Rock Dike Construction – To construct the rock dike located in the eastern channel of Rogers Island, GE will require access from the Village of Fort Edward for property located on the northern tip of Rogers Island. GE met with Village officials on January 15, 2009, to request such access, provided information to the Village to support its request in February 2009 and is now finalizing an access agreement with the Village for access to this property.

Moreau Barge Loading Area – As noted in Section 2.1.6 GE is planning to use a property in the Town of Moreau, owned by a private landowner, as a backfill / cap material barge loading area. GE contacted the landowner in October 2008 to request the necessary access to the property. In March 2009, GE obtained a license agreement allowing access for the portions of the property necessary to establish a barge loading area.

General Support Property – As noted in Section 2.1.6, in December 2008, GE acquired a property on Route 4 in Fort Edward to be used for staging of equipment and other materials and for general support activities. GE executed a Use and Occupancy Permit with NYSCC for the property between the GE-owned parcel and the river in February 2009. In addition, in February 2009, GE submitted a Use and Occupancy Permit application to NYSCC for the use of the NYSCC-owned portion of Henderson Way adjacent to the General Support Property.

Use of Terminal Walls – In January 2009, GE submitted Use and Occupancy Permit applications to NYSCC for the use of the NYSCC-owned portion of the marine terminal wall in Troy, NY and for the use of the NYSCC-owned Thomson terminal wall on the Champlain Canal. At the request of NYSCC, GE is obtaining land access agreements from the owners of adjoining properties to both NYSCC properties.

SECTION 4

PROCESS TO GAIN PROPERTY ACCESS

This section describes the general procedures that GE will follow going forward to obtain access to properties not owned by GE that are necessary to complete Phase 1 of the RA. While the specific approach utilized will be dependent on the type and duration of access required, GE will generally follow the procedures outlined below in an effort to obtain access. If GE is unsuccessful in obtaining access after utilizing “best efforts” as described in Paragraph 35 of the CD, GE will request assistance from EPA.

- 1. Identification of Property.** Once a specific property need has been identified, a windshield survey of the property will be performed to determine suitability of the parcel to support the specific property need. If it is determined that the property meets the project need, address information will be recorded.
- 2. Determination of Property Ownership.** County tax records will be reviewed to determine current ownership and contact information.
- 3. Determination of Appropriate Access Mechanism.** The type and duration of access required will be considered in determining the appropriate mechanism for obtaining access. Access options that will be considered include: verbal authorization; written access agreement; property lease; property purchase; and easement.
- 4. Outreach to Property Owner (for private or municipal property).** If the property is privately owned or owned by a municipality, GE will phone or meet with the property owner to explain the access need and determine the owner’s willingness to provide access permission. If the property owner is willing to grant access, GE will work out the details with the owner and document the access agreement using one of the access mechanisms described in Step 3. If access cannot be obtained, GE will evaluate adjacent parcels to determine if another, nearby parcel can be utilized.
- 5. Assistance from EPA.** In the above situation, if the property owner is unwilling to grant access permission and a suitable substitute is unavailable, GE will notify EPA that assistance in obtaining access is required.
- 6. Outreach for State Property.** If the property is owned by an agency of the State of New York, GE will contact EPA so that EPA may assist in coordinating and facilitating efforts to obtain access. Either EPA, or GE in coordination with EPA, will then contact the relevant state agency to request access permission. If the agency agrees to allow access, GE will work out the details and document the access agreement using one of the access mechanisms described in Step 3. If the agency is unwilling to allow access, GE will evaluate adjacent parcels to determine if another,

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nearby parcel can be utilized. If a suitable substitute is not available, EPA will take whatever further steps it considers necessary to obtain access.

Paragraph 35 of the CD requires that GE notify EPA in writing within 90 days of identifying an access need if it is unable to obtain access through its “best efforts.” For properties where GE has identified or can identify the need for access well before implementation of Phase 1, this process can be implemented. However, for properties or areas where the need for access has not been identified and will not be known until dredging begins, it will not be feasible for GE to attempt to obtain access for 90 days before EPA intervenes. Examples of such access include, but are not limited to: collection of contingent QoLPS monitoring data; land-based dredging support that cannot be done from the river; and removal/replacement of shoreline structures (i.e., docks). In such cases, GE will notify EPA immediately if the property owner is unwilling to grant access permission (and there is no suitable substitute), so that EPA can provide immediate assistance in obtaining access in order to avoid potential delays to the Phase 1 schedule.

SECTION 5

REFERENCES

Anchor QEA. 2009. *Phase I Remedial Action Monitoring Program Quality Assurance Project Plan (Phase I RAM QAPP)*. February 2009.

Blasland, Bouck & Lee, Inc. 2006. *Phase I Final Design Report – Hudson River PCBs Superfund Site (FDR)*. March, 2006.

United States Environmental Protection Agency and General Electric Company. October 2005. Consent Decree in United States v. General Electric Company, Civil Action No. 05-cv-1270, lodged in United States District Court for the Northern District of New York, October 6, 2005 and entered November 2, 2006.