

---

---

**PHASE 2 PROPERTY ACCESS PLAN FOR 2011**

**Appendix E**

**to**

**Remedial Action Work Plan for Phase 2  
Dredging and Facility Operations in 2011**

**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

**Revision 1 - April 2011**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>ACRONYMS AND ABBREVIATIONS.....</b>	<b>iii</b>
<b>SECTION 1 INTRODUCTION.....</b>	<b>1-1</b>
1.1 Purpose of Plan.....	1-1
1.2 Plan Scope .....	1-1
1.3 Property Access Plan Organization .....	1-1
<b>SECTION 2 PROPERTY ACCESS REQUIRED DURING 2011 .....</b>	<b>2-1</b>
2.1 Long-term and Construction Access .....	2-1
2.1.1 Sediment Processing Facility .....	2-1
2.1.2 Main Access Road Construction .....	2-1
2.1.3 Work Support Marina.....	2-2
2.1.4 Far-field River Monitoring.....	2-2
2.1.5 Moreau Barge Loading Site.....	2-2
2.1.6 General Support Property .....	2-3
2.1.7 Quality of Life Monitoring of Processing Facility and Barge Traffic.....	2-3
2.1.8 Utility Construction Access.....	2-3
2.2 Short-term Access.....	2-4
2.2.1 Quality of Life Monitoring During Dredging or Other On-River Operations.....	2-4
2.2.2 Fish Monitoring.....	2-5
2.2.3 Dredging Support .....	2-5
2.2.4 Other .....	2-5
<b>SECTION 3 STATUS OF ACCESS AGREEMENTS ALREADY IN PLACE AND ONGOING EFFORTS TO OBTAIN ACCESS .....</b>	<b>3-1</b>
3.1 Sediment Processing Facility.....	3-1
3.2 Main Access Road.....	3-1
3.3 Work Support Marina .....	3-1
3.4 Far-Field Monitoring Stations .....	3-2
3.5 Other Efforts .....	3-2

**TABLE OF CONTENTS  
(CONTINUED)**

	<b>Page</b>
<b>SECTION 4 PROCESS TO GAIN PROPERTY ACCESS .....</b>	<b>4-1</b>
<b>SECTION 5 REFERENCES.....</b>	<b>5-1</b>

**LIST OF FIGURES**

Figure 2-1 Example QoL Monitoring Locations During Processing Facility Operations .....	2-7
Figure 2-2 Example QoL Monitoring Locations During Dredging Operations .....	2-8

### ACRONYMS AND ABBREVIATIONS

CD	Consent Decree
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CPR	Delaware & Hudson Railway Company d/b/a Canadian Pacific Railway
D&FO	Dredging and Facility Operations
EPA	United States Environmental Protection Agency
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
QoLPS	Quality of Life Performance Standards
RAM QAPP	Remedial Action Monitoring Program Quality Assurance Project Plan
RAWP	Remedial Action Work Plan
ROW	right of way
SOW	Statement of Work

## SECTION 1

### INTRODUCTION

#### 1.1 PURPOSE OF PLAN

The purpose of this *Phase 2 Property Access Plan for 2011* (2011 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 properties to which access is needed for purposes of implementing Phase 2 dredging and facility operations (D&FO) in 2011, consistent with Paragraphs 34 and 35 of the Consent Decree (CD) (EPA and GE, 2005) and in accordance with Section 3.1.1 of the revised Statement of Work (SOW) for Remedial Action and Operations, Monitoring and Maintenance (Appendix B to the CD) issued by the United States Environmental Protection Agency (EPA) in December 2010. This 2011 PAP also describes the steps already taken by GE to obtain such access, easements, or title prior to the submission of this plan, many of which were completed as part of Phase 1 of the Remedial Action.

This 2011 PAP is Appendix E to *Remedial Action Work Plan for Phase 2 Dredging and Facility Operations in 2011* (2011 RAWP).

#### 1.2 PLAN SCOPE

This 2011 PAP identifies the types of access to private and public property that will be needed to implement 2011 D&FO, 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 2011:** describes potential property access needs for implementation of 2011 D&FO.

**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.

**Section 4 – Process to Gain Property Access:** describes the procedures that GE will follow in the future to obtain property access 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 2011**

#### **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 Phase 2 of the Remedial Action, 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 rights-of-way (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 with 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 equipment 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**

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

## 2011 Property Access Plan

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 was 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 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 have been installed at Thompson Island, Schuylerville, and Waterford. An additional station is planned for Stillwater. Each of these monitoring stations consists of a small shed on the shore which will house the sample compositing equipment and instrumentation. Required access agreements were obtained for installation of and access to some of the monitoring sheds as detailed below.

- **Thompson Island** – The location of the Thompson Island monitoring station is on private property. The private landowner granted access for this station, and GE is awaiting the property owner's execution of a formal long-term access agreement, as discussed in Section 3.4 below.
- **Schuylerville** – Access permission from the NYSCC was 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 was obtained, as discussed in Section 3.4.
- **Stillwater** – A permanent station is planned for Stillwater to replace the current manual sampling location. This station will be constructed on property owned by NYSCC as discussed in Section 3.4 below.

The far-field stations at Bakers Falls, Fort Edward, Cohoes (Mohawk River), Albany, and Poughkeepsie will be sampled manually and will not require permanent installations. Access to these stations is available by public rights-of-way.

### 2.1.5 Moreau Barge Loading Site

The material used for backfilling/capping during 2011 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

## **2011 Property Access Plan**

Contractor. As discussed in Section 2.11.2 of the 2011 RAWP, backfill/cap materials will be transported by truck to a barge loading area located in the Town of Moreau, which is described in that section of the 2011 RAWP. GE obtained an access license agreement from the private landowner for access to and use of this site.

### **2.1.6 General Support Property**

As also discussed in Section 2.2 of the 2011 RAWP, a General Support Property located on Route 4 in Fort Edward will be used in 2011 for launching and maintenance of river vessels and equipment 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. GE also obtained a Use and Occupancy Permit from NYSCC for the use of the NYSCC-owned portion of Henderson Way adjacent to the General Support Property.

GE and the Dredging Contractor will evaluate other potential sites for loading of backfill and cap materials in the event that additional areas are necessary for 2011. 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 and (as necessary) noise, lighting, and odor is expected to be accomplished with monitoring stations either within or on the facility boundary. However, some permanent or semi-permanent stations will be needed outside of the facility boundary. In particular, a monitoring station will 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 2-1. There will also be monitoring stations 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, as it did in Phase 1.

### **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 required easements and/or ROW agreements to provide this service. The necessary access to provide such service to these facilities was obtained prior to Phase 1 dredging and facility operations in 2009, as described below:

- Access from numerous property owners was needed for National Grid to provide permanent power to the processing facility site. National Grid obtained ROW easements from all of the relevant property owners for the electric lines necessary to provide such



## 2011 Property Access Plan

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 were necessary for Verizon to provide communication service to the processing facility. Verizon obtained the necessary easements.
- To provide electrical service to the Work Support Marina, National Grid obtained an easement from EPA, which acquired that site from the NYSCC through a taking.
- Verizon 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 obtained easements from a private property owner for the electrical lines necessary to provide such service.
- To provide electrical service to the General Support Property, National Grid obtained an easement from GE and a private property owner for the electrical lines necessary to provide such service.
- Easements from National Grid were necessary for Verizon to provide communication service to the General Support Property. Verizon obtained such easements.

In addition, in the event that permanent communication service is needed at the Moreau Barge Loading Area, an easement from National Grid would be necessary for Verizon to provide such service.

### 2.2 SHORT-TERM ACCESS

**Short-term access** is required for a short duration or on a one-time basis during 2011 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. 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 for air quality and (if necessary) noise, lighting, and odor 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 also be

## 2011 Property Access Plan

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 2-2.

### 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 forthcoming *2011 Remedial Action Monitoring Program Quality Assurance Project Plan* (2011 RAM QAPP). As noted in Sections 2.1.4 and 3.4, a private landowner located on the west side of the river just south of Thompson Island has agreed to allow access to that property for the Thompson Island far-field water monitoring station and a formal access agreement is awaiting execution; this property will also be used to provide river access for fish monitoring activities.

### 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 Type P armor stone). 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

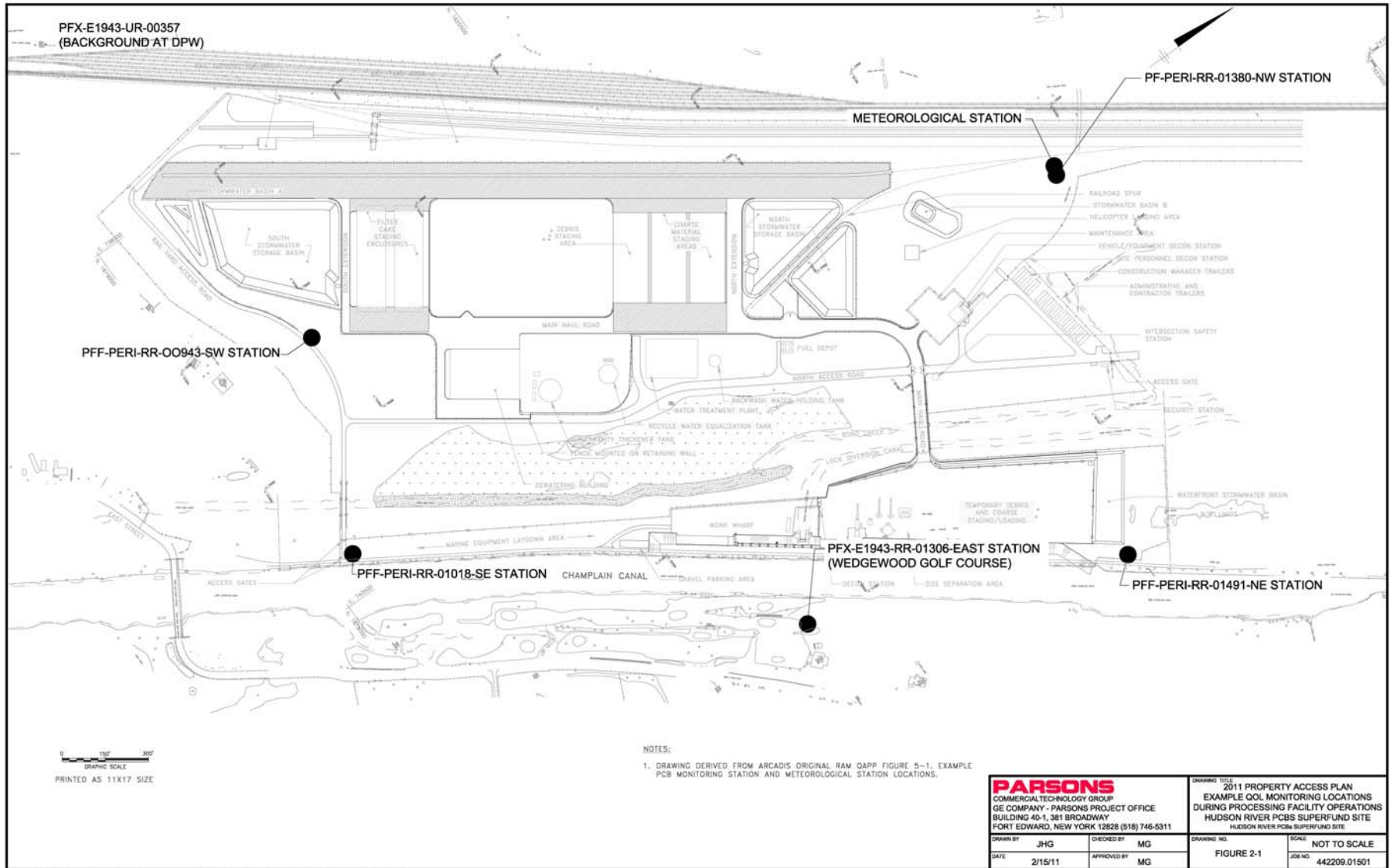
The following additional activities have been identified which may need short-term access:

- Surveyors may need short-term access to benchmarks in order to verify and validate surveys. Also, hydrographic surveyors or the Dredging Contractor may need short-term access to riverfront properties to install survey markers and/or temporary gauges, or to set up automatic tracking total stations and Real-Time Kinematic Global Positioning System (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.
- 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.

## **2011 Property Access Plan**

Any other short-term access needs identified during the course of the 2011 D&FO will be handled according to the procedures given in Section 4.

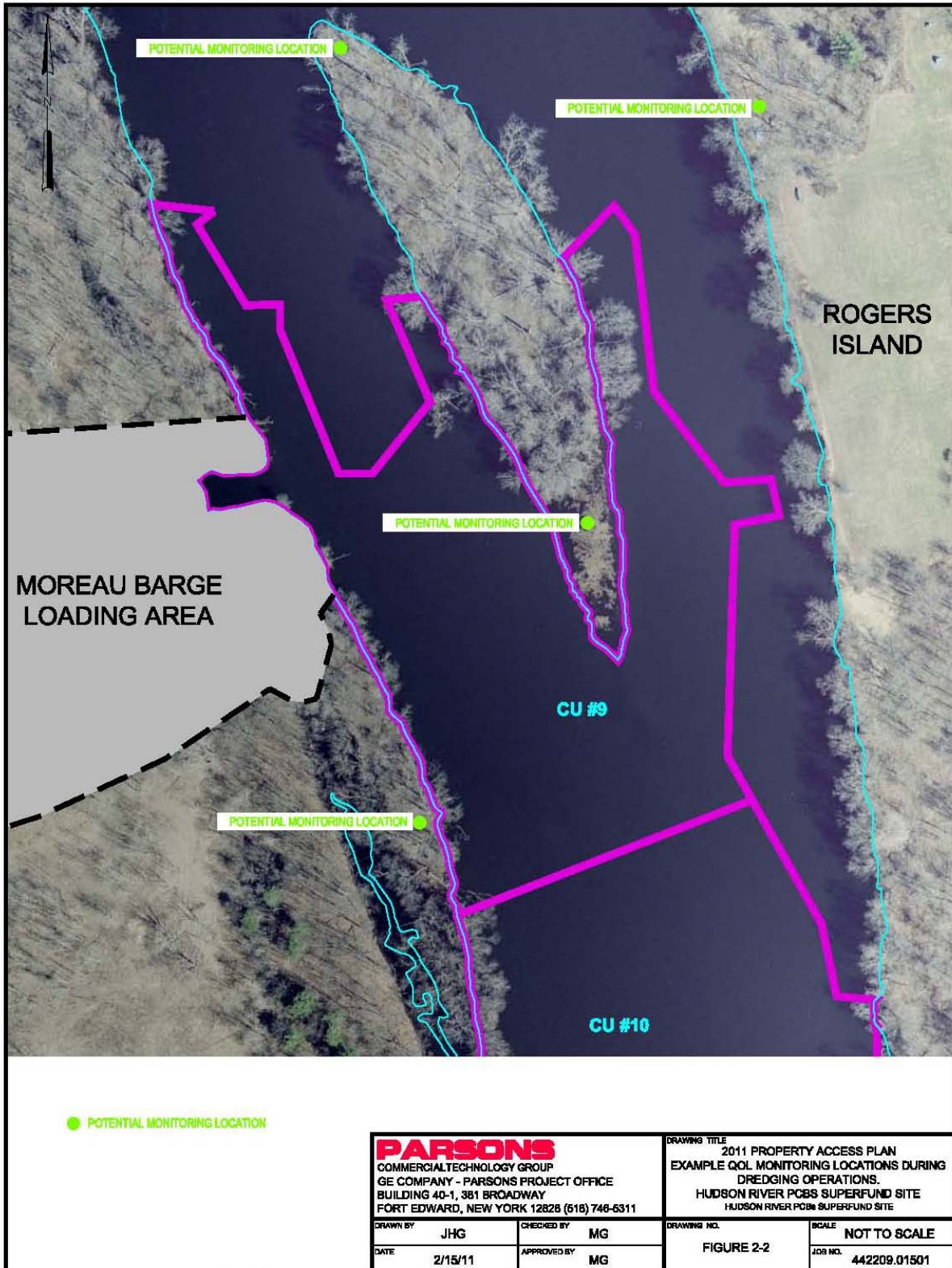
# 2011 Property Access Plan



Revision 1 - April 2011

**PARSONS**

# 2011 Property Access Plan



## **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 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. Comprehensive Environmental Response, Compensation, and Liability Act-(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 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 serves as a

## **2011 Property Access Plan**

marina for boats that are used to support dredging and habitat construction 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**

NYSCC granted GE access 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.

The Village of Waterford granted GE access to construct and operate a far-field water monitoring station on the property of the Waterford Waterworks. On February 10, 2009, the Waterford Water Commissioners finalized GE access for this far-field monitoring station.

The Thompson Island far-field water monitoring station has been constructed on private property and is operating on the west side of the river just south of Thompson Island. The private landowner agreed to provide access to this property and GE is awaiting the owner's execution of a formal long-term access agreement.

An additional far-field monitoring station will be constructed and operated at Stillwater just south of the bridge on the east side of the river on property owned by NYSCC. Once the sampling station location has been finalized, GE will request access from NYSCC for the construction and operation of the station.

### **3.5 OTHER EFFORTS**

**Use of Terminal Walls** – In January 2009, GE submitted a Use and Occupancy Permit application to NYSCC 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 the adjoining properties to this NYSCC property.



## 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 implement the 2011 D&FO activities. 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. 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. 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, nearby parcel can be



## 2011 Property Access Plan

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 the 2011 D&FO, 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 2011 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 (e.g., 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 2011 D&FO schedule.

**SECTION 5**

**REFERENCES**

United States Environmental Protection Agency and General Electric Company. 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.