

PUBLIC BRIEFING DOCUMENT
FOR THE GENERAL MOTORS ENVIRONMENTAL TRUST
Prepared by Onondaga County
December 10, 2010

BACKGROUND

A public hearing regarding the proposed General Motors (G.M.) Environmental Trust has been scheduled by the U.S. Department of Justice for Wednesday, December 15, 2010 from 6:00 – 8:00 pm at the NY State Fairgrounds in the Martha Eddy Room in the Art and Home Center.

If the proposed Trust is approved, it will potentially transfer tens of millions of dollars of the former G.M.'s environmental cleanup costs to Onondaga County, the Town of Salina and a small number of businesses in the community.

The G.M. Environmental Trust is a legal document that will resolve the former G.M.'s environmental liabilities, including some funding for the G.M. Inland Fisher Guide facility adjacent to G.M. Circle in the Town of Salina.

For approximately 40 years – from the 1950s through 1993 – G.M. discharged polychlorinated biphenyls (PCBs) from its Inland Fisher Guide facility (IFG) into Ley Creek. Ley Creek flows generally east to west adjacent to and past the IFG site before discharging into Onondaga Lake approximately four miles downstream.

In a letter dated October 30, 2009 from the U.S. Environmental Protection Agency, Onondaga County and seven other entities, including G.M., were identified as “potentially responsible parties” (PRPs) with respect to what has been identified as the “Lower Ley Creek Site,” and asked to fund a Remedial Investigation/Feasibility Study of the site. Typically such a letter is the first step to a request from the Federal Government to either clean up the site or pay the cost of a site cleanup.

KEY FACTS

Beginning in the 1950s G.M. regularly discharged PCBs and other industrial pollutants to Ley Creek, which migrated the length of Ley Creek to its discharge point in Onondaga Lake.

Ley Creek is shorthand for Ley Creek from the G.M. Inland Fisher Guide facility to the terminus of the Creek at Onondaga Lake, Old Ley Creek, those locations at which Ley Creek dredge spoils came to be and locations potentially impacted by the movement of contaminated sediment by historical flooding.

Beginning in the 1970's Ley Creek was dredged by the County as part of a flood control project.

At the time of the dredging it was not known or understood that Ley Creek and its sediment was or could be contaminated with PCBs or other industrial contaminants.

The nature and relative extent of G.M. PCB releases to the Creek was not discovered by environmental regulators until approximately 1985, long after the dredging was completed.

The County's potential liability for Ley Creek is premised on the County's participation in flood control activities that relocated G.M. PCB contaminated sediments as "dredge spoil."

The Town of Salina Landfill, which is adjacent to Ley Creek, also received PCB wastes directly from the G.M. facility.

Federal and state environmental regulators have known for at least 25 years that discharges from G.M. plant were and remain the primary source of PCB contamination in and around Ley Creek.

Prior to its bankruptcy G.M. was addressing the source of its on-going release of PCBs to Ley Creek. G.M. also addressed PCB-contaminated dredge spoils from the 1970s flood control projects located east (upstream) of Route 11.

Also prior to the bankruptcy G.M. was negotiating an Order with the State of New York that would have confirmed its obligation and legal responsibility for the cleanup of the remainder of Ley Creek downstream of Route 11.

THE PROPOSED G.M. BANKRUPTCY ENVIRONMENTAL TRUST

The proposed G.M. Bankruptcy Environmental Trust sets aside up to \$33,000,000.00 for the G.M. Inland Fisher Guide Facility located in the Town of Salina. Of that, \$8.5 million is set aside for "the property extending from the G.M. facility property boundaries to the Route 11 Bridge".

The proposed Environmental Trust would also provide an additional \$1.8 million for the previously identified Ley Creek PCB Dredge Spoil Site located upstream of Route 11, across Factory Avenue from the G.M. IFG site.

The Trust sets aside no monies for any portion of Ley Creek, the Old Ley Creek, any dredge spoil disposal locations located downstream of the Rt. 11 Bridge or locations potentially impacted by contaminated historical flood waters or the Town of Salina Landfill.

The primary source of the approximately \$34.8 million in funding is federal government bailout money.

The G.M. bankruptcy will effectively terminate G.M.'s liability for environmental contamination it caused by its releases of PCBs and other industrial contaminants into Ley Creek and Onondaga Lake. Any additional monies that might become available in the future to address Lower Ley Creek will likely be a very small fraction of the actual costs (i.e., cents on the dollar).

IMPACT OF THE GENERAL MOTORS BANKRUPTCY

Based on an arbitrary federal and state decision to allocate primarily federal dollars for G.M. site environmental remediation only as far down as the Route 11 Bridge, the G.M. bankruptcy shifts financial exposure for the environmental cleanup of Ley Creek to Onondaga County, the Town of Salina and a handful of other potentially responsible industrial parties (PRPs).

This exposure is based on the U.S. Environmental Protection Agency's claims that the County and Town, among others, are responsible parties under the federal Superfund law because for instance the County participated in some way in the flood control projects conducted in the 1970s.

A conservative estimate of the unfunded Ley Creek cleanup liability is \$50+ million.

A copy of the proposed Settlement and a summary can be viewed online at:

<http://www.epa.gov/compliance/resources/cases/cleanup/cercla/mlc/>