

Independent Process Observer



Sudbury Soils Study | **Étude des sols sudburois**
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Quarterly Report

REPORT #21

HHRA Release (May 2008)

By Franco Mariotti

The Human Health Risk Assessment (HHRA) is now complete and has been released to the people of Sudbury. Nine months have passed since my last Process Observer Report and this is due to the fact there has been nothing of significance to communicate to the public during that time period. This report #21 specifically coincides with the public release of the Human Health Risk Assessment results.

My role as the Independent Process Observer is to comment on the process that has led to the completion of the Human Health Risk Assessment as well as the Ecological Risk Assessment (ERA), which will be released later this year. It is not my role to comment on the science or its results since I am neither a toxicologist nor a risk assessor and any attempt to do so would be irresponsible on my part. Hence, in this report, I will comment on whether or not the process leading up to the public release of the Human Health Risk Assessment functioned effectively for the Sudbury Soils Study (SSS).

It should be noted that this is not the last report for the Sudbury Soils Study. A final and more inclusive report will be issued when the Ecological Risk Assessment is released to the public. That report will also contain recommendations for future risk assessments.

Background

Sudbury has a history of over 100 years of mining with one of the world's largest smelter complexes. No scientific study had ever been carried out in Sudbury to determine if metals such as nickel, lead and arsenic (known as chemicals of concern) were having an impact on the health of people living in Sudbury. In the year 2000 the Ministry of the Environment directed the two mining companies, VALE INCO (known as INCO at that time) and Xstrata (known as Falconbridge at the time), to carry out an analysis of the soils around Sudbury. This undertaking became known as the Sudbury Soils study. The study's focus was twofold - a Human Health Risk Assessment and an Ecological Risk Assessment. It was decided that a collaborative approach involving the mining companies (Vale INCO, Xstrata), community organizations (Sudbury and District

The process observer for the Sudbury Soils Study is independent of any organization or group involved in the study. He is impartial and his role is to advise on matters related to the study's Human Health Risk Assessment and Ecological Risk Assessment processes, both of which are managed by the study's Technical Committee with input from the Public Advisory Committee. As the observer, Franco Mariotti is required to report to the public on the study process four times each year.

Health Unit, City of Greater Sudbury), a provincial ministry (Ministry of the Environment - MOE) and a federal department (Health Canada Inuit & Indian Health Branch) would be employed. This group of organizations became the decision-making body of the Sudbury Soils Study and was known as the Technical Committee (TC).

Early on in the process, the Technical Committee developed Terms of Reference and rules to govern their meetings. One of the key rules was that all decisions were to be made by consensus and if that was not achievable, then the dissenting members' views would be noted. This approach worked. I believe there was a genuine attempt by all parties to reach consensus at all times. That being said, it was not a perfect approach. There were lengthy and sometimes heated discussions on some matters, but in the end consensus was attained for most of the study's major issues.

Outcome

The process by which the Human Health Risk Assessment for the Sudbury Soils Study was achieved is a credible one and should be accepted by Sudburians.

Key Questions about the Sudbury Soils Study Process

I am going to comment on the Sudbury Soils Study process through a series of key questions that I think the public would want answered.

1) Should Sudburians accept the Human Health Risk Assessment results?

Yes, I believe they should. For the first time since mining began in Sudbury, the Human Health Risk Assessment answers key questions regarding the impact of mining operations on the health of people living in Sudbury. From the perspective of human health, the HHRA is a milestone for Sudbury and is unique in Canada and North America.

2) Was the Sudbury Soils Study a fair, open and transparent process to the public?

Yes, for the most part. At the beginning of the study public input and interaction with the Public Advisory Committee (PAC) and the Technical Committee were limited. From the onset of this study the public was invited to attend PAC meetings while the Technical Committee meetings were closed to the public. At that time PAC meetings were held infrequently, once every three months; however, in the second year PAC meetings increased to once every two months. In addition, an hour was set aside at every Technical Committee meeting, giving members of the public an opportunity to ask questions of TC members. These changes certainly provided opportunities for increased public participation.

In addition, the public could obtain information in several other ways:

- A Sudbury Soils Study website was set up to deliver key information on a regular basis. The website had an e-mail address and phone number where scientists or representatives from the SARA Group who were conducting the study, could be asked questions about the study.
- Public forums were held so that people could meet and ask questions directly of TC members, PAC members and scientists from the SARA Group.
- The SARA Group produced a newsletter twice a year to keep the public aware of the status of the study.
- The Process Observer report was published four times a year to communicate the progress and effectiveness of the study's process.

Some have criticized the study because the public was not permitted to attend all aspects of the Technical Committee meetings. It is true that the TC meetings were mostly closed to the public; however, I understand the reason for this decision and I have defended it in the past. First and foremost, it was crucial to the decision making process of the SSS that all members felt free to speak their minds. I am convinced that the presence of the media or members of the public at TC meetings would have curtailed open and frank discussion. This in turn would have led to delays and been detrimental to the process of decision making through consensus. Although members of the public were not allowed to be present at all times, they were well represented by members of the Public Advisory Committee, union observers and I as Process Observer.

In the last two years public attendance at PAC meetings and the TC open-session periods was non-existent. This does not mean that the public lost faith in the Sudbury Soils Study. I believe that members of the public became bored with the process and simply decided to wait to hear the results.

3) Was there any observed undue influence from any TC member unto another?

No, this never happened. As process Observer I was able to attend virtually all meetings of the Sudbury Soils Study and in fact did attend at least 95% of them. These included meetings of the Technical Committee, the Working Group, the Public Advisory Committee, the Communications Sub-Committee, special technical sessions and the International Peer Reviewed sessions. At no time was there any attempt to sway the decision of a TC member using nefarious means such as threats or bribes. Nor was there ever any attempt by a TC member to hide information from the public. At times heated discussions did occur among TC members on certain issues but I believe these to be a normal part of the consensus process.

4) Were any of the results discovered by the HHRA hidden from the public?

No, to the best of my knowledge no findings were withheld from the public. As I previously stated, I attended meetings of the various sectors of the entire Sudbury Soils Study process. All information was made available to all TC members, members of the PAC and to me. All of the data created by the Sudbury Soils Study can be found in the complete report at local libraries or online through the Sudbury Soils Study website - www.sudburysoilsstudy.com

5) Was the public being heard throughout the process?

Yes, there were numerous ways for the public to ask questions and even make suggestions for the Human Health Risk Assessment. Some are:

- The Sudbury Soils Study website which provided a phone number and e-mail and mailing addresses so anyone could contact members of the SARA Group who were conducting the scientific study.
- The website also included contact information for the Public Advisory Committee.
- The website supplied contact information for me as the Process Observer.
- A newsletter that provided contact information was sent through the Northern Life newspaper and to a soils study mailing list twice a year.
- Public forums were held in the three communities of interest, Copper Cliff, Sudbury and Falconbridge where members of the public had an opportunity to ask questions and express their views.
- Public Advisory Committee meetings were open to members of the public and questions were welcomed.
- The Technical Committee offered a one-hour session at each of their meetings when members of the public could ask questions.

I believe that these venues provided ample opportunities for the public to express their views and interact with Sudbury Soils Study participants.

6) Why did delays occur in the release of the Human Health Risk Assessment and were these delays justified?

The delays can be justified in part. Extra research projects were added to the overall Human Health Risk Assessment that were not identified initially. These included well water sampling, extra soil sampling and dust collecting in homes.

However, the delays that occurred in this past year, I believe, were preventable. I have deliberated at length as to whether or not I would discuss this issue. In part I feared that

the public's opinion of the HHRA Report would be diminished if the reasons for the delays were disclosed. However, I believe the public has the right to know if the delays were indeed preventable and justified. Rumours have been circulating that the mining companies had something to hide and were preventing the release of the report. This was not the case. The Ministry of the Environment caused the delays. Having said that, I want to make it very clear that I have great respect for all members of the MOE team. They worked just as hard and long as any other TC member to move issues and resolutions ahead. My criticism lies not with them but with the bureaucracy.

Specifically:

- Delays were due to a limited number of MOE toxicologists being available to comment on draft HHRA reports. The MOE should have considered earlier on that this could possibly create delays, especially since they also had to comment on similar reports for the Port Colbourne study. More toxicologists should have been made available or possibly even hired.
- Delays were caused when the MOE wanted answers and clarifications on certain issues and details of the mitigation efforts by the mining companies. However the mitigation efforts were not a part of the Sudbury Soils Study and should have been dealt with after the HHRA release.
- Delays were caused by behind the scenes decisions made by MOE bureaucrats that kept many in the dark.

On a more positive note there were issues dealing with the science of the HHRA that needed further discussion with the SARA Group scientists. Special face-to-face meetings were held to discuss and clarify discrepancies, misunderstandings and outstanding issues. Most of these meetings were attended by all TC members and myself. These special technical sessions proved by and large to be fruitful.

7) Did the PAC have opportunities to express their views in the process?

Yes, throughout the process the Public Advisory Committee was kept up to date on the progress of decisions and events. Often the Technical Committee sought advice from the Public Advisory Committee on key issues. Special training sessions on the science and methodology behind the SSS were held for members of both committees throughout the study.

8) Is the public comment period providing a fair response time?

Yes, the public comment period which runs from May 19/08 to July 31/08 will allow members of the public a total of 73 days in which to read and then comment on the Human Health Risk Assessment. This is, I believe, a sufficient time frame. Comments from the public will be incorporated into a final Human Health Risk Assessment report.

9) What is the cost to the mining companies for the Sudbury Soils Study?

This question is presented here because it was asked by a resident of Sudbury who specifically wanted to know how much VALE INCO and Xstrata have spent to date. The answer given by company representatives on the Technical Committee is slightly over \$9 million. It is expected that by the time the Ecological Risk Assessment is done later this year that cost will rise to \$10 million.

Final Comments

Aspects of the Sudbury Soils Study that Made it Credible and Significant

From the start the Technical Committee deemed that the Sudbury Soils Study would be open, fair and transparent to the public. To achieve this, several checks were established:

- 1) The creation of a Public Advisory Committee to act as a sounding board for TC decisions and as a conduit for public questions and concerns.
- 2) The appointment of an Independent Process Observer who was not connected to any TC member. He could attend every meeting held throughout the SSS process and publicly comment on his findings through quarterly reports.
- 3) A scientific consultant, Dr. Ron Brecher, independently commented on and made suggestions regarding the science used by the SARA Group to carry out the HHRA.
- 4) The hiring of an external group (the TERA Group) who in turn would choose an independent panel of scientists, experts in their fields, to peer review the validity of the HHRA and ERA.
- 5) All Public Advisory Committee meetings were open to the public and the first hour of each Technical Committee meeting was set aside for direct questions from members of the public.
- 6) Public forums were held from time to time to bring the people of Sudbury up to date on the SSS progress and provide them with an opportunity to ask questions about the study.
- 7) The SSS newsletter published by the SARA Group kept people informed.

Aspects of the Sudbury Soils Study that could have been Improved

- 1) The role of Health Canada as a member of the Technical Committee was never clarified by its authorities. The Health Canada representative attended about three quarters of all TC meetings. He saw his role primarily as an observer and contributor of ideas. It is disappointing that Health Canada officials never responded to the TC's request for clarification of their role in the Sudbury Soils Study nor have they ever commented on any draft reports produced by the SARA Group.
- 2) The scientific consultant for the HHRA, Dr. Ron Brecher, proved to be an articulate and excellent communicator, explaining technical aspects of the soils study to the public at Public Advisory Committee meetings. Dr. Brecher should have been used to interact with the public more often.
- 3) The public forums were useful in providing information and updating the public but only occurred intermittently. They should have been held on a regular basis.
- 4) My own quarterly reports could have been more timely. I was not always punctual and reports were sometimes as much as one month late; I accept responsibility for that. The reason for my tardiness was my obligation to fulfill commitments to my full-time job.
- 5) The HHRA results and their subsequent public release were two years later than initially expected. The original timetable cited 2005 as the public release date for the HHRA.

Final Word

As Independent Process Observer it is important that I remain neutral and I make a point of continually reminding myself of this fact. Over the last seven years I have come to know various members of the Technical Committee and the SARA Group (the scientists doing the research for the HHRA and ERA), some better than others. I have not been unduly influenced by my relationship with them and I can honestly say that I do not socialize with any members of the Technical Committee or the SARA Group and so have maintained a neutral position.

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