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GOVERNOR



ALEXANDER B. GRANNIS  
COMMISSIONER

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ALBANY, NEW YORK 12233-1010

SEP 15 2010

Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Re: Hudson River Dredging

Dear Administrator Jackson:

*Lisa,*

The New York State Department of Environmental Conservation wears two hats with respect to the decades-long project to clean-up and remedy the damage General Electric caused to the Hudson River – we are a partner with EPA in implementing the dredging project, and we serve as a Natural Resource Damages Trustee. In addition to those important responsibilities we answer to the People of the State of New York for the stewardship of the Hudson River, which is one of the state's most valuable and beloved natural assets. From an ecological, economic development, recreational, and historic standpoint, the Hudson River is extraordinarily significant to New York State. Accordingly, we have an intense interest in ensuring that the best and most appropriate steps are taken to address GE's legacy of PCB contamination in the river.

I understand that GE has asked you to extend the deadline under the Consent Decree for it to decide whether to move forward with Phase 2 of the dredging project, and in that request is proposing to commit to only one year of additional dredging and data gathering. Simultaneously, GE has commenced a lobbying campaign and is engaged in a "full court press" to defer its obligation under the Consent Decree to make a commitment to the dredging project. I am writing to express DEC's view that the extension request should be denied.

We are at a point in time that has literally been decades in the making. I know you are aware of the history of this matter, so I will not review the tortured legal proceeding that has led us, finally, to the point where GE has a binding obligation to declare whether it is committed to cleaning up the problem it created. In my office there are professionals who have spent their entire careers on this project. This is a reflection of the enormous dedication and effort it has taken to get this far, and is evidence of the astounding length of time it has taken to bring us to the brink of actually moving forward with the remedy.

GE claims that the recently finalized peer review report supports its request to defer a decision. In fact, to the contrary the report contemplates utilizing the data that will be developed as Phase 2 proceeds ("During Year 1 of Phase 2, Panel recommends collecting additional data to support

the further refinement of relevant performance standards to be applied for the remainder of the project's duration," p. iii). Moreover, the resuspension issue, which is largely what GE has been relying on over the past months as it has tried to convince the public that the dredging was environmentally harmful, turns out to be a canard. The latest data, including fish and water sampling data provided by GE itself, undermines the claim that resuspension and load of PCBs released downstream is a serious problem. We will be providing information to EPA Region 2 on that point under separate cover. *In short, the 2010 data show that the 2009 dredging had no significant effect on PCB concentrations in downstream fish and the water column, meaning that only one year after the Phase 1 dredging was concluded, there are no lasting harmful environmental effects from resuspension.*

As we have advised Region 2, we believe that there is a need for some changes to the protocols for the second phase of dredging, and from both a remediation point of view and natural resource perspective are eager to work with EPA and GE to provide our input. We believe that the concerned parties, acting in good faith, will promptly be able to agree to any needed modifications. Key to moving forward, however, is that there be no uncertainty as to GE's role. The time has come under the Consent Decree, and by any common sense standard, for GE to make its choice. There is no scientific, legal or policy basis for deferring GE's obligation under the Consent Decree. To the contrary, after many, many years of hard work by EPA, New York State, the federal natural resource trustees, and the public stakeholder groups, the time has come for certainty and commitment as contemplated by the Consent Decree.

An argument can always be made for more study, for more review, and for more time before a decision is made. In this case, however, the decades of study, the results from the first phase of dredging, and the successful completion of the peer review report, all argue for action. Enough time has passed, enough data has been collected, and enough work has been done for GE to make its choice. EPA should stand firm and hold GE to the Consent Decree, and deny the proposed extension of time.

If necessary, given the very high stakes for New York State, I would be grateful for the chance to meet with you before a decision is made. Although the Hudson River is uniquely tied to the development and growth of New York State, it has also served as a national symbol of the need for environmental action. It would be a shame for the Hudson River to again become a symbol of environmental disgrace by squandering the opportunity we have today to move forward with a long-anticipated remedy.

Please let me know if you would like any further information.

Sincerely,



Alexander B. Grannis

cc: Judith Enck  
Walter Mugdan  
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