



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

December 18, 2015

Mr. Roger Downs  
Conservation Director  
Sierra Club Atlantic Chapter  
353 Hamilton Street  
Albany, NY 12210

Mr. Paul Gallay, President  
Riverkeeper  
20 Secor Road  
Ossining, New York 10562

Mr. Peter Gross, Executive Director  
Hudson River Sloop Clearwater  
724 Wolcott Ave  
Beacon, NY 12508

Mr. Dan Riechel  
Attorney  
Natural Resources Defense Council  
40 West 20th Street  
New York, NY 10011

Mr. Ned Sullivan, President  
Scenic Hudson  
One Civic Center Plaza, Suite 200  
Poughkeepsie, NY 12601

Re: Hudson River PCBs Superfund Site

Dear Messrs. Downs, Gallay, Gross, Riechel and Sullivan:

Thank you for participating in the December 2, 2015, meeting with EPA regarding the Hudson River PCBs Site cleanup, and for your December 10, 2015 follow-up letter. This letter responds to the concerns raised during the meeting and identified in your letter, which are summarized below and followed by EPA's responses. This letter also responds to the December 1, 2015 letter that several of you sent to EPA Administrator McCarthy. We will respond separately to the petition you submitted on December 17, 2015.

1. **Region 2 should immediately commit to a clear and prompt timetable for a transparent and inclusive five year review of the adequacy of EPA's selected sediment remedy for the site.**

During our December 2, 2015 meeting, we discussed the possibility of accelerating the schedule for issuing the second Five Year Review. As discussed in more detail below, EPA plans to begin the second Five Year Review in early 2016, increase opportunities for public involvement and, if practicable, complete the review earlier than April 23, 2017.

EPA's June 1, 2012 first Five Year Review states that EPA expects to complete the second Five Year Review by April 23, 2017. Following our December 2, 2015 meeting, we further considered the activities that would need to be accomplished for the second Five Year Review, including providing for enhanced public involvement in the review process. We agree that it is important for the next review to include an assessment of current river conditions, including post-dredging sediment, water and fish data. On December 16, 2015 we met with the federal Trustees and the New York State Department of Environmental Conservation to discuss the fish, sediment and water column sampling that would be carried out by General Electric (GE) as part of the operation, maintenance and monitoring (OM&M) program for the project that will assess the recovery of the river. The scope of the data collection work needs to be identified early in 2016 so that the data can be collected and evaluated in time to be incorporated into the next review.

We will seek input from the Community Advisory Group (whose members include Scenic Hudson, Sierra Club, Riverkeeper, and the Friends of a Clean Hudson coalition, which includes the Natural Resources Defense Council) regarding the scope of the OM&M sampling program. GE is scheduled to submit to EPA a draft OM&M work plan in February 2016, which we will make available to the public. We currently expect the OM&M work plan to be finalized in the spring of 2016, and the data to be collected during the late spring and summer of 2016.

EPA will consult with the NYSDEC and the federal Trustees regarding the data analysis. EPA also will make the data available to the public and will hold one or more "workshops" with the CAG in the late summer or fall of 2016 to discuss the second Five Year Review. Following our discussions with the Trustees, New York State and the CAG, EPA will prepare a draft second Five Year Review Report that we will issue for public comment before finalizing the document. We expect to issue the draft second Five Year Review in late 2016 or early 2017 so that there is sufficient time to receive and review public comments and finalize the report earlier than April 23, 2017, if practicable.

2. **Within the Second Five Year Review, there should be an evaluation of potential actions to address PCB contamination that currently remains in the Hudson and that undermines the remedy's ability to be protective of human health and the environment and achieve the specific health and safety goals outlined in the Record of Decision.**

The second Five Year Review will evaluate whether the remedy is protective of human health and the environment. If EPA determines that the remedy is not protective, EPA will consider what additional actions are needed.

3. **EPA should schedule discussions with the Federal Trustees to resolve the divergence of opinion between agencies involved in this nationally significant cleanup.**

EPA met with the federal Trustees in late October, 2015 to discuss EPA's and the Trustees' assessments of the existing sediment, water column, and fish data, as well as the National Oceanic and Atmospheric Administration's (NOAA's) projections regarding fish PCB concentrations in the Lower Hudson River. EPA has carefully considered NOAA's concerns, and our discussions with NOAA will continue. As indicated in the response to item #1, above, EPA met with the federal Trustees and NYSDEC on December 16, 2015 to discuss the scope of 2016 sediment, water and fish data collection for the second Five Year Review. EPA will continue to consult with the Trustees including on the scoping, data collection, and preparation of the second Five Year Review.

4. **Apart from ongoing local community discussions on future use, any further action on the plan for decommissioning the project's dewatering facility must be put on hold. Use of the current dewatering facility and other existing infrastructure could dramatically expedite accomplishment of the EPA-established remediation goals for the Hudson River in one or two dredging seasons for comparatively little extra cost.**

EPA does not believe there is a basis to order a halt to the decommissioning of the Fort Edward facility. EPA expects that, under the terms of the consent decree, General Electric would vigorously dispute any Agency decision to suspend its decommissioning work. In addition, the Town of Fort Edward is eager for the facility to be decontaminated and decommissioned as soon as possible so that the site can be used for economic redevelopment purposes given its excellent water, rail and truck access.

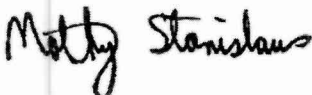
Proceeding with the decommissioning does not preclude future dredging. If General Electric and other parties reach agreement to conduct additional dredging in the future, there are other means for dewatering that would not require the existing facility. For example, a smaller, less permanent facility could be constructed, an option which may be more cost effective than keeping the Fort Edward facility open indefinitely. At both the Fox River and New Bedford Harbor Superfund sites, dewatering facilities occupying a smaller footprint have been used. Also, depending on how the existing facility property is being used at the time that such a hypothetical agreement might be reached, remaining portions of the facility -- including possibly the wharf and rail yard -- may be available to accommodate the additional dredging work.

5. **EPA should not and cannot certify completion of the remedy under current circumstances, which include: new information about significantly higher-than-expected pre-remedial PCB concentrations; the substantially lower-than-expected rate of natural recovery in Hudson River sediments; the projected decades of delay in achieving the remedial action objectives for fish; and other issues an appropriate and more comprehensive Five Year Review might reveal.**

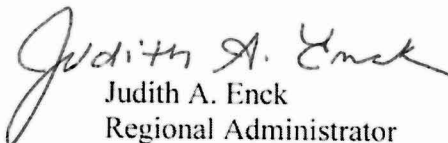
EPA does not agree with the assumptions underlying your request. Under the current schedule, EPA does not plan to certify GE's completion of the Remedial Action until at least the summer of 2017, after EPA issues the second Five Year Review report. There are several remedial action components that have yet to be completed, including demobilization of the sediment processing facility and reconstruction of certain habitat areas. Only after GE's completion of those activities, which we expect to occur in mid- to late 2016, will GE be able to make a preliminary determination that the Remedial Action is complete. Following that determination, paragraph 57 of the consent decree provides a detailed series of steps that must be followed before EPA is able to certify GE's completion of the Remedial Action. These steps include a pre-final inspection of the Remedial Action; GE's submission, and EPA's review (after a reasonable opportunity for review and comment by the State and the federal Trustees) of a Remedial Action Report requesting EPA's Certification of Completion of the Remedial Action; GE's implementation of additional measures that may be needed to complete the Remedial Action, as provided in the consent decree; and a final inspection of such additional measures. If EPA determines, based on GE's initial or any subsequent report requesting Certification of Completion of the Remedial Action, and after a reasonable opportunity for review and comment by the State and the federal Trustees, that the Remedial Action has been performed in accordance with this consent decree, the consent decree requires EPA to endeavor to respond to GE's request within 180 days, and no later than 365 days, following EPA's receipt of that request. Given the consent decree's certification prerequisites, we do not anticipate that it will be issued prior to April 23, 2017, the deadline for completing EPA's second Five Year Review.

We appreciate your organizations' continued and active involvement in the Hudson River cleanup, and look forward to arranging a public process for the upcoming Five Year Review.

Sincerely,



Mathy Stanislaus  
Assistant Administrator  
Office of Land and Emergency Management



Judith A. Enck  
Regional Administrator  
Region 2

cc: Basil Seggos, Acting Commissioner  
New York State Department of Environmental Conservation

Wendi Weber, Regional Director  
U.S. Fish & Wildlife Service

Robert Haddad, Chief  
Assessment & Restoration Division  
National Oceanic & Atmospheric Administration