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May 9, 1991

Mr. Douglas J. Tomchuk
Remedial Project Manager
U.S. Environmental Protection Agency
Region II
Emergency & Remedial Response Division
26 Federal Plaza, Room 747
New York, NY 10278

**Re: Follow-up to April 25, 1991 Meeting (Hudson River
Reassessment Project)**

Dear Mr. Tomchuk:

I appreciate you taking the time to meet with me at your office on April 25. As a result of our discussion, there are a number of items that I believe require clarification. The first is to reiterate GE's concern with EPA's intent to issue a quantitative risk assessment (RA) during the scoping phase (Phase I) of EPA's Hudson River Reassessment Remedial Investigation (RRI).

It is my understanding that EPA has decided to perform a qualitative risk assessment for the lower river and to perform a quantitative RA for the upper river, where the emphasis will be on the risks associated with the consumption of fish and snapping turtles. As we discussed, and was also detailed in GE's earlier comments on the EPA Phase I work plan, GE believes that the preparation of a quantitative RA during Phase I will be technically and procedurally flawed. GE is not disputing EPA's need to prepare a quantitative RA, but is concerned with the timing of the RA and the use of inappropriate or incomplete data.

The logic of the EPA Superfund Process is often criticized. However, in this case, EPA's own regulations and guidance support GE's view that the quantitative RA is more properly performed after the project scoping (EPA's Phase I) and the collection of additional necessary data (EPA's Phase II). One major problem is that the existing data on PCB levels in fish is not current (the most recent information is 1988). Current data is necessary to understand the trend in the data over time which in turn is required to derive time weighted averages for PCB levels in the fish (i.e. over the assumed exposure period starting from the time the RA is performed

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for a period of 30 years). To do this requires that PCB levels in fish be projected from 1991 to 2021. When existing data (1988 and earlier) is used to project the PCB fish concentrations over time, it is apparent that an extreme range of values can be obtained depending on what rate of decrease is projected.

To remove this uncertainty over fish concentrations, GE believes that EPA should either: (1) collect fish samples for PCB analysis during the summer of 1991; or (2) utilize the data that will be available from the New York Department of Environmental Conservation (DEC) from fish samples collected during the summer of 1990. As you may recall, Bill Ports of DEC mentioned to us that this data will be available in the fall of 1991. The availability of these other sources of current fish concentrations is such that you would be able to use more accurate and complete information for the performance of the RA during its proper place (i.e. at the end of the Phase II data collection).

Performing the RA during Phase II of the RRI is the approach described in EPA's guidance and would not result in any project delays. Given this fact, it makes absolutely no sense to perform a risk assessment at this time and, as we have discussed, the premature performance of the risk assessment will potentially result in long term misunderstandings and fears among the local communities. GE believes this miscommunication is counter to accepted risk communication concepts that have been developed by EPA and others.

During our meeting, you offered two reasons why publication of a quantitative RA is needed at this stage of the RRI. First, you believe the results would indicate whether or not sufficient risks exist to warrant moving to the next phase of the project. We cannot fathom EPA's reasoning given our understanding that you are already planning the Phase II program. We are unaware of any other situation where EPA has stopped in the middle of an RI to justify completion of the RI. Additionally, why would EPA make such a critical decision with insufficient data (see earlier discussion and subsequent discussion on the remnant deposits). A major objective of the CERCLA remedial investigation (RI) process is to gather sufficient data to prepare the RA. A more effective approach is to evaluate the existing data to see if it is sufficient in quality and quantity to prepare an RA and then to gather additional data, if necessary, and complete the RA. The evaluation of existing data would be presented in the Phase I report and the RA results then presented in the Phase II report.

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The second reason you proposed for publishing the RA as part of Phase I is to allow public comment on the RA assumptions. GE strongly agrees that public comment should be obtained on the assumptions. The purpose would be to allow meaningful input that hopefully will result in a technically and procedurally sound RA. It is our belief, however, that asking for comments on the assumptions after you have employed them defeats the purpose of requesting comments. A more appropriate procedure would be to ask for comment on the relevant assumptions prior to their use in the Phase II effort.

While GE believes that the lack of current data and EPA's policies on risk assessment are sufficient reasons to justify deferring the quantitative RA to the end of Phase II, there is an additional fundamental flaw in the Phase I approach being advocated by EPA. The flaw relates to the remnant deposits remediation being performed by GE under EPA order which will reduce the amount of PCBs in the fish and river water.

The amount of reduction from that remedy has not been determined but an estimate provided by DEC as testimony during the last Siting Board hearing indicated that water column concentrations may be lowered by approximately 37%. While the actual change may be higher or lower, it is reasonable to assume that the PCB concentrations in the water and fish are different now than they were in the late 1980's before this remediation. All of the existing data to be used by EPA now on the PCB content of the water and fish include PCBs contributed by the remnant deposits. Since the remnants remediation is just being completed, and new information on the distribution of PCBs in biota and the water column have not been produced, RA calculations performed using old data have the potential to greatly over-estimate the risks in the upper River.

It is standard EPA procedure to use a risk assessment to define remedial action objectives. Any attempt to define these objectives utilizing old data will most likely over-emphasize the river sediments as an on-going PCB source. It would appear that one of the major data quality objectives that would be defined as a result of the RRI scoping effort (i.e. Phase I) would be to differentiate the contribution of PCBs from the remnant deposits after remediation versus sediments on the river bottom.

In summary, GE believes that the performance of an RA by EPA at this point is not only inconsistent with EPA policy and regulation but also reflects badly on the Agency's credibility with the interested parties. The technical and procedural flaws in the EPA approach are obvious and, with

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the lack of a credible reason for EPA to proceed with an RA now, we again request that the Agency perform the RA at the appropriate time in the RI/FS process (i.e. Phase II).

Another item we discussed at our meeting was the possibility that GE be given the opportunity to overview EPA's field activities and to split samples for independent analysis. We would be very flexible in our activities and if sufficient samples were not available we could have our own equipment available for use. We would most likely split only a small number of samples. We could also work out of our own boats. Additionally, where our field expertise would be useful, we would be glad to help your field team. The only consideration we would need is a periodic update of the sampling schedule. We do not feel this is a burden and believe it may have beneficial effect on the project as a whole. We would also like to review the draft sampling and analytical plans and the Quality Assurance Project Plan (QAPP) prior to the initiation of field activities. Please let me know if this is acceptable to you.

We would also like clarification on the status of the administrative record (AR) for the project. It is our understanding that there is not currently an AR for the Hudson River RR. While it can be time consuming to prepare and update the AR, the NCP requires that the Agency develop and maintain such a record, and GE believes the record is necessary for us and other parties to have meaningful involvement in the project. GE has submitted to EPA a significant amount of information that is relevant to the project and needs to be placed into the AR. Please let us know when and where the AR will be available for review and access.

With respect to GE's involvement in the RRI process, I would like to reiterate our concerns over the level of involvement we have been allowed. While we believe that the community relations committee structure is a useful forum for general issues, it is very difficult to discuss in an open and frank manner detailed technical issues due to the diverse background and interest of the participants. GE believes that periodic working meetings with EPA, where we could discuss project details, would allow us to articulate our concerns and ideas. We would suggest a monthly meeting with your project team to discuss timely issues. Of course, the Agency should make a record of those discussions to be placed in the AR. Please let me know if this or some other method of interaction is possible.

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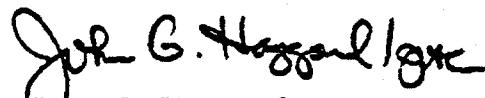
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The final point that I would like to make is on the review and comment process that EPA employed on the Phase I work plan. GE was disappointed to learn that prior to the completion of the comment period on the Phase I work plan, EPA had not only implemented major portions of the work but was nearing completion of major tasks. GE put considerable effort into the review of the work plan and the preparation of our comments. I understand that to keep the project on schedule you needed to begin some of the more routine activities, such as data compilation, but many of the activities are controversial (e.g. the risk assessment) and interested parties should have the opportunity to comment prior to implementation. GE requests that in the future EPA not implement work plans until the comment period closes and review and consideration of the comments are complete.

I hope you understand our concern with the direction of the project and the level of involvement GE has been allowed. Please contact me if you have any questions. I can be reached at (513) 458-6619.

Consistent with the point made earlier, this letter should be placed in the administrative record.

Very truly yours,


John G. Haggard
Engineering Project Manager

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