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OFFICE OF THE EXECUTIVE SECRETARIAT
CONTROL SLIP

CONTROL NO: AX-0103102

ORIG. DUE DATE:

STATUS: CONTROLLED

CORRES. DATE: 03/21/2001

RECEIVED DATE: 03/27/2001

ASSIGNED DATE: 04/06/2001

CLOSED DATE:

FROM: KAFIN ROBERT J
ORG: PROSKAUER ROSE LLP
SALUTATION: DEAR MR. KAFIN
CONSTITUENT:

TO: ADMINISTRATOR
TO ORG: EPA
SUBJECT: C2- MEETING-DISCUSS HUDSON RIVER PCBs SUPERFUND SITE

ASSIGNED: OFFICE OF THE ADMINISTRATOR-SCHEDULING

COPIES OF INCOMING PROVIDED TO: AO -BETTY WONKOVICH, REGION 02

SIGNATURE: NECESSARY ACTION

INSTs:

COMMENTS:

IMS: MARY STODDARD-BOYD
IMT: BETTY WATKINS/DC/USEPA/US

	Assigned	Date Assigned	Code/Status	Date Completed by Assignee	Date Returned to OEX:
Lead	AOS	04/06/2001	ACTION	-	-

U.S. EPA. REGION II
2001 APR 18 AM 11:44
ORC-HEMED. OFFICE

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March 21, 2001

Honorable Christine Todd Whitman
Administrator
United States Environmental Protection Administration
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Re: Hudson River PCBs Superfund Site

Dear Governor Whitman:

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On February 15, 2001, we wrote to you on behalf of Washington County CEASE, Inc. requesting a headquarters review of the above matter, along with the opportunity for a personal meeting with you. For your convenience, a copy of our February 15th letter is enclosed.

Under date of March 15, 2001, we received a response to our letter from the Acting Regional Administrator of EPA Region 2. For your convenience, a copy of that letter is also enclosed.

The letter from Region 2 demonstrates very dramatically why a headquarters based review of this matter is needed: **The Region has lost its perspective, closed its mind and adopted a defensive posture shutting down a fair and candid exchange of views.**

The Region 2 response is misleading to the extent that it suggests that the type of independent review now called for by CEASE has occurred:

- ▶ While there has been some independent scientific peer review, it has been of disconnected elements of a variety of preliminary reports prepared by EPA and its consultants. There has been no independent peer review of the integrated Feasibility Study or of the drastic, environmentally devastating impact of its recommendation.

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Honorable Christine Todd Whitman

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- ▶ The "review" by the National Remedy Review Board, to the degree that it occurred, remains in obscurity. We do not know who was allowed to make a presentation, how fair or objective the presentation was or what report, if any, was issued by such Board.
- ▶ While EPA did create a Scientific and Technical Committee as part of its reassessment, this committee has not met in more than a year. To suggest that the Committee has been involved in the preparation of the Feasibility Study's conclusions in any meaningful way is dishonest.
- ▶ The U.S. General Accounting Office has audited the reassessment, but audits have nothing to do with the ultimate wisdom of the decisions to be made. Obviously, a governmental study that takes so long and costs so much should be the subject of oversight. However, this particular piece of oversight dealt with procedural matters, and certainly not with the substantive aspects of science, engineering or environmental policy. To imply that the GAO has endorsed the outcome of the Feasibility Study is simply not true.

Therefore, CEASE once again respectfully requests that EPA -- at its headquarters -- convene a task force which can bring independence and fresh perspective to this matter and that the work of the Region be suspended until an independent review is had.

In addition, once again, we ask you to meet with a few representatives of CEASE to listen to their point of view as they can best speak for the population who currently has the risk of exposure and prospectively will bear the burdens of an incorrect decision.

Very truly yours,



Robert J. Kafin

Enclosures

cc: Washington County CEASE, Inc.

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February 15, 2001

Honorable Christine Todd Whitman
Administrator
United States Environmental Protection Administration
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Re: Hudson River PCBs Superfund Site

Dear Administrator Whitman:

We represent Washington County CEASE, Inc., an environmental organization which was incorporated in 1981 as a not for profit corporation in New York State.

The members of CEASE organized in 1980 to provide a voice for the residents of the upper Hudson River area. The galvanizing force which brought these citizens together was the discovery of large PCB deposits in the Hudson River downstream of Fort Edward. While the presence of these deposits was an unfortunate reality, the members of CEASE became alarmed by a proposal in the Clean Water Act Amendments of 1980 which would have resulted in a massive and disturbing dredging project that would, in effect, have turned a large portion of the upper Hudson River environment into a hazardous waste treatment disposal and storage area. Wisely, in 1982 under the Clean Water Act and in 1984 under the Superfund statute, the EPA rejected this scheme as unwise and destructive. Similarly, the scheme was rejected by the New York State Court of Appeals in 1985 and by a special New York State Hazardous Waste Facility Siting Board in 1989.

As I am sure you know, in 1989, as part of the required five year reassessment of Superfund sites, the EPA began a reassessment of its 1984 decision not to dredge PCB contaminated sediment from the Hudson River and destroy the existing river ecosystem while irrevocably disrupting the lives of the nearby residents. The reassessment has now gone on for eleven years. There are a number of reasons why this has happened over such an extended period:

- The science and engineering is very complicated, yielding no "slam dunk" conclusions
- While common sense would dictate a reaffirmance of the EPA's 1984 Record of Decision, very very loud and powerful environmental groups from outside of the

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Honorable Christine Todd Whitman

February 15, 2001

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area where the contamination sits and the dredging would occur have found stirring the pot to be a very effective organizing and fund raising technique for their other interests and activities. This is especially encouraged by the fact that the General Electric Company -- a big multi-national corporation that many environmentalists love to hate -- seems to be the "potentially responsible party" for any remediation. This agitation has kept the reassessment going beyond all reasonable bounds.

- Region 2 of the EPA, which is conducting the reassessment, seems to have lost all perspective and gotten highly invested in a construction heavy, wetland destroying, pollution creating "remediation" idea. In so doing, it has become the captive of outside the area environmental groups and has largely treated the citizens to be most greatly affected, including the members of CEASE, as interlopers whose opinions are not worth considering.

Since you are a new face on the scene, and bring fresh perspectives to the various challenges confronting EPA, CEASE respectfully requests that you do the following things:

1. Convene a headquarters-based task force of EPA officials not previously involved in the Hudson River PCB Superfund Site to conduct an independent review of the progress and status of the reassessment.
2. Direct Region 2 to suspend work on the reassessment and refrain from issuing a Record of Decision until the independent review is completed and any recommendations resulting from such review implemented.
3. Meet with representatives of CEASE to listen to their point of view. We encourage you to have this meeting in the vicinity of Fort Edward, New York so that you can personally tour the upper river and draw your own conclusions about the current state of the river environment and the likely detrimental result of a massive dredging, treatment and storage construction project.

Very truly yours,



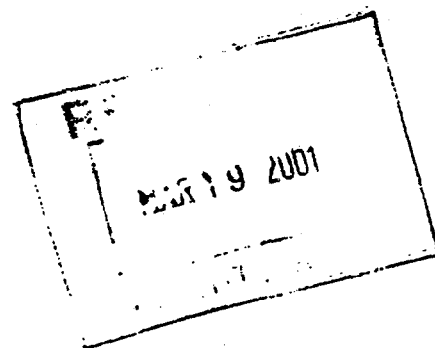
Robert J. Kafin

cc: Washington County CEASE, Inc.

PROSKAUER ROSE LLP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866



MAR 15 2001

Mr. Robert J. Kafin, Esq.
Proskauer Rose LLP
1585 Broadway
New York, NY 10036-8299

Re: Hudson River PCBs Superfund Site

Dear Mr. Kafin:

Your February 15, 2001 letter to Administrator Whitman on behalf of Washington County CEASE, Inc. (CEASE) has been referred to me for reply. Your letter requests an independent review of the Hudson River PCBs Reassessment prior to issuance of a Record of Decision as well as a meeting between CEASE representatives and the Administrator.

The purpose of such a review is unclear, given that the new science upon which EPA's proposal is based was the subject of external peer review by five panels of independent scientific experts. The peer reviewers generally agreed with the findings and conclusions of the reports, although they also requested revisions. EPA addressed all of the peer reviewers' recommendations in writing and incorporated revisions, as appropriate, into the engineering evaluation presented in the Feasibility Study. In addition, the Scientific and Technical Committee, which is a group of researchers and scientists familiar with the Hudson River PCBs Superfund site, PCBs, modeling, toxicity, and other relevant disciplines, provided peer input into the various scientific documents EPA prepared as part of the Reassessment (see, Proposed Plan, p. 7). Prior to release of EPA's Proposed Plan for the Site, the Agency's National Remedy Review Board reviewed the engineering evaluation that forms the basis of the Feasibility Study and the preferred remedial alternative. Moreover, the U.S. General Accounting Office has conducted four audits of the Reassessment and, in its September 2000 report, did not recommend changes to EPA's cleanup decision process for the Hudson River PCBs Site.

To date, EPA has held eight public meetings to take comment on the Agency's proposed remedy. Members of CEASE have submitted comments at these meetings. The public, including members of CEASE, may continue to submit comments at three additional meetings being scheduled and in writing through the close of the public comment period on April 17, 2001. We believe these avenues for taking public comment are sufficient for members of CEASE to voice their concerns.

If you have any questions, please direct them to Douglas Fischer, Esq., of EPA's Office of Regional Counsel, at (212) 637-3180.

Sincerely,

Kathleen C. Callahan

for William J. Muszynski, P.E.
Acting Regional Administrator