



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

NOV 14 2000

Mr. Bruce K. Means
Chair
United State Environmental Protection Agency
5202G
Washington, DC 20460

**Subject to Joint Prosecution and Confidentiality Agreement
Not for Public Release
Not Subject to FOIA/FOIL**

Dear Mr. Means:

This is to provide a summary of New York State's comments on the Hudson River Reassessment and United State Environmental Protection Agency (EPA) Region 2's preferred alternative.

I. The available data indicate that there is an ongoing unacceptable risk to human health and the environment posed by the PCB contaminated Hudson River sediments.

The large set of environmental data available for this site indicate that the water, sediment, and fish of the Hudson River are contaminated with PCB to the degree that there are unacceptable risks, especially for people who consume fish from the river. The State believes that the impacts of PCB in the river sediments represent a significant threat to human health and the environment which, if unabated, will continue for the foreseeable future.

II. The State supports active remediation aimed at mitigating these unacceptable risks.

The large set of environmental data available for this site indicates that the PCB-contaminated sediments in the upper Hudson represent the most significant ongoing sources of PCB to the water column and fish of the Hudson River. In order to mitigate the unacceptable risks, including fish consumption, an active remedial approach would be necessary to abate these sources of PCB and allow for reductions in risk, and to abate the significant threat to human health and the environment posed by the impacts of PCB in the river sediments.

III. The State opposes creation of a local landfill for disposal.

The State opposes creation of a local landfill for disposal of any dredged sediments. Therefore, the State supports off-site disposal of dredged sediment in permitted landfills as included under each of the dredging remedies evaluated by USEPA. The USEPA must also fully consider and mitigate impacts associated with the removal and transportation of the dredged sediments on local communities.

IV. The State is continuing to work with EPA to develop the Feasibility Study (FS) Report.

The State has expressed to EPA its concerns related to the remedy selection process for this site. The State recognizes that revisions to the FS are ongoing, and encourages EPA to fully take the State's concerns into account when completing the revisions to the FS so that EPA can more clearly articulate a strong basis for taking an active remedial approach for this site. It appears, based upon the State's review of the briefing package prepared by EPA Region 2 for the National Remedy Review Board, that EPA has begun taking the State's concerns into account in preparing the final FS Report. However, there has been no indication as yet that two of the State's major concerns will be accounted for by EPA, specifically: the proposed remediation does not address the impact, if any, on the levels of PCB's in fish in the Hudson River south of the Troy Dam; and residential exposure to near shoreline (including flood plain) soils and sediments north of the Troy Dam and south of Ft. Edward has not been evaluated by EPA in the Hudson River Reassessment Human Health Risk Assessment (HHRA). This residential exposure issue was raised by the State to EPA during the State's review of the HHRA and this issue was also raised by the HHRA peer reviewers.

V. EPA's preferred remedial alternative is one approach which would likely be successful in significantly reducing the risks associated with the site.

The State has reviewed the summary of EPA's preferred remedial alternative presented in EPA Region 2's Site Information Package prepared for the National Remedy Review Board, including the basis for proposing this remedial alternative.

The State agrees that PCB concentrations in water, sediment and fish cannot be expected to reach acceptable concentrations for the foreseeable future without some active remediation of the sediments. The State believes that EPA's preferred remedial alternative would likely achieve significant reductions in risks associated with the site. Significant PCB sources to the water and fish of the Hudson River would be abated, which could enable the State to reduce the current fishing restrictions and consumption advisories. In addition, EPA's preferred remedy may also enable the State's water quality standard for use of the river as a source of public drinking water to be achieved in the Upper Hudson River.

The State supports EPA's recognition that the continuing sources of PCB upstream of Roger's Island, including the two GE capacitor plants in Hudson Falls and Fort Edward, also need to be addressed as part of the remedial program for the Hudson River to allow for a more complete recovery of the river.

VI. The State's Natural Resource Damage Trustee position.

The State, in its role as a Trustee for the Natural Resource Damages process under CERCLA, favors active remediation to reduce, or minimize to the extent feasible, residual injuries to State trust resources. Currently available information suggest that significant PCB-caused injury can be demonstrated in a wide array of resources: surface water, sediments, flood plain soils and biota (including invertebrates, fish, turtles, birds and mammals) in aquatic, flood plain and terrestrial environments. This information includes numerous studies, some of which are complete, others of which are still in their early stages.

A natural resource damages (NRD) claim would be based on all provable injuries and would seek compensation for both interim losses (occurring between the time of PCB release and remedy completion) and residual losses (continuing after remedy completion). The goal of the claim would be to restore both injured natural resources and also the human uses of those resources.

The State appreciates this opportunity to share its concerns with the Board.

Sincerely,



John P. Cahill