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Congress of the United States

House of Representatives

Washington, DC 20515-3222

January 7, 1997

Mr. William Muszynski
Deputy Regional Administrator
U.S. Environmental Protection Agency
290 Broadway #1539
New York, NY 10007-1823

Dear Mr. Muszynski:

I appreciate EPA's participation in my fact-finding hearing on October 2, 1997, and your cooperation in providing the information I requested in connection with the Upper Hudson River PCB landfill siting study conducted by TAMS, Inc., for EPA. I have reviewed this information, as well as the statements provided by you and your colleagues at the hearing. The following recommendations are with respect to the future of EPA's reassessment of Hudson River conditions.

It was a good beginning for the Agency to acknowledge that not informing the public of the landfill siting study was a serious mistake which harmed the Agency's credibility in the eyes of the public and local elected officials. As you have correctly observed, EPA's critical task is to re-establish its credibility as the reassessment continues.

To achieve this, EPA must redouble its efforts to give Upper Hudson River Valley citizens meaningful opportunities to participate in the Reassessment. By this, I suggest that the Agency must demonstrate in a real way that it is listening to and considering the concerns of Upper Hudson River Valley Citizens, who have had little indication to date that EPA listens to them.

The current arrangement in which EPA both conducts the reassessment and controls the committees overseeing the reassessment (the Hudson River Oversight Committee and the Steering Committee) does not work. The public has no confidence that EPA can reasonably oversee itself nor that EPA will schedule meetings and provide opportunities for others to critically review its work. Given that EPA has not embraced the proposal to appoint an Upper Hudson River Valley citizen chairman of the Oversight or Steering Committees, I think the Agency must take other steps to ensure that the full diversity of citizen views are heard and considered. I offer the following recommendations:

1. EPA produced a detailed Citizens Interaction Plan early in the reassessment, but the procedures set forth in that plan have not been followed. Meetings have been held only sporadically, causing confusion and frustration on the part of members of the public who seek to participate in this process in a meaningful way. I recommend that public meetings be held at least quarterly and scheduled and publicized well in advance. All interested parties should be permitted to make presentations and ask questions of those present at all meetings. It is especially important for EPA to make all of its employees and consultants available for questioning at each meeting. If necessary, these meetings should be conducted over a two-day period to accomplish this goal. A verbatim record should be made of all meetings and be circulated to participants and interested parties and should be part of the administrative record.

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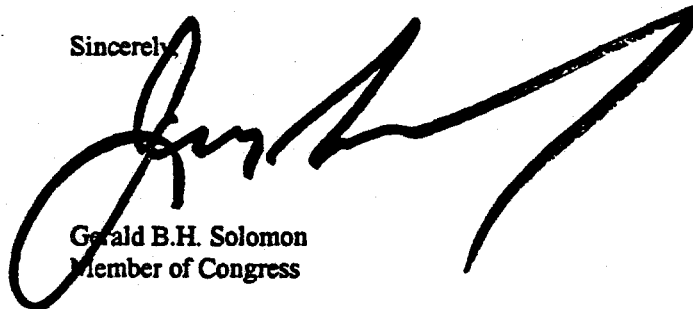
2. There appear to be areas of legitimate scientific disagreement regarding some of the technical work completed in the Hudson River. Since the final remedial decision for the Hudson will presumably turn on these scientific issues, it is imperative that they be fully investigated, debated and, to the extent possible, resolved. It seems to me that all the knowledgeable parties are already at the table, yet they need to communicate more often with one another. For example, although in place, the Science and Technical Committee hasn't met since EPA issued its Data Evaluation and Interpretation Report in February. I am aware that New York DEC has done a good job recently to facilitate technical dialogue. I am hopeful this will continue.

To ensure that these technical discussions continue, I recommend that EPA, New York State and GE conduct, on a regular basis but at least quarterly, technical meetings, open to the interested public, to review outstanding technical issues, especially those that relate to the modeling of the Hudson River. It would be advisable for EPA to involve its Science and Technical Committee in this process. Again, a verbatim record should be made both for those who cannot attend the meeting and for inclusion in the administrative record.

3. EPA's landfill siting study identified more than 50 sites in many communities spread over three counties. Most elected officials in these communities have not been direct participants in EPA's reassessment before now. EPA must find ways to involve them in its reassessment and keep them informed of its progress. I recommend that all elected officials in the three counties be invited to serve on EPA's Government Liaison Committee and EPA make preparations to brief these elected officials in the first quarter of 1998 regarding the history of the issue, with the provision that all interested parties and other Liaison Committees have the opportunity to participate and make presentations.
4. It goes without saying that EPA should respond, through the publication of responsiveness summaries, to all submitted comments. This will allow interested parties to know if EPA has understood the points raised.
5. As discussed at the October fact-finding hearing, it is imperative that the public be able to rely on an up-to-date administrative record for this site. You have agreed to keep the file updated with EPA documents, as well as reports, letters and communications from all interested parties, and I urge you to give this special attention.

I appreciate your cooperation in working to incorporate my recommendations as the reassessment continues. I understand EPA has scheduled a Hudson River Oversight Committee meeting in January and I would like a response prior to that meeting. In the meantime, I will share these recommendations with other interested parties. If you have any questions please contact Geoff. Gleason in my office.

Sincerely,

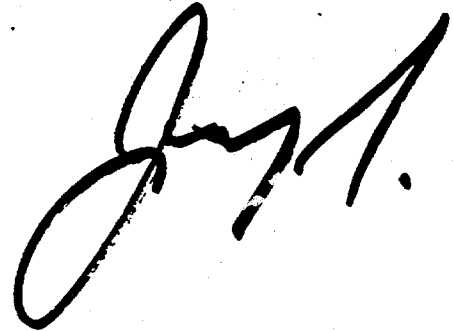


Gerald B.H. Solomon
Member of Congress

P.S. Bill, as I have said publicly before, I commend you and other EPA officials in the way you conducted yourselves at the hearing I called back in October and I repeat those commendations today

However, I am outraged that the EPA's written report given to me just today makes no mention of the TAMS official Al DiBernardo's explosive statement that "site 10 is not acceptable from a professional and community standpoint."

Bill, I insist that a correction or addendum to the report be made to include this statement please call me personally about this matter (202-225-5614). Thank you.

A handwritten signature in black ink, appearing to be "J. L." or similar, written in a cursive style.

FILE COPY

cc: RA
DCA
B. McCabe
R. Cooper
Mary Hel
Ann R.
D. Tomchuk
D. Fisher/
(1744/1.000)

**Controlled Correspondence For
REGION 2**

Congressional

CONTROL NO : R2-9800015-C
ALT NO:

EXT. DUE DATE:
ORIGINAL DUE DATE: 01/28/98
CORR. DATE: 01/07/98
REC. DATE: 01/13/98
CLOSED DATE:

STATUS: PENDING

FROM: SOLOMON; GERALD B.

ORGANIZATION: U.S. HOUSE OF REPRESENTATIVES

SALUTATION:

CONSTITUENT:

TO:

TO ORG:

SUBJECT: UPPER RIVER PCB LANDFILL SITING STUDY CONDUCTED BY TAMS FOR EPA

SIGNATURE: REGIONAL ADMINISTRATOR

CC'S:

ASSIGNED: CD

R2 INSTRUCTIONS:

R2 ADDTN'L INST:

R2 COMMENTS:

	Assigned	Date Assigned	Code/Status	Date Completed by Assignee	Date Returned to R2 :
Lead	CD	01/13/98	ACTION	-	-