

**United States Environmental Protection Agency
Hudson River PCBs Reassessment Remedial Investigation/Feasibility Study (RRI/FS)
Community Interaction Program**

**Hudson River PCBs Oversight Committee Meeting
October 8, 1997
Latham, NY**

On October 8, 1997, the seventh meeting of the Hudson River PCBs Oversight Committee was held at the Holiday Inn Express in Latham, NY. William McCabe, Deputy Director of Superfund Program for USEPA Region II chaired the meeting. The agenda for the meeting is Attachment 1. Sign-in sheets are found in Attachment 2. Note that brackets [] are used by the writer for clarification in cases where individual spoken words, names, pronouns, or expressions would not have been clear in the written text. Tapes of the meeting are available on request.

In addition to Mr. McCabe, members of HROC in attendance included

- Doug Tomchuk, EPA Remedial Project Manager for the RRI/FS;
- Meryl Pulver, Co-chairperson of the Agricultural Liaison Group;
- Judy Schmidt-Dean, Chairperson of the Citizen's Liaison Group;
- Darryl Decker, Chairperson of the Government Liaison Group;
- John Santacrose, Chairperson of the Environmental Liaison Group;
- Richard Koelling, NYSDEC;
- John Dergosits, NYS Canal Corporation;
- John Haggard, GE;
- Steve Hammond, NYSDEC; and
- Al DiBernardo, TAMS Project Manager for the RRI/FS.

After reviewing the agenda, Mr. McCabe opened the meeting by addressing the recent siting survey conducted by EPA. Mr. McCabe referenced the September 1997 Steering Committee meeting, where EPA's siting study for disposal sites or a treatment facility, should either be needed for the project, was first mentioned. He reviewed Mr. Tomchuk's acknowledgment of the study at that time and apology for not having made the study public prior to its having been conducted.

Mr. McCabe then discussed the public hearing held by Congressman Solomon on the subject, particularly mentioning several items that are relevant to HROC, and asked for input from the committee members as to how they feel about the items:

- There are not enough meetings on the project; and
- There is a need for more responsiveness summaries.

In addressing the survey itself, Mr. McCabe reiterated EPA's apology for not disclosing it and described it again for the sake of clarification as a preliminary survey of potential locations for siting a landfill or treatment facility, performed for inclusion in the upcoming Feasibility Study. He made

the point that the survey would have been necessary and would have been done at some point in the project process, as the information is needed in order to scope the Feasibility Study in relation to previously identified generic options (capping, no action, dredging and off-site disposal, dredging and near-site disposal, etc.) and to evaluate them in detail. EPA needs to know if a possible location exists, and if so, what other aspects of that location would make it feasible or implementable.

Mr. McCabe cited two reasons EPA performed the siting survey when it did:

- EPA is cognizant of the opposition to site such a facility and heard "loud and clear" from the public that people were not interested in locating such a facility in Washington County, and therefore decided to determine if there is any alternate location that could be considered.

- The siting survey was intended to feed directly into the Feasibility Study; at the time the preliminary survey was performed, the Feasibility Study was scheduled to begin (at the end of this year). Since then, there has been an additional delay of about a year, primarily due to modeling concerns and other technical issues.

The result was that release of a preliminary siting study at that time did not make sense because it was not intended as a stand-alone document. EPA made the decision not to get a written report, which would have included some information on the relative potential of the more-than-50 sites surveyed. Further, the consultant followed EPA's instructions to look everywhere; it is not the consultant's role to make decisions as to where to survey.

Mr. McCabe stated that EPA, knowing how controversial the subject is with the public, should have gone right up front, told people what it was doing, how the survey was being scoped, and what criteria were being used. He also emphasized that the decision for siting a facility still rests with New York State. EPA's intent was to analyze potential locations, if any, discuss those according to EPA's nine NCP evaluative criteria, and funnel that information into the state's siting process. Mr. McCabe emphasized that there is a basic question as to whether such a location even exists. TAMS will prepare a report for EPA's review and subsequent publication. He emphasized that until EPA reviews the report and approves it, it is a consultant's report, not an EPA document, and stated that there is as yet not agreement on the potential of any site; at this time, all sites in the survey have problems associated with them.

Mr. McCabe closed the discussion by stating that at the next HROC meeting EPA will review the results of the survey and will discuss the procedure associated with the survey and with other work orders to illustrate that nothing is "hidden," and that handling the siting survey in this manner was an aberration from the norm. Future work orders will be made available for review.

The second item on the agenda was input from the committee chairs, beginning with Marilyn Pulver. Ms. Pulver expressed her feeling of betrayal as a result of the preliminary siting survey issue, and the feeling that for years she and other members of the agricultural community have been "held hostage" by [the prospect of] what may happen to their farms and their future.

Ms. Pulver described the reason for her distrust of DEC and discussed some of the farmers' history with that agency and with the overall problem over the years, including her relief at the 1984 EPA no action decision; she felt at the time that "somebody is listening and using some common sense." Ms. Pulver said that at the start of EPA's reassessment process she felt willing to listen because she felt everyone was on an "even playing field," but she no longer feels that way; recent events have been very upsetting.

Ms. Pulver reiterated that she does not want a landfill next to her farm or next to any community along the upper Hudson. Further, she criticized some recent comments "by EPA" in the local press, and reemphasized her desire for the economic impact of potential landfill on area residents to be addressed as part of the decision-making process. Ms. Pulver cited 55 endorsements of an anti-landfilling resolutions she generated.

Mr. McCabe thanked Ms. Pulver for her remarks, and reemphasized that EPA is not predisposed to any remedy; there are many items yet to address that will be the subject of further reports and that will help EPA make its decision, and there are many questions yet to be answered. He agreed with Ms. Pulver that debate does not belong in the newspapers but rather at meetings and with technical sources, and stated he was sure GE felt the same way. Mr. McCabe committed EPA to trying to avoid such dialogues in the newspaper in the future.

Ms. Pulver further indicated how annoyed members of the public were upon hearing the prior Friday that the ultimate decision regarding any landfill site would be made by NYSDEC, and wonders what DEC is currently doing. Today 35,000 acres of farmland surround the former Site 10, which she hopes will be considered. Mr. McCabe restated that the reason NYSDEC makes any decision in this matter is that it is in accordance with the law. He reminded those present that at the HROC meeting in January 1992, a letter from then-Commissioner Jorling of NYSDEC was presented that had been generated at the urging of EPA, stating that the state would disband their [siting survey] unit and hold off on any further work on its siting study until the reassessment was complete.

Mr. Hammond stated that the position of NYSDEC continues to be to observe, assess, and review the science brought to the reassessment by both EPA and GE, and looks forward to a very thorough and open assessment of alternatives. He is unaware of any desire on the part of NYSDEC to initiate any siting process; the commitment is to see the current process through.

Ms. Dean, speaking for herself and not necessarily for the Citizen's Liaison Group, opened her remarks with a comment that the main task of the reassessment is the health of the river and the Champlain Canal, then discussed the September 24 Steering Committee meeting. Ms. Dean stated she was primarily concerned with the lack of communication and lack of trust between EPA and

various other participants in the reassessment, citing what she termed as the "secret" landfill study and the announcement of the TAG grant [to Scenic Hudson] as the causes of this distrust. Ms. Dean accused EPA of having already made its final decision: to dredge PCBs between Troy and Ft. Edward; she asserts that EPA needs both a landfill site and a group to support them in order to do this, and now has both.

Ms. Dean returned to her opening; that main task of the reassessment is to determine the health of the river and the Champlain Canal and the people who interact with it. She contends that this part of the task has been lost; the health of the river lies in its people as well as in its sediment, water column, or fish. Ms. Dean contends that the river is really alive and healthy; she cited commitments of government and private money to the Hudson River and Champlain Canal, a healthy economy, increased river and canal traffic in 1997 for the first time in years, signs of a returning Canadian recreational travel, new boating cruise companies on the Hudson River/Champlain Canal; and filming of a major video of the canal, among other examples.

Ms. Dean referred to the designation of routes 4 and 32 between Waterford and Whitehall as a state Scenic By-way called the Champlain Canal Trail, part of the New York State Thruway Authority's multi-million dollar canal revitalization program that will boost the economy of canal communities and other efforts to promote the assets of the Hudson River/Champlain Canal, including President Clinton's impending naming of the Hudson River as a National Heritage River, as examples of the marketing of the river's historical, cultural, and recreational values that will in turn boost the river's economy. As owner of a marina in Schuylerville, Ms. Dean has been involved in these initiatives and committed to their success.

Further, she stated, this summer the Housing and Urban Development (HUD) awarded \$17.9 million in assistance to the Champlain Canal under its HUD Canal Corridor initiative. Ms. Dean cited as an aside that in spite of recent statements by Secretary of the Interior Bruce Babbitt that the Hudson was "a dead river," he had jointly made this announcement with HUD Secretary Cuomo.

Lastly, Ms. Dean cited the recently-implemented catch-and-release program in the upper Hudson. She contended that EPA has already determined that "the only potential for PCB contamination is from eating the fish." The great unknown in the reassessment has always been, Ms. Dean said, who and how many people would eat the fish if they could fish the waters. Ms. Dean contends the answer is that no fisherman wants to eat the fish; the whole industry has moved its position to one of catch-and-release, even in waters where fish may be kept. She disputed EPA's earlier contention that sustenance fishing is a significant activity along the Hudson.

Although Ms. Dean said this "calls into question the entire purpose of the reassessment ('If no one is eating the fish, why are we here?')," she appreciates the need for the scientific analysis and will see the project through. She emphasized, however, that the social and economic explosion that has taken place recently cannot be ignored, and demanded of EPA that the agency consider the economic impact of a dredge decision in this reassessment. She cited the willingness of the government and

businesses to invest heavily in the development of the area as indication of the belief that "any possible PCB contamination is minimal at best and certainly no cause for concern."

Ms. Pulver expressed a desire for any information on any activity on Site 10 to be made available, in the event there is such activity, and requested that all future meetings to be taped and a transcript be produced. In response to Mr. McCabe's noting that there are both tapes and minutes and inquiring if anything further is needed, Ms. Pulver said all meetings should be taped. She complained that the Steering Committee meeting was not taped. Mr. Tomchuk explained that Ms. Rychlenski, EPA Community Relations Coordinator, had originally felt that a tape recorder might inhibit discussion, and added that in the future all meetings would be taped.

Ms. Pulver continued with some suggestions as to possible changes in the process:

- A citizen or local elected official chair the Oversight and Steering Committee meeting, with responsibility for setting the agenda, conducting meetings, and distributing a verbatim transcript;
- EPA's technical efforts be reviewed by an independent scientist or group of scientists; and
- The public be given the opportunity to question EPA and its consultants at all public meetings, at all times, and on all issues.

Mr. McCabe said that these concerns, heard previously at the public hearing, were being considered at EPA. He said he did not want to mislead people into thinking that because suggestions were made, it would be easy to implement them. While opening up meetings was easy, having citizens chair the meetings is more problematic. The reassessment is an EPA project, with DEC's concurrence, and that implies some control over the process. EPA has a community relations process at every site, though nothing as extensive as the one for the reassessment, and in all cases, at all sites, EPA chairs meetings.

As to independent scientific review, there is a process called peer review. At present, EPA is getting scientific review through GE; there are tremendous technical debates. The issue is who one might get for [the type of review being suggested], which has been a problem. In the modeling arena, EPA and GE already have the two biggest firms in the country dealing with it. EPA has available a lot of scientific expertise through other agencies that it is using as much as possible, and the Scientific and Technical Committee, though not a complete external peer review under EPA's terminology because that implies total independence. EPA doesn't know whether one could get an independent group that is qualified to review this. Whether they have some knowledge of the Hudson or have worked in some manner with EPA or GE, the reality is that there is an allegiance in some way with most scientists. It is difficult to get a truly independent view.

Mr. McCabe also cited the potential impact on the schedule, as anyone who became involved in a review would have to start at the beginning and come up to speed on everything. He stated he does not know what the process would gain from that, given the expertise available to EPA already.

Mr. DiBernardo commented that the suggestion is a good one, particularly with regard to the modeling, where the two best firms are involved and there are still unresolved issues. He agreed with Mr. McCabe that perhaps outside the government it would be hard to find a person who couldn't be swayed one way or the other. He suggested that sources within the government might be tapped, such as the Waterways Experiment Station, and recommends that EPA look at what they have to offer with regards to the modeling. Relative to outstanding geochemical issues, Mr. DiBernardo feels there is good science "on both sides of the aisle" and these issues can be resolved internally.

Ms. Pulver commented on the difficulty laypeople have in understanding the differing positions between GE and EPA on technical issues, and noted that this difficulty causes a high level of frustration. Can EPA make more use of the Scientific and Technical Committee?

Mr. Haggard added his observations. He supports an open dialogue. He feels the process as it exists is ineffective, and recommends an open exchange of information among project stakeholders on a regular basis. Mr. Haggard also criticized the level of responsiveness by EPA, saying people with questions and comments do not get the feedback they should have. He fully supports having all the science reviewed, no matter how long it takes. Mr. Haggard would like to know what the issues are upon which GE and EPA would never agree. Further, he feels there are people outside the government with credentials to provide objective, independent scientific review, and recommended to EPA that a process go forward where this is seriously considered by the agency.

Mr. Haggard brought up the question of additional TAG grants, and recommended exploring awarding additional grants beyond the one given to Scenic Hudson, which, he contended, is the only group on the Hudson that supports dredging and is not necessarily impacted by the decision. Mr. Haggard also pointed out the importance of having current information in the Administrative Record, and recommended that EPA make maintaining the Administrative Record a high priority. He supports EPA's making all task orders available to interested parties.

Mr. Tomchuk pointed out that EPA is working from GE reports that do not provide the full basis for GE's studies. For example, EPA does not have a preliminary model calibration report from GE, so EPA does not know the background, nor do other people who are interested. In order to have a peer review of which scientific approach is appropriate, it would be worthwhile for GE to be forthcoming with that type of information. Mr. Haggard felt GE had provided ample information. He stated GE has invited EPA to participate in research on the river and says they get no feedback or evidence that EPA is willing to enter into a dialogue.

Mr. Hammond inquired as to whether it would be of greater value just to use the scientists [the project] has to have a dialogue, rather than forming another scientific group, suggesting that as such

an alternative, [EPA and GE] share where there are differences and then decide how to resolve those differences.

Mr. Tomchuk pointed out that many of those dialogues have occurred, particularly on the modeling reports. Mr. McCabe said EPA has heard from GE before that there is not enough dialogue, and recognized EPA does not have enough dialogue when GE is interested in having it, and added that EPA would like to have as much dialogue as possible while still ensuring that [the reassessment] can go forward with some semblance of [EPA's] schedule. He reiterated that the Feasibility Study has been delayed another year due to the modeling and other technical issues, which is a result of GE's and HydroQual's input. EPA is open to that [kind of input]. EPA will discuss internally, with DEC included, whether more can be done in terms of dialogue.

Regarding TAG grants, Mr. McCabe indicated that to his knowledge, EPA solicited TAG grant applications from the group. Mr. Tomchuk said that in addition to Scenic Hudson, Audubon had applied but had withdrawn its application. Mr. McCabe said he thought the law said one TAG per site. The question is being looked into, and if there is some way another can be offered, EPA will do it.

Regarding the Administrative Record, the record upon which all decisions are made, Mr. McCabe agreed it has not been kept up to date, it should be kept up, and it will be updated. However, site files are kept up to date at numerous repositories, and he believes the information is there for the public. It is not a simple thing to determine what goes into the Administrative Record, and sometimes that means updating comes somewhat after the fact.

Further, Mr. McCabe stated that the Community Interaction Program may need to be looked at in response to comments raised by some members of the public. The program was designed as it was for specific reasons at the beginning of the reassessment, and may need to be "tweaked" now to meet current needs of the project. He reminded the audience that this is a very unusual process, and that EPA does not do this anywhere else. He indicated he would be receptive to suggestions from HROC members, and that feedback, sent to Mr. Tomchuk, could be discussed at the next meeting.

Mr. Santacrose, Chairperson of the Environmental Liaison Group, suggested something he felt would be helpful for everyone: at a future meeting, show the difference between a standard EPA community relations plan and the Community Interaction Program developed for the reassessment. Put the two processes next to each other in a simple schematic, to demonstrate how there are actually more opportunities for true public involvement under the Community Interaction Program than under the standard process. Further, can we do an assessment as to how this is working as opposed to the standard: if there is public involvement, is it meaningful? Mr. Santacrose said he has been participating for seven years and still has yet to figure whether "this public involvement thing" is good or bad.

Mr. Santacrose discussed the preliminary siting survey in terms of people's assumptions that this survey meant EPA is predisposed to dredging and landfilling, stating that his assumption would be

that EPA would ask for studies as input to other options too, such as capping. He doesn't think that means EPA is predisposed. He therefore supports making the work orders available to the public, because if the public knew what research was being requested relating to other options, it might alleviate this mistrust of EPA that other groups have. Mr. Santacrose stated he does not mistrust anyone yet; he still has trust "in the fact that the process is going to work and we are going to have enough information on the table to make an informed decision."

Mr. Santacrose agrees that there might be enough scientists outside those currently involved to do the peer review, but feels sometimes that common sense is forgotten, and there are some occasions where scientists are not needed, but rather individuals such as himself could mediate in discussions between parties. He suggested taking a few people [as mediators] and let [EPA and GE] explain their reasoning on issues.

In addressing the question of number of meetings, Mr. Santacrose said he thinks meetings are necessary when there are gaps in communication and people are losing track of where things are, but not meetings in response to instances where the media has grabbed onto something and created an issue. Regarding responsiveness summaries, Mr. Santacrose recommended EPA indicate how the agency was going to respond to each request - e.g., we're not going to do anything, this is something we can consider, and this is what we've done. If the public had this response, they could respond appropriately by either moving on to the next issue or challenging EPA. As to whether more responsiveness summaries are needed, Mr. Santacrose felt it was more an issue of people needing to know that they were being heard, so that if EPA responded to individual inputs as he suggested, it would satisfy him and would be enough to keep the information flow going.

Ms. Dean added that she did not necessarily feel a lot of meetings were needed, but that more information was, whether it be by meeting or other channels. Relative to the media problem, Ms. Dean suggested that if "they" [the writer assumes she meant at least Liaison Group chairpersons and co-chairpersons] had a brief history available so they could bring a reporter up to date, perhaps give him/her something to take back to use. She said these suggestions had been made years ago.

Mr. Decker, Chairperson of the Government Liaison Group, reiterated the request he had made at the September 24, 1997 Steering Committee meeting for more meetings. He feels not enough information is being disseminated and that the summary reports are helpful; however [EPA] can get the information to [the public] is helpful. There is a huge learning curve for a layperson, and to go a number of years without contact requires some "refamiliarity." Mr. Decker feels it is important to convene HROC to discuss on-going activity.

In reference to Ms. Pulver's suggestions, Mr. Decker said that although he had not talked about them, he felt there was opportunity there. With reference to the suggestion about opening meetings, Mr. Decker said that he understood that when the Community Interaction Program was established, one of the functions of the liaison groups was to bring questions to the table, but there are people on his group who are better able to formulate and express questions than he is. He therefore supports opening the meetings, but suggested that if EPA wanted to avoid having "everyone who stumbled

in the door" asking questions, the members of the committee might introduce others who would be allowed to ask questions. He will send his comments to Mr. Tomchuk.

Mr. McCabe responded by acknowledging the comments on frequency of meetings and reminding people that although HROC has not met for a while there have been other meetings, particularly Joint Liaison Group meetings. As to changes in the process, he said "we will listen and we will see what makes the most sense."

Mr. Koelling, NYSDEC, stated that because he was here for the first time, he was trying to understand the dynamics, was here as an observer, and would have more to offer in the future. His feeling was that it was "good to see what's going on."

Mr. Dergosits, New York Canal Corporation, observed that if [HROC is] truly to function in an oversight role in the process, there is a need for some more meetings, but was not sure how many that may be. He thinks the idea of a responsiveness summary would probably be a "reasonably good idea to find out exactly where EPA is going on certain issues."

Mr. Dergosits then brought to the table the Canal Corporation's mandate to operate the [canal] system generally. The Canal Corporation is in the midst of major development of the system, with the goal of creating a world-class canal system. He stated that lack of depth is one of the biggest problems currently in the canal system, due to lack of maintenance over the years resulting basically from the inability to dredge. Ms. Dean contended that the problem is not the depths on the Champlain but the bridge heights, and cited locks 3 and 12 particularly. Mr. Dergosits responded by saying that the Canal Corporation had to deny access to at least two or three different commercial haulers this year due to insufficient depths in the system and a hazardous condition north of Lock 5 by the Northumberland Bridge.

Ms. Dean questioned whether the goal of canal development was recreational or commercial. Mr. Dergosits referred to the Recreationway Commission Plan as talking about both a recreational and commercial canal system. Mr. Dergosits stated that currently there are 437,000 cubic yards of material in the channel itself that has been identified as having to be removed, particularly from four specific areas highlighted in the document appended to these minutes as Attachment 3:

- Below Lock 4, 15,000 cubic yards;
- Above Lock 5 below Northumberland Bridge, 25,000 cubic yards (particularly hazardous because of the cross-current);
- In the Thompson Island Pool, north of Griffin Island, 30,000 cubic yards; and the
- Fort Edward terminal, 63,000 cubic yards.

Three of the communities directly impacted by the Canal Corporation's inability to dredge include Whitehall, Fort Edward, and Schuylerville, and those three communities are slated to receive a total of \$26 million of the [previously mentioned] HUD investment. Mr. Dergosits said the Canal Corporation is very interested in seeing EPA move the reassessment along because it is impacting the

corporation's ability to dredge. He volunteered the corporation's assistance, and also asked if EPA could help in identifying a feasible location where what the corporation believes is low-contaminated (less than 50 ppm PCBs) sediments in the Hudson.

Ms. Dean asked again who had complained, and Mr. Dergosits said the corporation maintains a log that is available for review. A discussion ensued between Mr. Dergosits and Ms. Dean as to depths required for boats of varying keel sizes. Mr. Dergosits maintained that one cannot run a profitable commercial business with water depths as low as six or seven feet; Ms. Dean maintained that one cannot run a profitable commercial business on a waterway that is mainly a recreational waterway. Mr. Dergosits stated that the mandate of the canal corporation is to have both. Further, there is a navigational need to dredge the canal, from a safety point of view.

Mr. Hammond commented that NYSDEC could support more meetings, and voiced support for "going the common sense route" in relation to responsiveness summaries and in discovering where there might be issues to consider. He also expressed reservations about going to a third set of experts from the standpoint of simply ending up with a third opinion; Mr. Hammond's recommendation was again for common sense in identifying issues and attempting to resolve the first before bringing other experts into the process.

Liz Grisaru from NYS Department of Law then spoke on behalf of NOAA (National Oceanographic and Atmospheric Administration) and provided an overview of the natural resources trustees of the Hudson River and an update as to current activities. The Superfund statute under which EPA is conducting the current reassessment of its 1984 no action decision contains a provision that entitles the trustees of the natural resources to assess whether injuries have occurred to natural resources as a result of releases of toxic substances, and then to determine what can be done to restore or replace the injured or lost resources.

Natural resource trustees for the Hudson River include NOAA, the Department of the Interior, and NYSDEC. These trustees signed an agreement earlier [in the summer of 1997] to coordinate and pursue discussions about conducting the formal process known as a natural resources damage assessment. NOAA has done some preliminary work in determining whether or not there have been injuries in the Hudson River environment that would warrant further investigation. The trustees are continuing to meet on the subject; the process is currently in a very preliminary stage.

Following a break, John Haggard of General Electric and John Connolly of HydroQual provided an update on GE's work on the Hudson River. Mr. Haggard opened the presentation with a summary slide containing the main points of the presentation; the hard copy of this slide is page 1 of Attachment 4. Mr. Haggard's main point of discussion was that GE had found PCB levels in the Thompson Island Pool (TIP) to be overstated due to a "sampling bias," and that the actual PCB loads, instead of being two to three lbs/day, are approximately one lb/day. GE's conclusion based on this is that the PCB loads measured at the Thompson Island Dam are consistent with diffusion of PCBs from the surface sediments in the TIP and not from contribution from buried sediments in the TIP. Mr. Connolly followed Mr. Haggard's introduction with supplementary details. The remainder

of the slides, pages 2 through 23 in Attachment 4, contain the supporting information for Mr. Connolly's presentation.

Dr. Edward Garvey of TAMS then summarized for HROC members the presentation he had made at the February 1997 Joint Liaison Group meeting concerning the Data Evaluation and Interpretation Report (DEIR). Attachment 5 contains the Executive Summary from the DEIR, which in turn contains the key findings and the key points Dr. Garvey covered for the group. One of the points Dr. Garvey reiterated is that the upper Hudson above the TI Dam is the principal source of PCB loading to the river, and that the TIP is a significant source; the water column loads in the upper Hudson are going to continue to be generated by the sediment until that reservoir [of sediment] is depleted.

Following these two presentations, questions and comments were entertained. Highlights follow.

1. Mr. Haggard cited key points of disagreement with EPA's conclusions. One key point is getting resolution on interaction of surface sediments with water vs. buried sediments. GE believes there is compelling evidence that it is a surface sediment problem. Mr. Haggard observed that this question is critical to the consideration of a remedy. He also disagreed with the EPA position that their data show that dechlorination is not expected to have any effect for areas with concentrations below 30 ppm.
2. Mr. Connolly pointed out that the focus of EPA's modeling effort is to evaluate the whole natural recovery issue. He asserted that the statement from page 8 of the DEIR Executive Summary (Attachment 5) may be premature. Dr. Garvey responded by emphasizing the use of the word "active" in that statement in connection with the sediments. He stated that the level of active sediments is unknown - it may be 5 cm, 10 cm - but whatever the active layer is, that is what is involved. He continued by saying that it is not a simple burial process everywhere, that there is resuspension and scour even of older sediments. There is evidence to suggest resuspension and scour of some of the older deposits and there is some migration of them.
3. Mr. Adams inquired if this [preceding scouring discussion] is a different conclusion than had previously been presented in the scour analysis that indicated essentially no significant scouring of the older, deeper deposits. Dr. Garvey explained that the referenced analysis was a hydrodynamic analysis, or model done on a pool-wide basis, and the scale of that analysis was different from the scale for the analysis referenced above, which is part of the low resolution coring report that is still in progress.
4. Mr. Purner of Congressman Solomon's office commented on the decrease in PCB bioaccumulation in fish; from what he has seen in the data, the trend is for the bioaccumulation is to go down. Mr. Sloan from NYSDEC responded: although the concentrations since 1993 have indeed come down, and we are back to conditions typical of the 80s up until the '91 event, the fact is that concentrations in the fish are still exorbitantly

high. The 1997-1998 sampling year is going to be critical in terms of evaluating whether or not there will be a continued decrease, given the fact that a lot of remediation has been going on at Bakers Falls.

5. Mr. Adams referred to the DEIR and said in that report, comparisons made between PCBs in water and PCBs in the sediments in the TIP were on a homologue basis. He now understands that GE has made a comparison on a congener basis, and has concluded that the PCBs in the water in the TIP have to have come from PCBs coming in upstream at Rogers Island, not from the dechlorinated sediments in the TIP. Has EPA evaluated that GE position, and what conclusion has been made? Dr. Garvey indicated that EPA is still evaluating that analysis. GE has stopped the source at Rogers Island and says the PCBs are coming from the sediment. The question is, have the sediments that are contributing to the water column been there six months or 15 years, and, if they have been in the bottom of the river 15 years, have they been dechlorinated or not.

Dr. Garvey understands GE's position to be that the congener pattern GE sees in the water column is commensurate with sediment that has been recently deposited and therefore is relatively unaltered; however, he said, it is still commensurate with a sediment source.

Mr. Haggard replied that surface sediments are clearly the issue, not buried sediments. The question, he said, is where the PCBs in the sediments are coming from, and he indicated that various seeps are the answer. Mr. Haggard contended that those [PCBs from surface sediment] are the PCBs in the fish and in the water. It is going to be important to understand what the rate of recovery of that surface sediment is going to be. Mr. Connolly said that evidence indicated the presence of unaltered, fresh PCBs in fish, not altered PCBs from older deposits.

Mr. Hammond broached TAMS' finding of an inventory of unaltered PCBs that had not dechlorinated much, and the possibility that those had been reworked and became available to be picked up by the fish. Mr. Connolly referenced Dr. Garvey's discussion of a mechanism by which buried unaltered PCBs are brought to the surface, and stated that if that were occurring, the question would be whether on an overall basis it would be significant.

A discussion followed as to how deeply into sediment one could go and still find PCBs that compared to those found in the fish, and how GE went about arriving at their position on this, which is that the PCBs in the first 0 to 2 cm of sediment are the ones that match those found in fish.

Mr. Adams summed it all up by observing that there is definite disagreement as to the source of PCBs in the fish, and reiterated his position that it is fundamental to determine where the PCBs are coming from before "anybody can intelligently even think about what are possible remedial actions." He indicated, therefore, that this was why he felt the preliminary siting survey was premature.

6. George Hodgson of Saratoga County EMC pointed out that the EMC has been commenting since 1992 on the reassessment and has been frustrated about the lack of responsiveness. He added that he feels the best way to serve the public is to keep the dialogue open and including the public in it.
7. Mr. Adams added to Mr. Hodgson's comment that [the dialogue] has to include response to comments; he feels waiting to the end of the process before indicating the disposition of comments made years ago from earlier stages of the report is not serving the public communication process.
8. Steve Ramsey of GE supported the involvement of people other than GE and its contractors and EPA and its contractors at meetings; "people have value to add...." He believes airing "these kinds of issues" in a regular way is worth it, even though it is time-consuming. Mr. Ramsey said he believes everyone involved wants [the reassessment] resolved on good science; significant time and money has already been spent; and whatever time is necessary should be taken to really examine [issues]. He applauds the agency's commitment to do that.

Mr. Ramsey discussed the government's commitment to EPA in precluding lawsuits or other independent review until the process is complete, and that in return the Administrative Record must be maintained in a regular way. He expressed concern as to EPA's ability to bring the Administrative Record forward from 1991, and stated [the failure to update] was a serious oversight bordering on malfeasance. He urged EPA to bring the record up to date.

Mr. Ramsey stated that it was "noteworthy" that the only TAG grant holder was not present at the meeting. He stated that municipalities interested and involved should have some support from the agency that is doing the project to the extent they can get it, to help them participate in a meaningful way either scientifically or otherwise. If money from GE would help that, he said, he would be glad to talk to the agency about that, although he is cognizant of the potential hue and cry about people "being bought and sold." He stated he is not interested in that; he said he is interested in GE's helping the government find a solution to assisting people to be more involved. He concluded by saying he found the meeting to be very productive.

Mr. McCabe indicated to Mr. Ramsey that, as he stated previously, EPA is looking into mechanisms to come up with another TAG grant, but pointed out that there were no takers on the first go-round, and added that "it goes both ways." He also reiterated that there is no question that the Administrative Record should be updated and that would be done. Further, he committed to looking at the Community Interaction Process to determine whether it still serves the public, and if it doesn't, to discuss what makes the most sense and to assess what changes might be made.

8. Mr. Haggard announced that GE has a Hudson River website: www.Hudsonwatch.com.
9. Sharon Ruggi asked about the meeting on a monitoring effort that had been mentioned at the September 24 Steering Committee meeting, and asked who would be involved. Mr. DiBernardo said it was scheduled for October 17. Mr. Tomchuk said that EPA and its contractors are meeting with several other agencies (NOAA, NYSDEC, Fish and Wildlife, USGS) to have an agency discussion about monitoring. If any monitoring were to be done, EPA would discuss it with GE as one of the involved parties. He referenced NOAA's and DEC's comments on the DEIR that recommended additional monitoring.
10. Mr. Hodgson asked if a comparison of the public participation program for the reassessment with some of EPA's other sites would be the subject of a future meeting. Mr. McCabe said EPA will discuss any input received at the next meeting and will address [Mr. Santacrose's] request.



70424

DRAFT

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

United States Environmental Protection Agency
Hudson River PCBs Reassessment Remedial Investigation/Feasibility Study (RRI/FS)
Community Interaction Program

Hudson River PCBs Oversight Committee Meeting
July 15, 1998
Kingston, NY

On July 15, 1998, the ninth meeting of the Hudson River PCBs Oversight Committee was held at the Ramada Inn in Kingston, NY. William McCabe, Deputy Director of Superfund Program for USEPA Region II, chaired the meeting. The agenda for the meeting is Attachment 1. Sign-in sheets are found in Attachment 2. The use of brackets - [] - indicates clarifications made by the writer in cases where otherwise the text would be unclear to those not at the meeting. Copies of the audio tapes recorded at the meeting are available on request.

In addition to Mr. McCabe, members of HROC and presenters in attendance included:

- Doug Tomchuk, EPA Remedial Project Manager for the RRI/FS;
- Ann Rychlenski, Site Community Relations Coordinator, USEPA Region 2;
- Damien Hughes, EPA Project Manager for Peer Review;
- Merrilyn Pulver, Co-chairperson of the Agricultural Liaison Group;
- Darryl Decker, Chairperson of the Government Liaison Group;
- John Dergosits, NYS Canal Corporation;
- Walt Demick, NYSDEC;
- Jonn Santacrose, Chairperson of the Environmental Liaison Group
- Mel Schweiger, GE Hudson River Project; and
- Sherri Morgan, US Fish and Wildlife.

Mr. McCabe opened the meeting with several announcements and updates:

- The project schedule (copies available at the meeting; Attachment 3 of these minutes) shows availability of the proposed plan (PRAP) by December of 2000, followed by a Record of Decision (ROD) in June of 2001. A fact sheet on the peer review process (Attachment 4) was also available.
- Mr. McCabe mentioned Administrator Carol Browner's recent testimony before Assemblyman Brodsky. He acknowledged particularly 1) her statements on EPA's position on the carcinogenic and non-carcinogenic health threats of PCBs; 2) interim actions taken to date directly by EPA or by GE under order with EPA or New York State;

3) problems raised by pending legislation precluding any dredging anywhere by EPA until an additional study is completed by NAS; and 4) EPA's continued work with New York State on fish advisories, possibly including provision of additional funding. Ms. Browner also reaffirmed the schedule for the Reassessment.

- Mr. McCabe stated that EPA is about to begin a Remedial Site Evaluation at Rogers Island to assess the dredged materials disposed of there from as early as 1913. Sampling by the state in the early 1990s revealed no real problem then, based upon exposures at that time. Recently the state notified EPA of construction activity on the island. Additionally, money from HUD grants and other sources are being invested in the area, and there are plans for development on the island. The state stopped the construction due to permitting issues, which subsequently led EPA to the site assessment. EPA will take samples (probably more than 1000) starting sometime in August to assure that exposures are still at a safe level. If not, EPA will take appropriate action. The sampling should take approximately six weeks, followed by data validation, and a report is expected by the end of the year or early in 1999. HROC will be kept informed.
- Mr. McCabe announced the upcoming release of the Low Resolution Coring Report and Human Health Risk Assessment Scope of Work on July 23, 1998, as scheduled. A Joint Liaison Group (JLG) meeting will be held at 7:30 PM on July 23 at the Albany Marriott, where EPA will make its presentation, followed by Availability Sessions for the public to discuss the reports. These sessions will be on August 19, 1998 at the Holiday Inn Express in Latham, NY, from 2:30 to 4:30 and 6:30 to 8:30 PM, and on August 20, 1998 at Marist College in Poughkeepsie, NY, from 6:30 to 8:30 PM. A Scientific and Technical Committee (STC) meeting will be held in Albany on August 18, 1998 [at the Best Western on Wolf Road].

Mr. Hughes presented an overview of the peer review process, being conducted by EPA's contractor ERG. The peer review, to be performed in two parts, is an in-depth assessment of the various scientific and technical work products being prepared for the Reassessment. Peer review sessions, open to the public, will be on September 9 and 10, 1998 at the Sheraton in Saratoga Springs, NY, and in October of 1999 [to be scheduled]. Members of the public attending these meetings will have the opportunity to comment and ask questions. The members of the Joint Liaison Groups have been asked to submit questions they may have about the Preliminary Model Calibration Report (PMCR) for the reviewers.

Mr. Schweiger asked if peer reviewers will be provided with public comments on the documents they are reviewing. Mr. Tomchuk stated that for peer review of the modeling approach, reviewers will be provided with select comments and responses to those comments. Mr. Schweiger indicated concern over the 60 hours the reviewers are given, given the complexity of the tasks. He asked for a response from EPA to the questions [GE] has raised to Mr. Caspe. Mr. Adams suggested that public comment also be provided for the second phase of the peer review process involving the Data Evaluation and Interpretation Report (DEIR). Mr. McCabe stated this will be considered, but at this time nothing has been finalized because it is as yet undetermined as to what specifically will be reviewed [in the second phase].

Several attendees indicated they had not received the invitations to submit questions to the peer reviewers. Mr. Tomchuk said the questions have to be part of the charge given to the reviewers' before they are given the documents, and the schedule is very tight. Mr. Hughes stated that although the official schedule would not be extended, he would speak to ERG and see if they did receive comments that were a day or so late, they could be worked in.

Ms. Trieste expressed concern that the general public does not have the same opportunity to put documents [comments/questions] into the reviewers' hands as does GE. She requested a process to "even the input" from the liaison groups so they have opportunities "equal to GE." Mr. McCabe stated EPA is not committing to GE or anyone whether other documents will or will not be used. His expectation is that EPA will have the information it needs in its reports.

Mr. Tomchuk reemphasized that the peer review is not set up to be a judge between two different theories, but rather to judge whether the studies that were conducted are scientifically credible. Mr. McCabe characterized the distinction by saying the reviewers would be asked "Here is the way we've done it, you tell us whether it is credible or not," rather than "here's the information, what's the best possible way to go about this."

Ms. Pulver stated she had a problem with the process. She said the liaison groups had requested the peer review to discuss everyone's information so EPA "has the best possible way of doing things," and she perceives that EPA's interest is "is that going to satisfy?" Ms. Pulver complained about the lack of time being given to the public to submit questions to the reviewers, and inquired if the public would be able to ask questions at the peer review meetings. She felt the public would not know what questions to ask until there was some understanding of the direction EPA "was sending [the reviewers] in." Ms. Pulver is looking for a "board with an overall opinion."

Mr. McCabe restated that the peer review's purpose is not to, as Ms. Pulver stated, "come up with the best possible science." Mr. Hughes stated that the reviewers do have an overall opinion, and that is whether or not EPA's science is credible. He reiterated that the public will have the opportunity to comment at the peer review sessions. Mr. Tomchuk stated that EPA has had a peer review policy for many years. Interpretation of the new handbook on peer review led EPA to institute the process [for the Reassessment]. Mr. McCabe indicated that EPA has been considering peer review for years, and hopes that regardless of who requested it and when, the results would be the same. Mr. Tomchuk added that EPA has not ignored the information GE has brought forward: "the involved nature of the DEIR goes right to the heart of the questions that we have posed and that GE has posed."

Mr. Dergosits asked whether or not there is a criterion within which questions to the reviewers should be posed (EPA replied "no"), and asked for a copy of the notice to be faxed to him.

Chairs of the liaison groups have copies of the peer review handbooks, which will also be sent to the repositories. Further, the on-line location for obtaining the peer review handbook is on the fact sheet. There are example charges for other peer reviewers in the handbook, with the types of questions asked, that may be helpful in formulating questions for this peer review panel.

Mr. Santacrose asked how the Fish and Wildlife Service will be involved in the Phase 3 [Feasibility Study] document process regarding assessment of impacts to migratory birds in the area of the

Reassessment. Further, he asked how Fish and Wildlife will incorporate [consideration of] migratory birds under any proposed remediation measure. He also provided some background on the Migratory Bird Treaty, originally passed in 1960, covering all but a very few birds.

Ms. Morgan, Field Supervisor of the Fish and Wildlife's Cortland, NY office, introduced herself as the new agency representative to HROC. She will take Mr. Santacrose's questions to the Service's migratory bird and regional offices. Ms. Morgan cited a case in the southeast against the US Forest Service in connection with a timbering operation (based on the service's not having a permit from Fish and Wildlife to take migratory birds) where the court found that a federal agency was not required to get a permit from the Fish and Wildlife Service. The Service is still getting guidance from the solicitor's office in this area.

Ms. Morgan stated that the service's charge is to make recommendations for the trust resources under the Department of the Interior, which resources include migratory birds, endangered species, and anadromous fish. The service will therefore be making recommendations as to what will be best for those species. Ms. Morgan indicated she would address any other questions people may have.

Mr. Santacrose asked how Fish and Wildlife would be involved in the review process. Mr. Tomchuk stated that all agencies receive copies of the Reassessment documents. Ann Secord, on Ms. Morgan's staff, is also a member of the STC and is involved in the process through that group.

The round table discussion followed.

Ms. Morgan - Ms. Morgan announced that Ann Secord is continuing her studies of tree swallows on the Hudson. US Fish and Wildlife currently has staff working on the river.

Mr. Schweiger - Regarding Administrator Browner's comments, Mr. Schweiger stated that "we [GE] disagree with much of what Administrator Browner said," but supported Ms. Browner's call for involved parties to work together and find solutions. He said "by sharing information, commenting on each other's data, and conducting technical review meetings, we could together ensure that a remedial decision based on sound science is made for the Hudson River." Mr. Schweiger complained that GE's attempts to hold a "technical dialogue" with EPA have met with limited success, and proposed regularly scheduled technical meetings for EPA, GE, and other interested parties "to evaluate each other's scientific rationale and principles." He indicated GE's interest in beginning those meetings immediately, and requested a written response to his remarks.

Mr. McCabe did not commit to regularly scheduled meetings. He indicated, however, that EPA would have a dialogue on certain issues. EPA is committed to meeting the Reassessment schedule and will do its best to fit in other items, but not if such activity will adversely impact the schedule.

Mr. Tomchuk said the dialogues EPA had committed to were based on both parties' having sufficient information [on a given subject] and having had time to review it and be able to discuss it, rather than being presented with something new. He suggested that an appropriate time for such a forum would be when EPA has provided its response to the Thompson Island anomaly report and GE has had a chance to review it.

Mr. Santacrose - Mr. Santacrose read excerpts from a letter to Administrator Browner (Attachment 5) from Sharon Ruggi, member of the Environmental Liaison Group. Mr. Santacrose then spoke to the group on his own behalf. He suggested that to eliminate "side discussions, animosities, and trust issues," and to address the fact that perhaps people think GE might want to slow the process down because of issues that relate to money, GE might put "a significant amount of money" into an irrevocable trust so that no one could say GE "is trying to buy time in the project." Mr. Santacrose volunteered to meet with EPA and GE representatives to expand on the concept.

Mr. Santacrose said that if [the Reassessment] gets good science, he did not care "where we get it or how long it takes." He would rather see a decision made based on sound science that might have taken longer than a decision that was based on science that was not conclusive or comprehensive.

Mr. Schweiger pointed out that GE has spent \$150 million to date and probably \$10 to \$15 million more this year on the [Hudson Falls] plant sites and the river. He feels that is a significant commitment by GE. Mr. Santacrose clarified that he was referring to activity on this Superfund site, not on monies that had been spent on other measures related to this Reassessment. Mr. Santacrose said that his point on GE's putting money "into the hopper" at this time would serve to eliminate the general mistrust and thereby enable discussions that are [free of other overtones].

In a discussion of the peer review process, Mr. Santacrose asked what would happen if the peer review says a particular method is unacceptable. If the document being analyzed were to be used as the basis for further assessment, the schedule would be impacted because EPA would have to address the problem before proceeding. He feels [EPA] should be ready for a possible delay if there is some scientific gap. Mr. McCabe acknowledged.

Mr. Schweiger stated that GE believes the work being done at the plant sites and at the remnant sites is directly related to the river, the sediments, and the water column; "Source control is the issue."

Mr. Dergosits - The Canal Corporation is currently rehabilitating the Fort Edward Terminal wall, in anticipation of reopening it to the public next year. The lack of navigational dredging in the upper Hudson may prevent large draft vessels from using the facility. There are currently only five feet of water in the channel getting into the Fort Edward area; he sees the possibility that within a few years there could be no depth at all.

There are also plans to rehabilitate the Mechanicville wall. They are dealing with two projects: potentially dredging for remedial purposes, and trying to maintain the navigational channel, neglected since 1979. He asked that EPA consider or introduce an interim remedial measure to dredge the navigational channel in the upper Hudson to open it up into at least a safe navigable channel. Mr. Dergosits suggested GE spend "a little bit of that \$150 million" on opening up the channel.

Mr. Dergosits also expressed concern about HUD's release of \$17 million to Fort Edward for a loan program for private development on Rogers Island, with it almost sounding as if EPA were not aware of this program. He cited multiple proposed development projects on the Hudson River corridor over the next few years, and felt federal agencies should be trying to coordinate these efforts. (Mr. McCabe later said EPA was aware of HUD's plans, but did not realize that they were going to start as soon as they did.)

Mr. McCabe said EPA did look to see what might be done with respect to the river, but it is necessary to wait until the Reassessment is complete. If EPA were to take an interim measure, that would presume that EPA knows what the final answer will be, and EPA does not know that yet. EPA needs to have all the data - the risk assessments and the modeling - and determine what measures should be taken to speed up the remediation, have the fish be edible sooner, etc.

Mr. Dergosits said lack of navigational depth is not a Superfund issue but a Hudson River resource issue. He cited the presence of areas in the navigable channel with plus 50 ppm of PCBs, and feels that if that is so, EPA should be looking for some type of interim fix while it "haggles" over the health issues. He asked if it were EPA's position that after the Reassessment process, the Hudson River might have to be closed to navigation because dredging is precluded due to the presence of hazardous levels of PCBs in the channel, and because EPA has decided that the science doesn't support dredging for remedial purposes. Mr. Dergosits sees a conflict between state canal law and state constitution for maintaining a navigable water body, and federal law.

Mr. McCabe acknowledged the question as both fair and difficult question, and clarified that Superfund is not involved in navigational dredging. Further, EPA Superfund would like to coordinate efforts on the river as much as possible, but until EPA has an answer it cannot proceed. Navigation is not a reason for Superfund to take action. Mr. Dergosits asked about the possibility of the Canal Corporation's starting a dredging project in the upper Hudson to open the navigational channel. Mr. McCabe stated EPA has the ability to take legal measures if "someone" were interfering with its studies. He does not know whether or not such a project would be considered "interfering." In addition, if the Canal Corporation removed sediments, it would be their legal obligation to find some place to put it. Mr. Tomchuk said Superfund will work with anyone but would need to consider whether a project would interfere with Superfund's conclusions and ultimate remediation goals.

Mr. Demick - Work at Hudson Falls and Fort Edward is continuing. Some remedial site studies are occurring, and DEC is close to a final draft (tentative completion sometime in September) of the proposed remedial action plan for both Fort Edward and Hudson Falls. Mr. Demick said he put a report on the handout table entitled *Preliminary Sampling Project, Rogers Island Resorts* that he hoped would be helpful to EPA. Copies are available from NYSDEC.

Mr. Decker - No statements to make.

Ms. Pulver - Ms. Pulver spoke first as a councilwoman for the Town of Fort Edward. She stated that the Rogers Island project has been put on hold and is awaiting clearance, which, if not received by September, will mean loss to the Town of Fort Edward of the \$2.1 million from HUD. Mr. McCabe agreed to check whether EPA could coordinate its sampling and Rogers Island activity with HUD so Fort Edward does not lose its funding.

As a liaison group cochairperson, Ms. Pulver asked if HROC attendees did not have a copy of the Low Resolution Coring report because it is not yet available (EPA: yes). Why will EPA hold a press conference prior to the July 23 JLG meeting before meeting with the "those of us most informed...?" Mr. McCabe replied, "This is EPA's document, and we want to get our message out. We feel the best way to get our message out is to do it in that manner. This is our message, it's not yours, it's not GE's - it's EPA's message. This is our report and we want to tell people what it says; it's really that simple."

Ms. Pulver then reviewed the dates for the availability sessions, and EPA clarified for her that the public comment ends on August 31.

Ms. Pulver repeated her request for a meeting in Fort Edward on the landfill siting study. Mr. McCabe said EPA has no more to say other than what is in the report. Ms. Pulver asked if EPA plans to collect additional information regarding the report in the future. Mr. McCabe said that the FS will evaluate various alternatives, and that is only one of the alternatives. Ms. Pulver then asked whether EPA did or will address the high water table at Site 10, and rare or endangered species in relation to that area. Mr. McCabe said the FS would look at any [applicable factors] before any decision is made. Ms. Pulver asked if the landfill study would be submitted for peer review; Mr. McCabe said the FS is not being submitted for peer review and the study in question has nothing to peer review.

Ms. Pulver said questions she had written to EPA regarding the landfill study had been "passed on to DEC for answers." Although she received information from Mr. Ports of NYSDEC, she indicated disappointment in that the information she received did not answer her questions. Mr. McCabe said the letter was referred to the state because the state has the information, EPA does not. Mr. McCabe said again that the study was a screening survey that did not go into the detail she was seeking.

Administrator Browner's comments greatly upset Ms. Pulver. She asked why Ms. Browner singled out one potential remedy [dredging] and ignored the others. Mr. McCabe stated her testimony mentioned various possible alternatives, including treatment and in situ work, off-site landfill, and on-site landfilling, and reiterated that the FS will address all the alternatives in detail. Ms. Pulver asked if Ms. Browner were briefed by anyone "at this table," citing Ms. Browner's reference to topics that had not been discussed at HROC. Mr. McCabe said Ms. Browner was briefed by the region [EPA Region 2] and her other technical experts at headquarters. Mr. Tomchuk added that the animal studies Ms. Browner referenced have been referenced in numerous GE documents. Ms. Pulver questioned whether Ms. Browner was aware that EPA had rejected dredging in 1984, and state dredging projects were stopped twice. Ms. Pulver feels Ms. Browner is predisposed toward dredging.

Mr. McCabe repeated: Ms. Browner was thoroughly briefed, and she is not predisposed toward dredging. He stated she made some important statements concerning the health risks, reflecting EPA's position. EPA should have a position, he said. People are interested in what EPA thinks about the carcinogenic and non-carcinogenic health effects [of PCBs]; Ms. Browner made a national statement based upon the body of evidence available.

Ms. Pulver questioned EPA's not using data collected after 1997. Mr. McCabe said although EPA will not be using data [collected] after December 1997, that does not mean EPA would not accept such data, consider it in the Record of Decision or in the Responsiveness Summary. EPA feels it has enough information now to go forward and that is why EPA feels its schedule is firm and achievable.

Ms. Pulver asked what role Administrator Browner will [have] in the final Reassessment decision. Mr. McCabe said the decision authority is delegated to the Regional Administrator, but EPA headquarters will be briefed on the decision and will have input.

Ms. Pulver read a letter from Judy Schmidt-Dean, Chairperson of the Citizen Liaison Group (Attachment 6).

In response to Ms. Pulver's remarks and Ms. Dean's letter, Mr. McCabe expressed regret at the feeling on their parts that EPA is predisposed to any decision. He reiterated that EPA has not made any decision. Mr. McCabe does not see any [indication of a predisposition] in Ms. Browner's remarks, but acknowledged that others have a different perspective. He emphasized that EPA is not here "for a charade," and referred to the vast amount of work involved and the fact that EPA has increased its staffing in order to have the proposed decision out by December 2000.

Mr. Tomchuk said that the Ecological Risk Assessment and Feasibility Study scopes of work will both be released in September 1998, and a JLG meeting will be held at that time regarding those documents.

Open discussion included the following comments:

- Ms. Trieste attended Administrator Browner's testimony and felt she wanted to bring the discussion of PCBs and their risk to general public health to the public's attention, and that Ms. Browner felt there was irresponsible information being disseminated by corporations saying there is no health risk and no proof that animal studies indicate risk to humans. What Ms. Trieste got from Administrator Browner's statement, she said, is what she expects from EPA, that PCBs are a public health hazard, it is common throughout the nation and is addressed as such. There are 200 miles of the Hudson affected by PCBs. As a resident of the upper Hudson, Ms. Trieste wants to be on record that she is concerned about the health risk.
- Andy Mele of Clearwater and a member of the Environmental Liaison Group stated that MR. Santacrose's remarks did not reflect Clearwater's attitude. Mr. Mele addressed Ms. Pulver's statement that Administrator Browner had referenced "dredge and dump" in her testimony. Mr. Mele was at the testimony and "there was no mention of 'dump'."

Mr. Santacrose pointed out that he had said that his remarks were his own, speaking as a citizen.

- Cara Lee of Scenic Hudson, also a member of the Environmental Liaison Group, stated she felt the purpose of HROC was for liaison group chairpeople to report on their groups' activities. She said it is important to differentiate Mr. Santacrose's personal views from those of the committee.

Mr. Santacrose stated he has said that he would represent the interest of any committee member if it were submitted to him in writing. He received only the letter from Ms. Ruggi for this particular meeting. Mr. Santacrose said there is more to the process about the standing of any individual or organization than just representation between the liaison group chair and co-chairs. He feels his chairmanship does not preclude him from speaking as an individual and a participant in this process, citing his long participation and consistent attendance at meetings over the years.

A letter from Merrillyn Pulver was entered for the record (attachment 7).



ATTACHMENT 1

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

**HUDSON RIVER PCBs SITE
REASSESSMENT RI/FS
OVERSIGHT COMMITTEE
WEDNESDAY, JULY 15, 1998
KINGSTON, NY**

A G E N D A

7:30	Welcome and EPA Update	Bill McCabe, USEPA
7:45	Roger's Island Removal Assessment	Bill McCabe, USEPA
8:00	Peer Review	Damien Hughes, USEPA
8:20	Migratory Bird Treaty Act	John Santacrose, Chair, Environmental Liaison Group
8:30	Update on Reassessment Related Activities	Committee Members
9:00	General Audience Discussion	
	Closing	

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**US ENVIRONMENTAL PROTECTION AGENCY
HUDSON RIVER PCBs REASSESSMENT
REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

**Community Interaction Program
Hudson River PCBs Oversight Committee Meeting
Kingston, NY
July 15, 1998**

NAME	ADDRESS	AFFILIATION/TELEPHONE
Richard McCollum	Corps of Engineers 700 Federal Building KCMO 64106	916-483-3370
William T. Ports	50 Wolf Rd. Albany NY 12233	NYDEC 518-457-5677
Sherry Morgan	USFWS 3817 Luker Rd. Cortland, NY 13045	U.S. Fish & Wildlife Service 607-753-9334
J. P. GONTIER	1221 RT 295 E. CHATHAM, NY 12060	Cd. Cc. Em C
John Santacrose	Po Box 3705 Albany, NY 12203	AS NY/AI (518) 489-9945
Marian Trieste	463 RT 32 Schuylerville NY 12871	Sierra Club
DARREY DECKER	Cambridge, N.Y.	Govt Liaison Group
John Dergosits	200 Southern Blvd Albany NY 12201	NYSCent Corp. 518/471-5000
Jean Leubardt	6E 13 Locust St Glens Falls NY 12801	518-792-3856

**US ENVIRONMENTAL PROTECTION AGENCY
HUDSON RIVER PCBs REASSESSMENT
REMEDIAL INVESTIGATION/FEASIBILITY STUDY**

**Community Interaction Program
Hudson River PCBs Oversight Committee Meeting
Kingston, NY
July 15, 1998**

NAME	ADDRESS	AFFILIATION/TELEPHONE
Michael Schweiger	1 computer Drive Albany, NY 12205	GE 518458 6648
Michael	1722 I St NW Arlington, VA 22206	SHA
Conduct	11	11
Pat Casano	1299 RA Ave., N.W. Suite 1100 WASH., DC 20004	GE - 202/637-4228
BRAD CUSHING	16 CHESTER COUNTY COMMONS MALVERN, PA 19355	ASM, Inc. 610-251-0950
Rob Partok	15375 SE 30th Plm Bellevue WA 98007	Exponent Environmental (425) 643-9803
Cara Lee	Scenic Hudson 9 Vassar St POK 12601	914-473-4440
Andy Melt	Common POK	917-454-7673

US ENVIRONMENTAL PROTECTION AGENCY
HUDSON RIVER PCBs REASSESSMENT
REMEDIAL INVESTIGATION/FEASIBILITY STUDY

Community Interaction Program
Hudson River PCBs Oversight Committee Meeting
Kingston, NY
July 15, 1998

NAME	ADDRESS	AFFILIATION/TELEPHONE
Jay Silkworth	Corporate R&D PO Box 8 Schenectady NY 12301	General Electric 387-5895
WALT DEMICK	50 WOLF RD	NYSDEC
DAVID ADAMS	216 STAGE RD, CHARLTON, NY 12019	SAR CO, EMC & GOV'T. LIAISON COMM.
Kent Pierce	721 Broadway - Kingston	WRNN-TV
Jim May	2545 County Rt 3 Olivebridge NY 12461	Sierra Club
Daphne Ross	112 Market St Poughkeepsie, NY 12601	Hudson River Sloop Clearwater, Inc.
Marilyn Ruben	2842 County Rt 46 Sat Edward	Ag Liaison Comm.
K. Turk	Corporate R&D POB 8 Schenectady NY	GE SLB 387-5890
J. Sampson		Exponent

US ENVIRONMENTAL PROTECTION AGENCY
HUDSON RIVER PCBs REASSESSMENT
REMEDIAL INVESTIGATION/FEASIBILITY STUDY

Community Interaction Program
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NAME	ADDRESS	AFFILIATION/TELEPHONE
Rich Schiefel	9 Vassar St Poughkeepsie, NY 12601	Scenic Hudson 914-473-4440

Hudson River PCBs Site
3/9/98

ATTACHMENT 3

DOCUMENT	DATE
PHASE 2 REPORTS:	
1- DATABASE REPORT (completed)	NOV 95
2- PRELIMINARY MODEL CALIBRATION (completed)	OCT 96
3- DATA EVALUATION & INTERPRETATION (completed)	FEB 97
3A- Low Resolution Coring Report	JUL 98
Human Health Risk Assmt Scope of Work	JUL 98
CD-ROM Database Reissue	JUL 98
Ecological Risk Assmt Scope of Work	SEPT 98
Feasibility Study Scope of Work	SEPT 98
<i>Responsiveness Summary</i>	
<i>DBR, PMCR, DEIR, LRC and HHRA SOW</i>	DEC 98
4- BASELINE MODELING REPORT	MAY 99
<i>BMR Responsiveness Summary</i>	JAN 00
5- ECOLOGICAL RISK ASSESSMENT	AUG 99
6- HUMAN HEALTH RISK ASSESSMENT	AUG 99
<i>ERA and HHRA Resp. Summary</i>	APR 00
Phase 2 Peer Review Begins	OCT 99
Phase 2 Peer Review Comments Complete	MAR 00
Response to Peer Review Comments	AUG 00
PHASE 3 REPORT	DEC 00
PROPOSED PLAN	DEC 00
RECORD OF DECISION	JUN 01
<i>RESPONSIVENESS SUMMARY</i>	JUN 01



Hudson River PCBs Site Reassessment RI/FS Peer Review

Region 2 recognizes the need for peer involvement for the Reassessment. The Reassessment is a major scientific effort that has several components which are major scientific and/or technical work products that have not previously been peer reviewed. As defined in the Peer Review Policy, peer involvement is the process whereby Agency staff involve subject-matter experts from outside their program in one or more aspects of the development of work products. Peer involvement takes two general forms:

- a. Peer Input: Ongoing iterative discussions during the development of a work product.
- b. Peer Review: A documented critical and objective evaluation of a work product.

The key distinctions between peer input and peer review are the independence of the peer reviewers and their level of involvement. The goal of peer review is to obtain an independent, third-party review of a work product from experts who have not substantially contributed to the development of the work product.

Region 2 believes that the Scientific and Technical Committee (STC) established for the Hudson River site satisfies the need for peer involvement. However, the Hudson River STC does not qualify as an appropriate peer review group as most members of the STC are not independent. Therefore, the Region has developed the process outlined below, to conduct the peer review of the Hudson River Reassessment. EPA's Science Policy Council Peer Review Handbook can be accessed via the Internet at: <http://www.epa.gov/ordntrnt/ORD/spc/sopmenu.htm>

Two Steps - The peer review for the Hudson River PCBs site will be done in two steps.

- 1) The first peer review will consist of a review of the appropriateness of computer models and their application to the site. Including, the Preliminary Model Calibration Report (PMCR), a revised Scope of Work for the Baseline Modeling Report, and responses to selected public comments on the PMCR.

EPA released the names of the reviewers on July 1, 1998, and the peer review will occur September 9-10, 1998. The panel will consist of 7 reviewers.

- 2) The second peer review will consist of a review of the following specific aspects of the Phase 2 Reports:
 - Geochemistry (the Data Evaluation and Interpretation Report (DEIR) and the Low Resolution Coring Report (LRC)
 - Baseline Modeling Report (BMR)
 - Ecological Risk Assessment (ERA)
 - Human Health Risk Assessment (HHRA)

The concurrent review of these reports will allow for interaction of review panels as appropriate. (E.g., discussions between reviewers of the biota uptake models and those reviewing the ecological risk assessment.)

The second peer review session will be conducted after the release of all Phase 2 Reports (October 1999). Each panel will have 5 to 7 reviewers. We hope to utilize the same reviewers for the BMR review as were used for the PMCR.

Given the controversy surrounding this site, it was decided that it was important to have external peer review, with a discussion session that will be open to public observation.

The peer review is being conducted by an EPA contractor, Eastern Research Group, Inc. (ERG). The contractor will be responsible for hiring all peer reviewers and preparing the comment documents.

The credibility of the peer review lies on the independence of the reviewers. Special emphasis has been placed on identifying peer reviewers that have no conflict of interest.

Peer reviewers will submit their comments on the Reassessment reports prior to the review session, and comments will be distributed to other reviewers and the public.

Public Involvement:

The peer review will be open for public observation.

Observers will be given a limited opportunity in which to comment.

No comments from observers outside of the designated period will be allowed.

PMCR (First) Peer Review Experts:

Ellen Bentzen, Ph.D., Research Scientist, Department of Environmental and Resource Studies, Trent University, Peterborough, Ontario, Canada

Miriam Leah Diamond, Ph.D., Associate Professor, Department of Geography, University of Toronto, Toronto, Ontario, Canada

James W. Gillett, Director, Superfund Basic Research and Education Program and Professor of Ecotoxicology, Cornell University, Ithaca, New York

Gordon Douglas Haffner, Ph.D., Professor, Department of Biological Sciences, University of Windsor, Windsor, Ontario, Canada

Alan W. Maki, Ph.D., Environmental Advisor, Exxon Company, USA, Houston, Texas

Thanos Nicholas Papanicolaou, Ph.D., Assistant Professor, Department of Civil Engineering, Washington State University, Pullman, Washington

Frank Wania, Ph.D., Independent Research Scientist, WECC Wania Environmental Chemists Corp., Toronto, Ontario, Canada

ATTACHMENT 5

July 10, 1998

Honorable Carol Browner
Administrator
U.S. Environmental Protection Agency
401 M Street SW
Washington, D.C. 20460

RE: Hudson River PCB Superfund Site

Dear Administrator Browner:

If the goal of your testimony to Assemblyman Richard Brodsky on July 9 was to increase public confidence in the scientific principles upon which EPA's Reassessment is based upon, you failed. What you did accomplish, however, was convincing the public that the Agency is predisposed to dredging Hudson River PCBs — a fact which taints EPA's entire Reassessment process.

According to your prepared statement, EPA "will not turn away from [its] responsibilities, even when they require dredging." That comment, coupled with the fact that EPA kept secret from the public a controversial landfill siting study that attempted to identify sites in Washington, Rensselaer and Saratoga counties for Hudson River PCBs, leads to the conclusion that the Agency has already made its decision to dredge the river and is only now accumulating the scientific justification for that decision.

Your contradictory statements regarding the science upon which the Reassessment is based upon also leads me to believe a disastrous Hudson River dredging project is in our future. On the one hand, you claim that EPA "do[es] not have every single answer, nor every single piece of data." On the other hand, you state that EPA has all the data it needs to render a decision; additional, more up-to-date information is not necessary.

If the Agency wanted a decision based on sound science, it would consider the latest research which shows PCB levels in the water, fish and sediment of the Hudson are steadily declining. These improvements are a result of GE's and DEC's efforts to cut off sources of PCBs at the Hudson Falls plant site. In addition, the Agency would learn that dredging PCB hotspots in the Thompson Island Pool would not improve river conditions faster than is already occurring — because these are not the PCBs that are getting into the fish.

The scientific integrity of the government's view is of the utmost importance to the people who live on the shores of the Hudson River. Yet your appearance in front of Assemblyman Brodsky prejudices that view, making your staff look selectively at the data to substantiate your politically-motivated decision that dredging is appropriate for the Hudson.

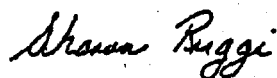
Your decision to testify at Mr. Brodsky's "media event" was nothing more than a transparent political ploy, one that is especially appalling since you have never spoken to the people, like myself, who have been instrumentally involved on this issue for more than 20 years — people, I might add, who have different views from your own. You recently testified in front of Congress that public participation should be an integral component of every Superfund decision. Your decision to not answer public questions during Assemblyman Brodsky's hearing sends the message that you are only interested in involving those public constituencies who unconditionally support your views. All others you ignore.

The Hudson River is the largest Superfund site in the country. It is also unique in that EPA is conducting the Reassessment on its own, rather than overseeing work produced by the Potentially Responsible Party (PRP). EPA should be setting the standard by which every future Superfund assessment is based. Instead, PRPs are learning the following:

- You don't need all the science to choose a clean-up approach;
- You can selectively choose the data you incorporate into your Reassessment to justify your politically-charged decision;
- You can thumb your nose at the interested public and those who would be most directly affected by your decision; and,
- You can conduct your assessment like a political campaign, presenting inaccurate information to the media in an attempt to curry public favor for your views.

EPA should take its own advice and "work together" with GE, DEC and the citizens who live and work along the Hudson River — instead of making politically-charged statements that have nothing to do with the facts.

Sincerely,



Sharon Ruggi
Member
EPA Environmental Liaison Group

ATTACHMENT 6

July 15, 1998
OVERSITE COMMITTEE MEETING


Imagine the moral dilemma I faced when I opened the newspaper Friday July 10th to read the highlights of EPA Administrator Carol Browner's testimony at the Assembly Committee Hearings. After the years of suspicion that the EPA had infact made a final decision in this Reassessment, and after years of the EPA repeatedly saying that it had not, I see now that it really, really, has made that final decision.

Shaking my head, I felt sorry for all the work that I and others have done, and for all of the meetings that I and others have attended over the years. Now though, I even feel sorry for all of the people at the EPA and TAMS that I've come to know over the years. Not only has my participation been a sham, but all of their work has also become a sham with Ms. Browner's statements. But, atleast they still get a paycheck, I'm just left with a really big stack of worthless paper.

I could go into detail here, pick apart each statement and accusation Ms. Browner made at the testimony, but why??? Each time that we have faced a crisis in the Reassessment and I've asked "why" - why continue - it was only for effect. Each time I knew that there was no way that I wasn't going to see this thing through to the end. And I know that you all knew that too.

But this time is different, this feels different, my instincts are holding me back and making me cautious in a way I've never felt before.

This time I really, really, don't know what to do.



Judith Schmidt-Dean
Chair - Citizen's Liaison Committee

ATTACHMENT

7

1-2

July 15, 1998

Ms. Ann Rychlenski
Community Relations Coordinator
USEPA, Region II
290 Broadway, 26th Floor
New York, N.Y. 10007-1866

Dear Ann:

Below please find the comments I have prepared for submission into the record of July 15th's Hudson River Oversight Committee meeting. I appreciate your willingness to read these comments on my behalf at Wednesday's meeting:

To the members of EPA's HROC Committee:

As many of you know, the summer is the most active in a farmer's year — so busy that a two-hour trip on non-farm business is nearly impossible to fit in. As such, I was unable to make the trip to Kingston for tonight's meeting. I urge EPA, in the future, to hold meetings at a time and place accessible to all those willing to attend.

According to Ann Rychlenski, tonight's agenda will include a discussion of EPA's peer review panel. I'd like to reiterate and elaborate my thoughts regarding this process.

As I understand, EPA is not allowing the peer review panel to review scientific documents prepared by individuals or groups other than EPA. I cannot understand this decision.

EPA's peer review guidelines do not restrict review of independently-prepared comments, data and research. In fact, the guidelines support it. According to EPA's Science Policy Council Handbook on Peer Review, and I quote: "The principle underlying the Peer Review Policy is that all major scientific and technical work products used in decision making will be peer reviewed. When in doubt about whether to peer review a work product or not, always decide to make it a candidate for peer review."

The peer review panel has been selected because of their scientific qualifications and their lack of knowledge about Hudson River PCBs. As a result, the reviewers will have no way of knowing when to question EPA's theories, hypotheses or data.

Exposure to outside comments should not sway the panel's support of EPA's conclusions, if such support is justified. However, comments from outside sources will provide panel members with the full range of opinion, site-specific characteristics and historical data that will assist them in their review.

For example, in the Data Evaluation and Interpretation Report released last year, EPA failed to distinguish between PCBs buried in sediment and PCBs in the surface layers. Such a distinction may seem trivial to a peer review panel unfamiliar with the fate and transport of Hudson River PCBs. In reality, the question is critical to determining which PCBs get into fish and other wildlife, an issue which directly impacts EPA's choice of a remedial alternative for the river.

I urge EPA to reconsider its decision not to allow the Hudson River peer review panel to review documents prepared by DEC, GE, the Scientific and Technical Committee and

others who have been working with EPA for many years to resolve this issue. Only then will we be certain that EPA's reports and conclusions are based on sound science.

On the submission of questions for review by the peer review panel, I wholeheartedly support EPA's decision to allow the public to submit questions to the peer review panel. However, members of the joint liaison groups were given only one week to prepare these questions. Many of us who participate in EPA's public participation program do so on a voluntary, part-time basis. We have chosen to take critical time out of our daily lives to ensure EPA's Reassessment is on track. One week is certainly not long enough for me to prepare educated, thoughtful questions for the peer review panel's consideration. To ensure the peer review panel answers the full range of public questions, I recommend that EPA extend the period for public submission of questions.

In addition, I trust that EPA's request for early submission of peer reviewer questions will not impede the public's opportunity to directly question peer review panelists during their two- or three-day review meeting. After all, when the public becomes privy to the comments and conclusions made by the panel, additional issues and areas of concern are certain to arise, necessitating an additional public question-and-answer period.

Regarding Administrator Browner's recent visit to Albany to testify at the politically-staged public hearing on the Hudson River put together by Assemblyman Brodsky: Administrator Browner's politically-charged attacks on GE and her complete omission of the Agency's secret landfill siting study were startling and discouraging. Yet Admin. Browner did make one very critical point: that nothing is to be gained by not working together during this Reassessment process.

Members of the joint liaison committee agree. That's why we held a joint liaison committee hearing last year to review the conclusions EPA made in its DEIR report. EPA, the state Department of Environmental Conservation, General Electric Co., Scenic Hudson, Sloop Clearwater and other interested parties were asked to participate. The joint liaison meeting was held, with excellent attendance by citizens. Unfortunately, EPA did not send a single representative.

Now, another technical disagreement has arisen, that which involves the importance of the Thompson Island Pool sediments. GE has advanced the theory that a sampling station, used both by GE and EPA, at the Thompson Island Pool is biased, leading to the inaccurate assumption that buried sediments from the area are making their way into the water column and getting into the fish. EPA, on the other hand, continues to maintain that these sediments are the primary cause of contamination to fish and other wildlife downstream. This is a critical issue that must be resolved prior to any Hudson River remedial decision. And yet, EPA has continued to put off a public review of its theory versus GE's. Enough is enough. Let's get the science on the table and figure out which view is scientifically sound. Too much is at stake to proceed without it.

I also reiterate my request, initially made at the HROC meeting in January, for EPA to come to the Town of Fort Edward to explain the Agency's secret landfill siting study. As a town councilwoman, I am constantly asked questions regarding this report. My constituents want to know how this report will be used in the future, what data was used to determine that Site 10 was the most suitable site for a PCB dump, why EPA failed to consider the site's agricultural character in its evaluation and why, if, as Administrator Browner recently testified, PCBs are "a serious health threat," why EPA is leaning toward digging up these toxic chemicals for storage in a landfill in our community.

ATTACHMENT 7
2-2

My constituents are not able to attend meetings in Latham, Albany or further south. Yet these are the people who would be most directly affected by the Agency's decision to site a landfill in Fort Edward. The questions of the people of Washington County deserve to be answered. A meeting in Fort Edward should be EPA's top priority.

Finally, regarding EPA's upcoming joint liaison meeting on July 23: Last year, EPA badly mishandled release of its Data Evaluation and Interpretation Report. Joint liaison members received the report only one day before the only public meeting on the document — one day to review 142 pages of text, a 100-page data quality appendix and a two-inch thick compendium of figures and tables. The people who sit on these committees are not, for the most part, scientists and cannot adequately review this breadth of material in less than a day. Therefore, we cannot come to a meeting less than 24 hours later prepared to ask informed questions.

Now, EPA is planning to release its low-resolution coring report and the scope of work for the human health risk assessment, two critical documents in the Reassessment. Again, I have not yet received these reports, even though the scheduled meeting is little more than a week away. I believe this is a deliberate attempt by the Agency to preclude meaningful questions and debate of its reports — a move that jeopardizes EPA's entire public participation process. I strongly urge EPA to release these documents to the joint liaison group members at least one week prior to a discussion on the reports' contents. If the meeting on the 23rd needs to be postponed for such a purpose, so be it.

Thank you for the opportunity to submit these comments.

Sincerely,


Marilyn Pulver