



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;
- Merrillyn 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 landfiling, 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	

10.9263

**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	816-483-3370
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 285 E. CHATHAM, NY 12060	Cd. Co. Em C
John Santacrose	Po Box 3705 Albany, NY 12203	AS NY/AI (518) 489-9445
Marion Trieste	463 RT 32 Schuylerville NY 12871	Sierra Club
DARRELL DECKER	Cambridge, N.Y.	Gov't Liaison Group
John Dergosits	200 Southern Blvd Albany NY 12201	NYSCent Corp. 518/471-5000
Jean Cuthardt	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
noel Schweiger	120 computer Drive Albany, NY 12205	GE 518458 6648
Al Moebett	1722 I St NW DC 20006	SHA
Ken Burtis	"	"
Pat Cosano	1299 PA Ave., N.W. Suite 1100 WASH., DC 20004	GE - 202/637-4228
BRAD CUSHING	16 CHESTER COUNTY COMMONS MALVERN, PA 19355	AEM, Inc. 610-251-0950
Rob Pastork	15375 SE 30th Place Bellevue WA 98007	Exponent Environmental (425) 643-9803
Carla Lee	Scenic Hudson 9 Vassar ST POB 12601	914-473-4440
Andy Mule	CLUMMATION POB K	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	Rg Liaison Comm.
K. Tuck	Corporate R&D POB 8 Schenectady NY	GE 387-5890
J. Sampson		Exponent

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
Rich Schiefel	9 Vassar St Poughkeepsie, NY 12601	Science 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.

10.9271

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.

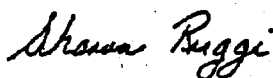
Your decision to testify at Mr. Brodsky's "media event" was nothing more than a transparent political ploy, one that is especially appalling since you have never spoken to the people, like myself, who have been instrumentally involved on this issue for more than 20 years — people, I might add, who have 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

10.9273

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