



**BOARD OF SUPERVISORS
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November 26, 1991

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Murray
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Action
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Constatine Sidamon-Eristoff,
Regional Administrator
United States Environmental Protection Agency
Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, New York 10278

Dear Administrator Eristoff,

As chairpeople of liaison groups involved in the Hudson River PCB RI/FS, we are angered and concerned that NYSDEC is undermining the objectivity of the EPA reassessment. DEC's activities call into question the value of our participation in the CIP.

NYSDEC asked for this reassessment in 1989, yet Commissioner Jorling and his department continue to pursue their commitment to a dredge and landfill project in an obvious attempt to prejudice the outcome of the ROD:

*John Dergosits, DEC project manager: "We hope to be in a position to have a site available when the EPA assessment comes in saying we should dredge the river." (Glens Falls Post-Star, Oct. 11, 1991)

*NYSDEC contract with the engineering firm Malcolm Pirnie was increased in August by \$800,000. This contract includes:

- a. Site exploration and landfill design at Site 10.
- b. Dredging engineering.
- c. Preparation of federal and state permit applications including TSCA and wetland permits.
- d. Preparation of NYS Hazardous Waste Siting Board hearings.

To our knowledge none of this work has been requested by EPA as necessary to the reassessment.

*The EPA reassessment relies on DEC data that may be tainted by DEC's commitment to a dredge project.

We brought these concerns to the attention of EPA at a Steering Committee meeting on October 16, and raised specific questions regarding the EPA/DEC relationship:

1. Is a draft TSCA permit application, or any other permit application now before EPA? Why are other Federal agencies, Army Corps, Department of Interior, reviewing draft permit applications before the ROD is issued?
2. If the EPA ROD recommends a remedial alternative other than dredging can DEC proceed on its own with a dredge project at an EPA Superfund Site?
3. If DEC proceeded with dredging project, would EPA grant a TSCA permit, despite a no-dredge ROD?
4. What federal regulations or statutes require that a dredge ROD include the use of Site 10 as a disposal site. Presumably in a Superfund project the PRP and EPA would jointly select the most environmentally sound disposal site based on the specific requirements of the ROD.

We were promised a response to these concerns and questions by the Oversight Committee meeting of October 22. Answers were not available on the 22nd and to date we have heard nothing. EPA's failure to respond further questions the value of CIP participation.

The credibility of EPA's reassessment is so damaged that it can only be restored if:

1. NYSDEC immediately stops all activities within the agency that are not specifically requested by EPA as necessary to the reassessment, including landfill site exploration, landfill design, dredging engineering, draft permit applications both federal and state, preparation for NYS Siting Board hearings, and review of draft permit applications.
2. EPA must stipulate that if there is a no-dredge ROD the agency will not grant a TSCA permit for a landfill project.
3. NYSDEC must stipulate that it will abide by the EPA ROD.
4. All Federal Agencies must halt all DEC permit application reviews until the EPA ROD is issued.
5. EPA must remove multiple DEC representatives on the Science, Steering, and Oversight Committees. The one DEC representative allowed cannot be a public relations person.

6. The science committee must be given true oversight capability to review and pass on the quality of data and its analysis in order to:

- a. Prevent tainted DEC data from entering the decision making process unchallenged

and

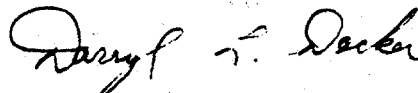
- b. Insure the quality of EPA's own work in the reassessment

Science committee recommendations must be shared with all the liaison groups prior to EPA taking action on them.

7. EPA must make available to the liaison groups expert private legal counsel acceptable to the liaison groups to insure that all applicable federal regulations including the NCP, RAGS, AND EPA RI/FS Guidance are being following by EPA staff and consultants in the reassessment process.

A satisfactory resolution of this problem can occur through your personal involvement. Only a meeting with you to discuss the implementation of these points will rescue the CIP and the reassessment itself from their present disastrous course.

Sincerely,



Darryl L. Decker, Chairman
Government Liaison Group

And on behalf of the following Liaison Group Chairs and Co-Chairs:

Keith H. Griffin, Government Liaison Group
Paul F. Lilac, Government Liaison Group
Judy Schmidt-Dean, Government Liaison Group
Ennio Ruggi, Citizen Liaison Group
Carl Deppe, Environmental Liaison Group
Thomas A. Borden, Agricultural Liaison Group
Merrilyn Pulver, Agricultural Liaison Group

cc: William Reilly,
Administrator,
Environmental Protection Agency