

September 8, 1997

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

**RE: Hudson River PCB Superfund Site  
Public Participation Program**

Dear Administrator Browner:

We the undersigned are leaders and members of the EPA's Liaison Committees to the Hudson River PCB Superfund Site Reassessment. We are writing to express our profound concern with the conduct of EPA's public participation process, and to ask for your help in expanding opportunities for meaningful public involvement.

We are citizens, local government officials, small business owners and farmers. Many of us were active on this issue for 10 years before the start of this Reassessment. We greeted EPA's promise of full public participation with enthusiasm and were eager to serve on the liaison committees. We have tried diligently, at considerable personal sacrifice and expense, to participate over the last seven years in EPA's process. Unlike others in the Reassessment, we are not paid to participate, nor are our expenses reimbursed, by advocacy groups, governments or industry. We participate only to represent the best interests of our communities.

We have found that, despite EPA's repeated pledges of open process and full public participation, the critical Phase II of this Reassessment has proceeded without meaningful public participation. EPA has curtailed opportunities for public comment, review and reaction to its most important technical reports. There have been fewer public meetings held at progressively longer intervals; significantly less communication with EPA; too little time to review important Agency documents; and, worst of all, no formal response from EPA to the critical questions, comments and objections that have been raised about EPA's Modeling Calibration and Data Evaluation and Interpretation reports.

Following issuance of the Phase I report, EPA held a public comment period and issued a "responsiveness summary," in which it summarized and reacted to all of the public comments it had received. This approach was constructive and informative, not only

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because it provided an opportunity to read and evaluate EPA's responses to our comments, but because it also gave us access to the comments made by all of the other interested parties.

EPA has divided Phase II into six individual reports, with comment periods following each. However, the Agency has not responded in any formal or substantive way to the public comments it receives and says it has no plans to do so at this time. Moreover, Agency representatives have resisted our requests to provide an overview and response during the infrequent public meetings that have been held during Phase II.

Without a "responsiveness summary" from EPA, writing comments, raising questions and expressing concerns amounts to no more than howling in the wilderness. We have no idea what other parties may have said to EPA, no idea whether EPA understood, agreed or disagreed with comments it received, no idea whether EPA revised its conclusions or affirmed them. Without substantive feedback at this critical point in the process, it is virtually impossible for us to participate meaningfully.

This approach does not benefit EPA or the public. Agency representatives have rationalized that preparing a "responsiveness summary" would take too long or cost too much. It's hard for us to accept either excuse, considering that EPA has already spent \$12 million or more and devoted seven years to this Reassessment. Who would criticize EPA for modestly extending its schedule to listen and respond to the interested public serving on the very liaison committees it established to promote public participation?

At the outset of the Reassessment, EPA representatives said the Community Interaction Program was established so that interested parties would have access to EPA management during the Reassessment — a worthwhile goal that we enthusiastically embraced. A Steering Committee, consisting of the chairs of the four liaison groups as well as representatives of EPA and the New York State Department of Environmental Conservation, was set up as a channel of communication to the Hudson River PCB Oversight Committee (HROC). However, there has been no communication because neither the Steering Committee nor the Oversight Committee has had a public meeting in years. In fact, it is not clear to us whether these groups even exist at this point. Thus, there has been no opportunity for us to raise issues with EPA management.

HROC and the Steering Committee would have been ideal for deliberation of several key technical controversies and policy questions — for instance, those involving EPA's models (why did EPA calibrate its models to the most anomalous period in recent Hudson River history?) and its recently released "conclusions" about river conditions (what is the scientific evidence for EPA's theory that PCBs are being flushed out of the Thompson Island Pool?). Rather than reviewing these fundamental issues with the very committees EPA established, it published a document that raised only more questions and more objections. This is not the way to build public understanding or consensus.

EPA's July 1995 "Superfund Update" on the project, promised that: "Once the Phase 2 and Phase 3 Reports are issued, CIP meetings will be held more frequently." There is a need for meetings now and no justification for waiting until the end of Phase 3, the feasibility study.

In late 1995, when EPA issued its data base report, the data were made available on CD-ROM. When EPA Project Manager Doug Tomchuk was asked whether EPA or its contractor representatives would be available to answer questions about how to read the data on the CD ROMS, he said no. If EPA really wanted citizen participation, help would be made available.

Last fall, when EPA issued its Preliminary Model Calibration Report (two volumes with 157 pages of text and more than 100 pages of tables and figures), the report arrived only days before a single public meeting was held. Such late arrival precluded any opportunity for serious review of the document.

In February, EPA released its Data Evaluation and Interpretation Report (three volumes with 142 pages of text, a 100-page data quality appendix and a two-inch thick compendium of figures and tables). It arrived one day before the only public meeting on the document.

Sharon Ruggi contacted EPA's Ann Rychlenski to request a briefing for members of EPA's liaison committees prior to the general public meeting. Ms. Rychlenski said at first that she believed such a briefing could be arranged, but called later to say project officials could not be prepared to meet with the citizens the afternoon of the meeting. Imagine our dismay when we learned that the project manager did find time to hold a press conference that afternoon. Our conclusion is that EPA was more interested in getting media

attention for its questionable conclusions rather than facing the pointed questions of the citizens who have participated in this process for seven years.

There has been some speculation that EPA intentionally sent the report late in order to preempt public discussion and questions. When members of the public complained about receiving the report late, Project Manager Tomchuk replied: "We wanted to get the report out a little bit sooner, but we've scheduled this meeting in order to explain a lot of the report, so that you would have the benefit of hearing this before going into it because it could be confusing. It's sort of like a classroom situation where a teacher presents the material and then you read about it in your textbook to solidify it."

Mr. Tomchuk's language here is more telling than he probably intended. It reflects a cynical and patronizing view of public participation: EPA teaches the public what to think. While we may not possess all of the technical resources that EPA or other parties bring to this process, we are fully prepared, on our own, to read, evaluate and comment on EPA's reports — and those of other parties as well. The very reason for the public process is so that each interested party can evaluate the strength and quality of the data and reach an independent conclusion about what remedial action may or may not be appropriate.

Responding to our requests for more time to read the report and ask questions of EPA, Mr. Tomchuk did raise the possibility of having a phone-in session, in which interested members of the public could call EPA for answers, before the public comment deadline of April 11, 1997. No such session was ever scheduled.

During the meeting, Mrs. Ruggi proposed that a joint liaison committee meeting be held to review EPA's conclusions. We took matters into our hands and invited EPA, the state Department of Environmental Conservation, General Electric Co., Scenic Hudson, Sloop Clearwater and any other interested parties to participate. The joint liaison meeting was held, with excellent attendance by citizens. GE presented their research findings and conclusions. EPA did not send a single representative.

Mr. Tomchuk extended an invitation to the public to attend the Science and Technical Committee meeting of March 25 and 26, 1997, with the caveat that we not ask

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questions or take part in the discussion, but come and "quietly watch." We're pleased to see the Science and Technical Committee meeting, but why not permit the citizens to ask the independent scientists what they think of EPA's models and conclusions?

Administrator Browner, we feel it is important for you to know that, as far as the Hudson Reassessment goes, EPA has created the pretense of public participation without the fact. We ask you to take a personal interest in this problem. Our requests are reasonable:

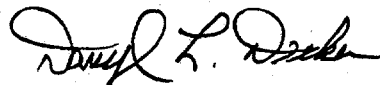
1. That EPA issue substantive responses to all comments on all reports;
2. That EPA issue reports at least two weeks in advance so there is ample time for review prior to public meetings;
3. That EPA hold public meetings on at least a quarterly basis, so that all interested citizens can participate, and that it include in the public record the minutes of all meetings held by the liaison committees;
4. That the Hudson River Oversight Committee and the Steering Committee meet at least quarterly to discuss technical and policy issues; and,
5. That the citizens have access to the independent scientists on the Science and Technical Committee to discuss technical issues in depth.

We read recently about your testimony before Congress, in which you extolled the virtues of public participation and assured our elected representatives that your Agency is committed to improving communication, involving local communities in decision-making, and pursuing a consensus-building process. Our experience thus far stands in stark contrast to your commitment.

Sincerely,

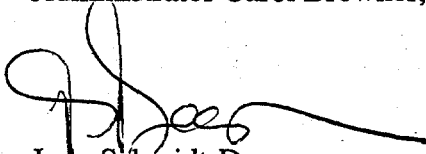


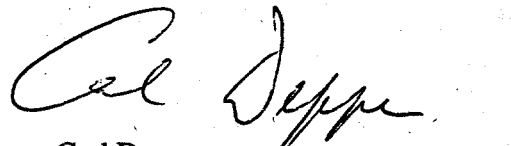
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EPA Agricultural Liaison Group

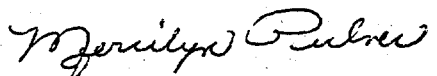


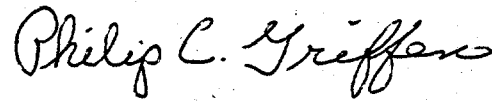
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EPA Governmental Liaison Group

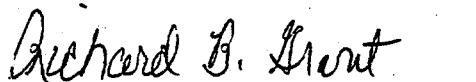
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EPA Citizens Liaison Group


  
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EPA Agricultural Liaison Group


  
Rick Grant  
Member  
EPA Agricultural Liaison Group

  
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Co-Chair  
EPA Citizens Liaison Group

  
Ennio Ruggi  
Co-Chair  
EPA Citizens Liaison Group

  
Sharon Ruggi  
Member  
EPA Environmental Liaison Group

  
Keith Griffin  
Co-Chair  
EPA Governmental Liaison Group

  
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Co-Chair  
EPA Governmental Liaison Group

15 Burgoyne Ave.  
Hudson Falls, N.Y. 12839



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

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