

OFFICE OF THE COMMISSIONER

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DEC 20 2016

Ms. Judith A. Enck
Regional Administrator, Region 2
United States Environmental Protection Agency
290 Broadway
New York, NY 10007-1866

Dear Regional Administrator Enck:

I am writing as a follow up to my previous letters to you dated August 21, 2016 and November 14, 2016 regarding the Environmental Protection Agency's ("EPA") ongoing Five-Year Review of the Hudson River remedy. As noted in the enclosed report, the Department of Environmental Conservation (DEC) concludes that EPA must determine that the remedy is not protective of human health and the environment. Before a protectiveness determination can be achieved, EPA must require General Electric (GE) to conduct additional expedited investigations, sampling, and any necessary remedial work.

In order to determine the extent of additional dredging needed to achieve a determination of protectiveness for the Upper Hudson, DEC strongly recommends that EPA perform an expedited and a more robust sampling program of sediments and fish. As noted in my November 14, 2016 letter, should EPA fail to implement a more robust sediment sampling plan by the spring of 2017, DEC will step in and do it. Your December 16, 2016 letter makes clear that EPA has failed to recognize the importance of supporting environmental decisions with sound science. New York State will conduct this sampling given you are unwilling to compel GE to act.

Additionally, EPA has largely ignored PCB contamination of the Lower Hudson River. Even more investigation and remedial work is required to achieve protectiveness in the Lower Hudson River. Data collected since the first five-year review - during and after completion GE dredging project - clearly demonstrates that PCB concentrations in water and fish throughout the Hudson River, including the Lower Hudson, are primarily controlled by elevated PCB concentrations from *local* sediment and that these concentrations are driven by past PCB deposition attributed to GE discharges. EPA acknowledged that the dredging of the Upper Hudson River may not be protective of the Lower Hudson River. In fact, EPA's own risk assessors have made statements that there are still unacceptable and uncontrolled risks to human and environmental receptors in the Lower Hudson. Despite this concession, EPA informed the Five-Year

Review team, which includes DEC staff, that its current review may not assess the protectiveness of the remedy for the Lower Hudson River. DEC believes that conclusion is unacceptable, and that EPA must expand the investigation to include performance of a Remedial Investigation/Feasibility Study for the lower portion of the Hudson River between the Federal Dam at Troy and the Battery in New York City.

Failure to implement the recommendations in the report as part of EPA's Five-Year Review is tantamount to turning a blind eye to the Hudson River and the citizens that use it. I sincerely hope that the EPA will carefully consider DEC recommendations and incorporate them into the Five-Year Review to better ensure that the remedy is fully protective of this great natural resource.

Sincerely,

A handwritten signature in black ink, appearing to read 'Basil Seggos', written over a horizontal line.

Basil Seggos
Commissioner

Enclosure

c: Kirsten Gillibrand
Joe Crowley
Steve Israel
Carolyn Maloney
Jerrold Nadler
Jose Serrano
Nydia Velazquez
Yvette Clarke
Eliot Engel
Hakeem Jeffries
Grace Meng
Kathleen Rice
Louise Slaughter
Gina McCarthy