

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Remedial Bureau D
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August 24, 2017

Mr. Robert Gibson
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Eric Merrifield, Esq.
Executive Counsel
Global Operations – Environment, Health & Safety
General Electric
319 Great Oaks Blvd.
Albany, NY 12203

Re: Hudson River PCBs Site, #546031
Long Term Monitoring Program

Dear Mr. Gibson and Mr. Merrifield:

We are sending this letter as a follow up to Mr. Gibson's August 14, 2017 letter to the United States Environmental Protection Agency (EPA) notifying EPA that GE will be performing fish sampling next month in the upper Hudson River. As set forth below, GE's proposed sampling is not sufficient and the New York State Department of Environmental Conservation (DEC) demands GE to conduct a more robust sampling program consistent with this letter.

DEC provided to EPA specific details of the data collection which is necessary to understand the performance of the selected remedy and to provide a sufficient basis to quantify the rates of recovery in sediment, water and fish PCB concentrations during the ongoing Monitoring Natural Recovery element of the remedy.

DEC is prepared to collect forage fish and pumpkinseed samples for PCB analysis should GE not perform the sampling. Samples from these species of fish need to be collected at a spatial scale commensurate with the exposure of fish to the PCB in sediments (on a pool by pool basis). Additionally, sufficient numbers of fish need to be collected to allow for quantification of the rate of recovery in a time frame commensurate with the time to reach the first recovery targets in Record of Decision (five years). To accomplish this, DEC has determined that 102 forage fish samples, and



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146 pumpkinseed samples, need to be collected in the upper Hudson, as laid out in the following table.

River Reach/Pool	Forage Fish	Pumpkinseed	Notes
Reach 8 (Thompson Island Pool)	15	21	
Reach 7 (Landlocked Pool)	20	10	Minimum 10 per pool for PKSD
Reach 6 (Lock 5 Pool)	5	28	Minimum of 5 per pool for Forage Fish
Reach 5 – North (Stillwater Pool)	20	13	Based on stations SW 1-3
Reach 5 – South (Stillwater Pool)	5	10	Based on stations SW 4-5
Reach 4 (Upper Mechanicville Pool)	5	10	Based on stations SW 4-5
Reach 3 (Lower Mechanicville Pool)	5	10	Based on stations SW 4-5
Reach 2 (Lock 1 Pool)	5	10	Based on stations SW 4-5
Reach 1 (Waterford Pool)	5	10	Based on stations SW 4-5
QA samples	17	24	20%
Total	102	146	

The basis for the sample numbers were the available 2016 forage fish and pumpkinseed data and a statistical power analysis using an “alpha” of 5%, a “beta” of 0.8, a 40% change in the mean over five years, and a 40% drop in variance over five years. As no data were available for four of the eight pools, the data from the lower half of the Stillwater Pool were used for the estimate. Minimum numbers of samples per pool were used (five for forage fish, and ten for pumpkinseed) due primarily to this lack of data.

DEC has previously requested that EPA require GE to take these additional fish samples, and as of the date of this letter, DEC is not aware of EPA requiring GE to take these additional samples.

In order to better understand the fish PCB levels in the Upper Hudson, and to further the assessment of the effectiveness of the Hudson River remedy, and pursuant to the Environmental Conservation Law, Article 27, Title 13 and the State Finance Law, Section 97-b, DEC demands that GE, as the party responsible for PCBs present the Upper Hudson River, perform the additional sampling effort.

DEC is prepared to conduct the needed fish sampling if GE does not agree to perform the work. If GE does not agree in writing to the pool by pool fall fish sampling (forage fish

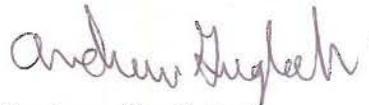
and pumpkinseed) with sample collections as described above by September 7, 2017, the Department will use its authority under applicable law to implement the sampling itself using state funds. The Department reserves all of its rights to recover the costs of such sampling from GE and any other party under applicable federal or state law.

Please feel free to contact me with questions, or to discuss the issues raised in this letter.

Sincerely,



Kevin Farrar
Chief
Remedial Section A



Andrew Guglielmi
Associate Attorney