



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

300 Westgate Center Drive  
Hadley, MA 01035-9589

In Refer Reply To;  
FWS/R5/ES/058725

NOV 17 2014

Mr. Paul J. Sausville  
Chairman  
Board of Supervisors, County of Saratoga  
40 McMaster Street  
Ballston Spa, New York 12020

Dear Mr. Sausville:

This is in response to your letter, dated July 21, 2014, to Ms. Sally Jewell, Secretary of the Interior, forwarding Resolution 149 - 2014, which you indicate was passed by the Saratoga County Board of Supervisors at their July 15, 2014, Board meeting. Your letter was forwarded for my response as the Authorized Official for the U.S. Department of the Interior (DOI) for the Hudson River Natural Resource Damage Assessment case.

Thank you for your interest and concern regarding the Hudson River, both of which we share. We recognize the riverfront communities of Saratoga County have been directly affected by the contamination of the Hudson River with polychlorinated biphenyls (PCB). Our goal is to restore the natural resources of the Hudson River and to provide the public compensation for injuries from PCBs for the benefit of future generations.

Regarding your letter, Resolution 149 - 2014 urges "the Environmental Protection Agency, General Electric Company, the New York State Department of Environmental Conservation, the New York State Attorney General's Office and the United States Department of the Interior to undertake a comprehensive and timely evaluation of the flood plains and backwater areas of the Upper Hudson River, including the Old Champlain Canal in the Villages of Schuylerville and Victory, and to take appropriate remedial action to eliminate the exposure of County residents and individuals to PCB-contaminated sediment." Resolution 149 - 2014 further urges "the Environmental Protection Agency, General Electric, the New York State Department of Environmental Conservation, State Attorney General's Office and United States Department of the Interior to conduct and complete navigational dredging of the Old Champlain Canal and the barge canal system to remove PCB-contaminated sediment, and to bring the barge canal system to the 12 ft. depth mandated by the New York State Constitution before the Dewatering Facility in Hudson Falls is shut down."

Regarding the floodplains and backwater areas, releases of hazardous PCBs from the General Electric (GE) facilities at Fort Edward and Hudson Falls, New York, have contaminated the natural resources of the Hudson River, including the floodplains and backwaters, for decades. Two related but separate efforts, both of which address the contamination of the floodplains and backwater areas, are ongoing on the Hudson River to identify the extent of the problem, find workable solutions, and restore the river, its natural resources, and surrounding habitats. These two efforts are the cleanup and the natural resource damage assessment.

The cleanup of the Hudson River, being overseen by the Environmental Protection Agency (EPA), focuses on reducing current and future threats to human health and the environment. Dredging of contaminated river sediments began in 2009, and is ongoing. However, that dredging is not designed to clean up the PCBs that are already in the floodplains. PCBs move between the river and its floodplains every time the Hudson River floods over its banks. PCBs are present in the floodplains of the Hudson River, potentially impacting wildlife such as mink, bats, and birds living in those areas.

Because of concerns regarding PCBs in the floodplains of the Hudson River, EPA is overseeing a Remedial Investigation/Feasibility Study, a multi-million dollar evaluation of PCB contamination of the Hudson River floodplains. A remedy for the floodplains will be selected once other studies, including risk assessments and feasibility studies, are completed. In conducting those studies, the EPA is required, under the Comprehensive Environmental Response, Compensation and Liability Act (commonly referred to as "Superfund"), to coordinate with DOI. This includes coordination with the U.S. Fish and Wildlife Service, a bureau within DOI, regarding investigations and planning in the Superfund process.

Accordingly, with regard to the first part of Resolution 149 - 2014 noted above, there is an ongoing evaluation of the floodplains and backwater areas of the Upper Hudson River. The determination of appropriate remedial actions is also in process, and EPA is coordinating with DOI regarding that work.

At the same time, PCB contamination of the floodplains is also being addressed in a second effort, which is the ongoing damage assessment and restoration for the Hudson River being conducted by the Hudson River Natural Resource Trustees (Trustees) (DOI, the National Oceanic and Atmospheric Administration, and New York State). Natural resource damage assessments are carried out to ensure appropriate restoration of injured natural resources. On the Hudson River, the damage assessment process focuses on restoring the natural resources injured by PCBs. The Trustees are using scientific studies to carefully measure the ways PCBs have injured natural resources and impaired the use of these resources.

The Trustees have conducted a number of studies that document the presence of PCBs in the surface waters, sediments, floodplains soils, fish, birds, wildlife, and other biota of the Hudson River. The Trustees have collected hundreds of samples over the past 10 to 15 years, and have shared that data with EPA to inform EPA's cleanup work. The Trustees' 2013 report, "PCB Contamination of the Hudson River Ecosystem" (copy enclosed) available at: <http://www.fws.gov/contaminants/restorationplans/HudsonRiver/docs/Hudson%20River%20Status%20Report%20Update%20January%202013.pdf> provides a compilation of contaminant data through 2008, and concludes that living resources at every level of the Hudson's aquatic, terrestrial, and wetland-based food chains are contaminated with PCBs. Trustee studies have determined that natural resources of the Hudson River floodplains, including wildlife such as birds, mink, and bats, are contaminated with PCBs, and are assessing injury to those resources. Funds recovered for those injuries (called "damages") will be used to restore injured natural resources; those natural resources include the floodplains and their wildlife.

Regarding the navigational issues referred to in the second part of the Resolution, these have been and will continue to be considered part of the remedial process being overseen by the EPA, noted above. In addition, New York State, our co-Trustee, is leading the assessment of the loss of navigation services. In a report entitled, "Injuries to Hudson River Surface Water Resources Resulting in the Loss of Navigational Services," available at:

<http://www.fws.gov/contaminants/restorationplans/HudsonRiver/docs/HudsonRiverNRDASurfaceWaterLossNavigationalServicesJuly2006.pdf> the Trustees conclude that the surface water resources of the Hudson River are injured due to historical and ongoing releases of PCBs. Specifically, the public's ability to use the Champlain Canal for navigation has been severely curtailed because the release of PCBs has

caused the suspension of required maintenance due to the prohibitive expense associated with the handling and disposing of PCB-contaminated dredge spoils. The injury to the resource and the restrictions on its use are expected to continue into the future as long as PCB-contaminated sediments that substantially increase the cost of dredging remain in the navigational channel. The public is entitled to be compensated for the loss of navigational services that would have been provided by this injured resource. New York State, as a Natural Resource Trustee, is determining damages associated with this natural resource injury.

Accordingly, with regard to the second part of Resolution 149 - 2014 noted above, DOI supports New York State in its efforts to obtain compensation for the loss of navigational services from PCB contamination.

Again, thank you for your interest and concern regarding the Hudson River. The extensive PCB contamination of the Hudson River by GE has injured natural resources and impaired the services those resources provide to the people of New York State. We are committed to restoration of the Hudson River. We take seriously our responsibility to keep the public informed throughout the damage assessment process, and invite your continued participation in the process.

Sincerely,

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Wendi Weber  
Regional Director