Message

**From:** Mugdan.Walter@epamail.epa.gov [Mugdan.Walter@epamail.epa.gov]
**Sent:** 12/17/2010 9:59:01 PM
**To:** McCabe.Catherine@epamail.epa.gov
**BCC:** Mugdan.Walter@epamail.epa.gov
**Subject:** Re: The NGOs speak

# Ex. 5 Deliberative Process (DP)

Sent by EPA Wireless E-Mail Services

Catherine McCabe

----- Original Message -----
**From:** Catherine McCabe
**Sent:** 12/17/2010 04:15 PM EST
**To:** Walter Mugdan
**Subject:** Re: The NGOs speak

Thanks for sharing, Walter. Not bad. What's your best guess as what other "avenues" NRDC or others may pursue "to make sure GE gets rid of its PCBs to the fullest extent possible"? if this is a threat to sue, it's pretty mild

Catherine R. McCabe
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Walter Mugdan---12/17/2010 04:02:42 PM---Here's the blog from NRDC's Larry Levine. This can perhaps be seen as the expression of the views o

From: Walter Mugdan/R2/USEPA/US

To: Sussman.Bob@epamail.epa.gov, Lisa Feldt/DC/USEPA/US@EPA, James Woolford/DC/USEPA/US@EPA, Southerland.Elizabeth@epamail.epa.gov, Catherine McCabe/DC/USEPA/US@EPA, Elliott Gilberg/DC/USEPA/US@EPA

Date: 12/17/2010 04:02 PM

Subject: The NGOs speak

Here's the blog from NRDC's Larry Levine. This can perhaps be seen as the expression of the views of the other NGOs as well.

--- Forwarded by Walter Mugdan/R2/USEPA/US on 12/17/2010 04:00 PM -----

From: Peter Brandt/R2/USEPA/US
To: Mary Mears/R2/USEPA/US@EPA
Cc: Benny Conetta/R2/USEPA/US@EPA, Berry Shore/R2/USEPA/US@EPA, Beth Soltani/R2/USEPA/US@EPA, Bonnie Bellow/R2/USEPA/US@EPA, David King/R2/USEPA/US@EPA, Douglas Fischer/R2/USEPA/US@EPA, Elizabeth Myer/R2/USEPA/US@EPA, Eric Schaaf/R2/USEPA/US@EPA, garbarini.doug@epa.gov, Gary Klawinski/R2/USEPA/US@EPA, George Pavlou/R2/USEPA/US@EPA, Jennifer May/R2/USEPA/US@EPA, John Senn/R2/USEPA/US@EPA, JohnJ Martin/R2/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, Michael McGowan/R2/USEPA/US@EPA, Paul Simon/R2/USEPA/US@EPA, Walter Mugdan/R2/USEPA/US@EPA, Elizabeth Myer/R2/USEPA/US@EPA
Date: 12/17/2010 03:56 PM
Subject: Larry Levine's NRDC blog

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# EPA announces standards for Hudson cleanup, starts clock ticking for GE to commit to finishing the project

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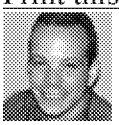

Posted December 17, 2010 in Curbing Pollution, Environmental Justice, Health and the Environment, Saving Wildlife and Wild Places

Tags:

dredging, EPA, GE, generalelectric, hudsonriver, newyork, PCBs

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Today, EPA released its standards for the rest of the massive project to clean up the toxic waste that General Electric dumped in the Hudson River – one of the most cherished and important waterways in America – starting more than 60 years ago.

This highly anticipated release follows months of GE's intense spinning and lobbying for a plan that would protect the second largest corporation in the world's bottom line, at the expense of New Yorkers and, of course, the river.

A more thorough analysis of the over 800-page document and its implications for the river will take some time. But already this is clear: the release of these standards means that EPA heard our call to reject GE's attempts to postpone its day of reckoning. And it sets the stage for the corporation to make a binding commitment to finish a major cleanup of the most contaminated stretch of the river.

And yet, today's announcement is, in essence, a compromise. There's no question that, if the cleanup is implemented under the standards announced today, we and future generations will all be able to enjoy a much

cleaner and healthier Hudson River. And EPA's standards include several safeguards for which NRDC had advocated, and which GE had resisted.

However, we're disappointed to see that EPA has provided GE with an "allowance" of approximately 21% of the cleanup area where the company can cover over toxic waste -- including areas where it could be removed -- after a limited dredging effort. Although EPA says it anticipates 95% of PCBs in the Phase 2 cleanup area will be removed, the standards don't require GE to hit that target (and we haven't yet seen the technical analysis to support that projection). Further, although EPA has retained the discretion to adjust standards as the multi-year project continues, it specifically provides that the capping allowance can only be increased in the future, not made stricter.

EPA's decision starts the clock ticking – GE has exactly four weeks to decide whether it will commit to the standards the agency has outlined or walk away, under a 2006 settlement. Given the decades the $170-billion company spent evading its responsibility to clean up the contamination, it must move forward without delay. And given the allowances EPA has afforded GE in the cleanup standards, the company has no excuse not to opt-in.

(In a hopeful sign, GE's CEO Jeff Immelt explained to investors this week that the company will eliminate the "long-tail risk" to investors associated with GE's contingent liability for the Hudson cleanup. It *sounds like* GE may have finally decided it's in its best interests to "opt-in" to Phase 2 of the cleanup, rather than continuing to leave the cleanup, and the ultimate scope of GE's liability, in limbo. Refusing to complete the cleanup would run the risk of the corporation being liable to EPA for three times the cleanup's actual cost. But we've yet to see if GE will finally walk the walk.)

Here's a reminder of why this is critical for the health of the Hudson and those who depend on it:

PCBs are dangerous toxic industrial chemicals that have been linked to cancer, reproductive disorders, and developmental problems in humans. Over the course of 30 years, General Electric dumped more than 1.3 million pounds these of toxins into the Hudson River. The pollution decimated commercial fishing, and health advisories still recommend strict limits on eating fish from the river. As a result, the EPA declared a 200-mile stretch of the river a federal Superfund site -- the largest such site in the nation.

For our part, NRDC will continue to pursue all avenues available to make sure GE gets rid of its PCBs to the fullest extent possible. The future of the Hudson River depends on it.