State of New Jersey

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CHRIS CHRISTIE
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Lt. Governor

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Commissioner

December 6, 2012

Ms. Amy Legare
National Remedy Review Board Chair
1200 Pennsylvania Avenue, NW
MC5204P
Washington, D.C. 20460

Re: State of New Jersey's Comments on United States Environmental Protection Agency Focused Feasibility Study for the Lower Eight Miles of the Passaic River

Dear Ms. Legare:

Attached please find a letter from New Jersey Governor Chris Christie to EPA Administrator Lisa Jackson providing the State of New Jersey's comments and recommendations on EPA's Focused Feasibility Study for cleanup of the lower eight miles of the Passaic River. Successful completion of this cleanup is a major environmental priority for the Governor and for me, and my staff at NJDEP and I have focused significant resources on supporting EPA's efforts.

We appreciate your review and favorable consideration of these comments and look forward to a positive outcome of the National Remedy Review Board meeting in New York City on December 12, 2012.

Sincerely,

Bob Martin
Commissioner

Cc: Judith Enck, EPA Regional Administrator
George Pavlou, EPA Deputy Regional Administrator
Walter Mugdan, EPA Division of Emergency and Remedial Response

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CHRIS CHRISTIE
GOVERNOR

November 28, 2012

The Honorable Lisa P. Jackson
Administrator, U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, DC 20460

Re: State of New Jersey's Support for a Remedial Alternative for the Lower Eight Miles of the Lower Passaic River

Dear Administrator Jackson:

As you know, the Passaic River has been at the heart of America's industrial engine for more than a hundred years, and at the same time is an important natural resource for the people of New Jersey. The Passaic runs through one of the most densely populated areas of the United States and it unfortunately remains largely unusable and presents an ongoing danger to human health and the environment. After more than 25 years of study costing millions of dollars, the Lower Passaic River remains extremely contaminated—arguably the most contaminated waterway in the country—which negatively affects human health and the environment, and which prevents the communities near the River full enjoyment of this natural resource and robs them of the same economic growth and development achieved in surrounding areas.

The goals for the State for the remediation of the Passaic River have always been to protect the health of our citizens, to provide a permanent solution to the clean-up of this waterway, to restore the environmental and economic health of the river and the surrounding communities, and to get this comprehensive clean-up started as soon as possible.

The New Jersey Department of Environmental Protection has worked closely with and assisted EPA Region 2's development of the Focused Feasibility Study (FFS) for clean-up of the Lower Eight Miles of the Passaic River. Selecting and implementing a State preferred remedy will

reduce the ongoing threat to human health and the environment and spur economic growth and revitalization along the Passaic River and throughout Northern New Jersey.

The Focused Feasibility Study evaluated three potential remedies. The potential remedy alternatives included:

- Alternative 1: No Action
- Alternative 2: Deep Dredging (removal of all fine-grained sediments)
- Alternative 3: Capping (with sufficient dredging to prevent additional flooding and to enable future navigational use in the lower 2.2 miles)

For Alternatives 2 and 3, the Focused Feasibility Study evaluated three scenarios for final disposal of the contaminated sediments. The disposal alternatives include:

- Scenario A: Confined Aquatic Disposal (CAD) in Newark Bay
- Scenario B: Off-Site Treatment and Disposal at a hazardous waste landfill
- Scenario C: Local/Regional Decontamination and Reuse

The State of New Jersey supports remedial Alternative 3 (capping with sufficient dredging to prevent additional flooding and to enable future navigational use in the lower 2.2 miles) and sediment disposal Scenario B (off-site treatment and disposal at a hazardous waste landfill).

The State has come to this position based on many factors, among them the belief that any remedial action for the Passaic River must:

- Remove as much contaminated sediment as possible in order to reduce the ongoing threat to human health and the environment by eliminating exposure to humans and animals;
- Stop the uncontrolled release and movement of contaminated sediments into Newark Bay and other parts of the estuary;
- Be consistent with reasonable long-term future uses of the Passaic River and adjacent areas, particularly its use as an important navigable waterway;
- Remove (and treat as necessary) contaminated sediments consistent with the State's Comprehensive Environmental Response Compensation and Liability Act's (CERCLA) preference for remedies which permanently and significantly reduce the volume, toxicity or mobility of hazardous substances;
- Provide for management of the waste in a manner that will not add further burden to the surrounding community's existing environmental issues; and
- Conform with New Jersey's laws and regulations.

Alternative 1 (no action) is <u>unacceptable</u> to New Jersey. While the State would prefer complete removal of all contaminated sediments, our position, supported by EPA's FFS, is that the capping remedy (Alternative 3) will achieve virtually the same level of protection over time from contaminated sediments in the Lower Passaic River at considerably less cost than Alternative 2 (deep dredging).

Alternative 3 also allows for reasonable future navigational use of the River. Although the navigational depths in Alternative 3 are less than those currently authorized by Congress, the depths provide a reasonable balance between long-term future uses of the River and the need for a cost-effective remediation. Furthermore, New Jersey law mandates that no net fill may be placed in the River that could cause an increase in flooding, so dredging under Alternative 3 will be sufficient to meet that requirement. This is particularly important in the Passaic River Basin, which experiences frequent and severe flooding.

Of the dredge material management options considered in the FFS, only Scenario B meets the State's objectives and goals. Off-site disposal provides the only option that permanently removes contaminated sediments from the Passaic River and the Newark Bay Complex and does not overly burden the local communities already suffering from decades of pollution.

Remedial Alternative 3 combined with disposal Scenario B also meets CERCLA's, EPA's and the State's preference for permanent treatment and reduction of hazardous substances. This course of action would significantly reduce the volume and ongoing exposure of contaminated sediments within the Passaic River and their spread to Newark Bay.

Disposal Scenario A, Confined Aquatic Disposal (CAD), likely in Newark Bay, is unacceptable to the State. As the riparian owner and trustee for the submerged lands of New Jersey, the State has an obligation to protect and preserve its submerged lands and will not agree to the use of riparian lands owned by the State for disposal of the most highly dioxin-contaminated sediments from this site.

Disposal Scenario C, which provides for local or regional decontamination and reuse, is also unacceptable to the state of New Jersey.

Under Scenario C, thermal destruction and other treatment technologies, including sediment washing, for decontamination and reuse are questionable as to their ability to treat the volume of contaminated sediments that will be removed from the Passaic River. We do agree that such treatments should be considered in conjunction with off-site disposal.

The State opposes any thermal destruction facility placed near the Passaic River or surrounding communities. This densely populated urban area is already burdened with environmental impacts, particularly from air pollutants. Urban communities near the Passaic River have suffered enough because of the contamination in the River and should not be burdened with further exposure from incineration or thermal destruction of dioxin-contaminated sediments.

Because of the extent of the contamination, any remedy selected will involve significant costs; to delay a remedy only ensures greater future costs. New Jersey believes that the cost estimates presented by EPA in the FFS provide a useful guide to comparing the remedial alternatives, but the State understands that the total cost estimates are for comparison only and that the actual costs are very likely to be higher when the remedy is implemented.

Implementing Alternative 3 and Scenario B would provide the best balance of protection and cost, and would meet the State's objectives and goals.

My Administration has worked tirelessly to ensure that New Jersey's air, water, land and natural resources are protected for the public's benefit, while simultaneously facilitating economic growth and sustainability in all business sectors. The extreme level of contamination in the sediments of the Lower Passaic River has long hindered our attainment of these objectives in that portion of the state. Not only will removal and stabilization of the uncontrolled sources substantially improve the environment, it will spur economic growth and revitalization along the Passaic River and throughout Northern New Jersey. After more than 25 years of study, the time to act is now.

Sincerely,

Chris Christie
Governor