Comments to the Phase 1 Peer Review Panel
May 4, 2010
Glens Falls, NY

My name is Robert Foley. I work for the U.S. Department of the Interior, a natural resource management agency which acts as a natural resource trustee (Trustee) on behalf of the public at the Hudson River PCB Site. I would like to provide the Peer Review panel with comments on the Phase I Evaluation Report prepared by General Electric Company (GE) and discussions that we have heard today. My comments reflect the opinions of the federal trustees.

General Electric Co. proposes changing the Residual Performance Standard allow installing a cap in Certification Units over sediments with three ppm Tri + PCB (~ 10 ppm total PCB). This proposal relies on dredging to the design prism, sampling to determine the appropriate closure (i.e., an appropriate cap or clean backfill). Such a protocol allows inventory to remain in the river above the cleanup triggers and relies heavily on capping to sequester PCB-contaminated sediments while de-emphasizing active removal by mechanical dredging. General Electric Co.'s change which caps much more inventory allows placement of a cap designed to withstand a 1 in two to perhaps 5 year flow event to sequester sediments contaminated with concentrations less than or equal to 3 ppm Tri + PCB. The Trustees don't support placement of backfill on top of sediments as high as 3ppm Tri + PCB as this approach is neither permanent nor protective.

I appreciate the opportunity to provide this comment to you.

Thank you

Comments to the Phase 1 Peer Review Panel
May 5, 2010
Glens Falls, NY

My name is Robert Foley. I work for the U.S. Department of the Interior. I would like to provide the Peer Review panel with comments on the Phase I Evaluation Report prepared by General Electric Company (GE). I'd like to provide the following comments for you to consider in your deliberations leading up to your report to EPA. My comments today represent the opinions of the federal trustees.

I want to emphasize that in our view, the benefits from the remediation of the Upper Hudson River as set forth in the ROD outweigh the short term natural resource impacts. Phase I of the remedy did not provide evidence that re-deposition in the Lower Hudson River led to demonstrable increases of PCB in fish. We anticipate that neither sediment surface concentrations nor fish concentrations in the Lower Hudson will show higher concentrations of PCB in the long term due to remedy implementation. The Department of the Interior agrees with the comments provided by the National Oceanic and Atmospheric Administration provided earlier today.

With regard to estimation of depth of contamination (DoC):

A proactive approach should be embraced by EPA and GE during Phase 2 design to minimize underestimates of DoC and to maximize inventory removal on the first dredge pass with the intent of reducing resuspension. Uncertainty should be built into the final dredge prisms to better capture PCB at depth and improve compliance with the engineering performance standards. The method used to develop the Phase I dredge prisms underestimated DoC, should be revised, and applied to all prisms for Phase 2. To do so may require additional sampling. The Peer Review should recommend alternative Phase 2 sampling approaches for delineating areas to be dredged in Phase 2 especially for the purposes of minimizing resuspension and the need for capping. General Electric Company's proposal of the use of a hard cap as a modification of the residual standard is incompatible with the remedy EPA selected for the Hudson River Superfund Site. We don't support an increase in the amount of capping during remedy implementation. Any hardening of the river bottom should be addressed through habitat mitigation consistent with EPA's Contaminated Sediment Guidance.

We support navigation channel and access dredging as envisioned in the 2002 Record of Decision. This will improve productivity and reduce resuspension of contaminated sediments. Better use of pre-planned access dredging would allow use of vessels with increased draft and increase productivity through use of five CY buckets to remove inventory.

Thank you for the opportunity to address you and we believe that your consideration of these points will assist your decisions in the future.