

Comments by Kevin Farrar, NYSDEC

Hello; I am Kevin Farrar. I am here representing the New York State Department of Environmental Conservation. New York State has been involved with the remediation of the PCB problem in the Hudson River since the problem was discovered, has participated in the Reassessment process and development of the Record of Decision, and was directly involved in the development of the Phase 1 design. Over the course of Phase 1, the State performed extensive oversight of the project work, and has points to raise for the panel to consider.

First, the State believes that the overall benefit associated with the removal of an estimated twenty tons of PCB from the river greatly outweighs the short-term impacts associated with the work. The State recognizes that Phase 1 was conceived of as an opportunity to not only perform a significant portion of the dredging work, but to also allow for lessons learned during Phase 1 to assist in guiding decisions on changes to project design to improve project quality, better meet the human health and environmental risk reduction objectives in the Record of Decision, and to reduce negative project impacts. The State will continue to work with USEPA to accomplish these goals, and will continue to evaluate the results of the Phase 1 efforts and to work with USEPA in developing the project design between now and the start of Phase 2.

The State recommends that the Panel look at the environmental data gathered during Phase 1 in historical context. PCB concentrations observed in the water column were similar to those observed in the early 1990s, when releases from the GE Hudson Falls plant site were occurring. The State expected, as a result of the Phase 1 work, to see increases in water column and biota PCB. The State also expects to see the water column and biota PCBs decline over time, just as was observed as the releases from the GE Hudson Falls plant site were abated. The State also recommends that the panel consider the high variability in the environmental data over the period of record when looking at Phase 1 data.

The State has developed for EPA a report summarizing the issues which were identified during State's extensive oversight; the report will be made available to the panel. This report includes both the issues which impacted the ability of the project work to meet the standards, and recommendations to address these issues which the State believes will both better allow the project to meet the standards and improve overall project quality.

The State believes that an important element of the panel deliberations is to identify the potential changes in project operations that the panel believes are necessary and/or appropriate to allow the project work to meet the standards. The State, in its report to EPA, make a number of specific recommendations for design changes, as well as changes to the standards, to help improve the ability of the project work to meet the standards, and to improve overall project quality. These recommendations will be provided to the panel by EPA.

The consequences of "not meeting the performance standards" was discussed this morning. The State believes that if the standards have not been met, then one of the consequences is that the design team should strive to improve project performance in order to better meet the standards and meet the intent of the ROD. Now is the time in the project, before the start of Phase 2, to take into account the lessons learned during Phase 1 and make the appropriate changes to the project design to allow the project work to better achieve the standards and to maximize project quality. The State does not believe that the project should be modified between Phase 1 and Phase 2 solely through a change in the standards. The primary basis for having two phases as described in the ROD was a recognition by EPA that the project design would need to be updated and adjusted as the project progressed. Experience in Phase 1, particularly related to oil/sheen release control and air emissions control, showed that the existing design approach and the specific techniques used to implement the design during Phase

1 will need to be adjusted for Phase 2.

The State also believes that it is important for the peer review panel to understand that the techniques used to accomplish the work done during Phase 1 was not necessarily the best possible way to accomplish the project objectives; rather, they were the approaches chosen by the design team taking into account not only the design team's understanding of site conditions at the time of design, but also the design team's view on what they believed were the appropriate choices among a range of design choices available. EPA anticipated this when the remedy was selected, by including the two-phase approach to project implementation to allow for lessons learned during Phase 1 to guide improvements to project design.

The entire two-phase approach to the project is best described in the ROD:

“Performance of the dredging in two phases whereby remedial dredging will occur at a reduced rate during the first year of dredging. This will allow comparison of operations with pre-established performance standards and evaluation of necessary adjustments to dredging operations in the succeeding phase or to the standards.” (ROD, p. iii)

“During the full-scale remedial dredging, EPA will continue to monitor, evaluate performance data and make necessary adjustments.” (ROD, p. iv)

The State recommends that the panel consider that compliance with the elements of the other engineering and quality of life performance standards intended to protect human health and the environment should be given priority over compliance with the Productivity Standard. The basis for the Productivity Standard is removal of the sediment over a six year time frame (one year for Phase 1, and five years for Phase 2) as described in the ROD. The six year time frame, as the State understands, is based primarily upon the differences in predicted recovery time frames generated during the Feasibility Study process. These predicted recovery time frames were generated using a set of assumptions which included an overly optimistic recovery rate under the scenario where no dredging would be done, particularly with respect to the annual PCB mass load transported by the river system. An evaluation of the data generated during the baseline monitoring program leads the State to the conclusion that an extension of the project duration would be appropriate if this would result in better compliance with the standards established to protect human health and the environment: the resuspension, residuals, and air standards.