

SAMPLE

RESOLUTION REGARDING THE REMOVAL OF PCBs FROM THE HUDSON RIVER

WHEREAS, the Hudson River is an American Heritage River, and the Valley a National Heritage Area, and the health and beauty of the Hudson River is critical to the economic vitality of the communities surrounding it, as well as the state and the country at large; and

WHEREAS, nearly 200 miles of the Hudson River — from Hudson Falls to New York City — are a federal Superfund site because the General Electric Corporation (GE) discharged large quantities of polychlorinated biphenyls (PCBs) from two of its manufacturing plants for thirty years, between 1947 and 1977; and

WHEREAS, PCBs are manmade, bioaccumulative, persistent organic pollutants that have been linked to a wide variety of adverse health effects, including, among others: cancer, liver, and kidney disorders; reduced birth weight, conception rates, and live birth rates; persistent and significant deficits in neurological development, including visual recognition, short-term memory and learning; and developmental problems due to interference with thyroid hormone levels; and

WHEREAS, PCBs discharged by GE are present throughout the Hudson River ecosystem: in soils and sediments within the river and the surrounding floodplains; in the living tissues of wildlife, from low-level organisms to larger animals such as birds and fish; and, periodically, suspended in the river itself or in the air; and

WHEREAS, human beings may be exposed to PCBs by a variety of means, including eating PCB-contaminated fish or other contaminated foods, breathing in airborne PCBs, drinking PCB-contaminated water, or skin contact with PCB-laden soils; and

WHEREAS, in addition to posing ongoing health concerns, the continued presence of PCBs in the Hudson River has terminated or significantly damaged a number of formerly robust economic industries, including: the multi-million-dollar-a-year commercial fishing industry, closed below Hudson Falls since 1976; deep draft commercial shipping through the Champlain Canal, effectively closed for the past thirty years by the accumulation of PCB-contaminated sediments in the canal; and tourism, long-impaired by public perception that PCB contamination prevents the Hudson from being a safe or desirable place to visit or recreate; and

WHEREAS, the continued presence of PCBs in the Hudson River has also diminished the use and enjoyment of those who currently use the river, as exemplified by the longstanding NY State Department of Health (DOH) fish advisories against the consumption of recreationally caught fish and the numerous government-posted signs along the river warning of the presence of PCB-contaminated soils and sediments; and

WHEREAS, EPA determined in 2000 as part of its Reassessment Remedial Investigation/Feasibility Study (RI/FS) for the Hudson River Superfund Site that PCBs in the upper Hudson were a “dominant source” of “the PCB load to the water column of the Upper Hudson River,” and that microbial breakdown (natural attenuation) will not rid the River of PCBs; and

WHEREAS, the EPA’s 2002 Record of Decision for the Hudson River Site selected environmental dredging and off-site disposal of PCB-contaminated sediment from the Upper Hudson River as the best river sediment remedy to reestablish the ecological and economic health of the Hudson River; and

WHEREAS, since July of 2002, GE has agreed to a series of administrative orders of consent and has entered into a consent decree with EPA, all in which it has agreed to perform activities needed for implementation of the selected remedial action for river sediments; and

WHEREAS, this remedy segmented the Upper Hudson River into three sections by latitude, with a more stringent cleanup standard applied to River Section 1 than to River Sections 2 or 3; and

WHEREAS, GE commenced the first phase of remedial dredging in 2009, and the second and final phase in 2011; and

WHEREAS, in 2011, the U.S. National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service—the two federal agencies, along with the State of New York, entrusted with assessing the cost of GE’s significant and outstanding “natural resource damage” liability for public losses incurred as a result of GE’s pollution of the Hudson River (the “Trustees”)—published reports identifying a number of problems with the 2002 river sediment remedy as implemented; and

WHEREAS, these problems included, among others: that failure to apply the more stringent criteria in River Sections 2 and 3, in practice, would leave behind the “equivalent to a series of Superfund-caliber sites” in those sections with average

surface concentrations at “five times higher after remediation than predicted by the 2002 remedy;” that “the majority of the elevated post-construction sediment concentrations are adjacent to planned dredge areas” resulting in “the high likelihood of remediated areas becoming recontaminated;” that the rate of decline of PCBs in fish “was significantly overestimated” by earlier EPA models; and that unremediated sediments “will eliminate significant opportunities for restoration of natural resources in precisely those locations where it would be most valuable;” and

WHEREAS, despite these significant concerns, no modification to the scope or implementation of the 2002 river sediment remedy has been made either by EPA or GE; and

WHEREAS, significant amounts of PCBs also remain in the Hudson River floodplains, and portions of the Old Champlain Canal in Schuylerville; and

WHEREAS, GE anticipates it will complete its limited dredging operations in 2015, and presumably will begin dismantling its multi-million dollar infrastructure constructed for the dredging and dewatering of contaminated sediments shortly thereafter; and

WHEREAS, in September of 2014, GE agreed to an administrative order on consent regarding study of the Upper Hudson River floodplains to assist in the creation of an RI/FS for remediating those floodplains; and

WHEREAS, remaining PCB contamination within the river and the floodplains inhibits private and public growth, development, and recreational and business opportunities along the shores of the Hudson River and presents the risk of recontaminating the previously-cleaned areas planned for business or recreational use; and

WHEREAS, the current scope of planned dredging will not adequately allow for restoration of the Hudson River to its former ecological health, and the continued presence of highly contaminated sediments in the Upper Hudson River will prevent the revival of long-dormant economic opportunities for both the Upper and Lower Hudson communities; and

WHEREAS, these significant economic opportunities can only be unlocked by a robust cleanup and restoration of the Hudson that addresses contaminated sediments overlooked by the 2002 Record of Decision as well as other contaminated areas within and around the Hudson River;

NOW THEREFORE BE IT RESOLVED, that the _____ hereby urges GE to address its outstanding legal responsibilities for PCB contamination of the Hudson River by entering into a mutually-beneficial agreement with EPA, the Trustees, and/or any other relevant parties to ensure the following will occur before the existing dredging and dewatering infrastructure is dismantled: (1) the dredging of all areas of PCB-contaminated sediments in River Sections 2 and 3 that would require cleanup under the applicable-standards in River Section 1, including, at minimum, the 136 acres identified by the federal Trustees; (2) any additional necessary removal of soils and sediments in PCB-contaminated “hot spots” in and around the Upper Hudson River, including cleanup of the Champlain Canal to ensure full use of the canal by deep-draft shipping vessels; (3) a thorough analysis and robust cleanup of other areas in and around the Hudson River, including the floodplains and the Old Champlain Canal; and (4) the creation of a plan for and firm commitment to restoration of the Hudson River in order to return the River to its full health and value as a natural and economic resource.

And further, BE IT RESOLVED that a copy of this resolution will be sent to:

- Jeffrey Immelt, Chairman and CEO, General Electric Corporation
- New York State Governor Andrew Cuomo
- NYS Office of the Attorney General
- NYS Department of Environmental Conservation
- NYS Canal Corporation
- National Oceanic and Atmospheric Agency (NOAA)
- US Department of Interior Fish and Wildlife Service
- US Environmental Protection Agency – Region 2 and Hudson River Field Office
- Hudson River Congressional Delegation

Motion made at a regular meeting of the _____, on _____

by _____ and seconded by _____

VOTING MEMBERS: