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Lisa Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460

Re: GE Proposal for 2011 Dredging

Dear Administrator Jackson:

GE is committed to working with EPA to make progress on and improve the Hudson River dredging project.

Based on the experience of the Hudson River Phase 1 dredging project, GE had previously proposed to Region 2 that we perform dredging in 2011 to evaluate whether process modifications could reduce the resuspension of PCBs during dredging and increase productivity. Since then, the independent Peer Review Panel has released its report evaluating Phase 1. The report provides further support for such an approach and a path forward to improve the dredging project. We have modified our original proposal to harmonize the findings of the Peer Review Panel with the requirements of the Consent Decree for the Hudson dredging project.

Based on the recommendations of the Peer Review Panel, GE proposes:

- A significant dredging project in the Upper Hudson in 2011 following up on the dredging conducted in 2009;
- A monitoring program to collect data identified by the Peer Review Panel as necessary for setting Phase 2 standards; and
- Development of a fate and transport model to be evaluated by EPA and peer reviewed

This approach would provide both EPA and GE with the basis to make informed decisions on Phase 2. This letter memorializes GE's proposal.

As you know, key findings of the Peer Review Panel were that the Engineering Performance Standards were not met in Phase 1 and cannot be met in Phase 2 without significant and substantive changes. On the central issue of the resuspension standard, the Panel concluded that "[t]here is a very real need to set an allowable load limit for the Hudson River dredging project, but neither the data nor tool(s) needed to do so currently exist." Finding Rsp. 4-2. The Panel found further that "[t]o develop a useful resuspension standard, a single, defensible model is required. The Panel strongly recommends that EPA and GE work together to develop such a model to meet project needs." Finding Rsp. 3. As a result, the Panel recommended that GE and EPA conduct another year of dredging (with interim resuspension standards) with intensive data collection and analysis, feed that

information into a peer-reviewed fate-and-transport model, and then set a resuspension standard for Phase 2.

The approach outlined by the Peer Review Panel has great merit in developing load limits that will achieve the benefits of the remedy that EPA sought in its 2002 Record of Decision. EPA and GE should accept the Panel's findings that standards cannot yet be set for Phase 2 and that changes to the standards should be made after dredging in 2011. Our proposal provides a path forward that follows the map provided by the Panel and harmonizes that approach with the requirements of the Consent Decree. These are the key elements:

- GE will implement dredging in 2011 in accordance with the process outlined by the Peer Review Panel, subject to design documents prepared by GE and approved by EPA.
- In the meantime, GE and EPA will continue to cooperate on evaluating the updated fate-and-transport model developed by Anchor QEA, with the goal of agreeing to a model that will be submitted for peer review and that by the summer of 2011 can be used to evaluate all of the data from the 2009 and 2011 dredging seasons.
- We will then follow the decision process outlined in the Consent Decree. That is, EPA and GE will discuss potential changes to the performance standards and scope of Phase 2; EPA will provide notice to GE of EPA's decision on those changes (we suggest by November 15, 2011, although we are willing to discuss an alternate date); and within 45 days of EPA's notice or such other time as we agree, GE will provide EPA notice of GE's election decision.

Additionally, and separate from this proposal, on August 20, 2010, GE submitted a proposed plan to the Region to conduct additional sampling in 2010. We are working with the Region to finalize that plan and are prepared to start sampling promptly after EPA approves the final plan.

We think that the approach outlined in this letter gives full weight to the recommendations of the Peer Review Panel while preserving the essential elements of the parties' agreement in the Consent Decree, and also ensures that dredging will occur in 2011. We also think that this approach gives us the greatest opportunity to reach agreement on the performance standards and scope of Phase 2.

We look forward to discussing this proposal with EPA.

Sincerely,


Ann R. Klee

cc: Judith Enck, EPA
Walter Mugdan, EPA
Doug Garbarini, EPA
Eric Schaaf, EPA
Paul Simon, EPA
Doug Fischer, EPA
John Haggard, GE
Sheri Moreno, GE
Elliott Laws, Crowell