

Urging The Environmental Protection Agency To Adopt A Not Protective Determination In Its Third Five-Year Review Concerning The Hudson River PCB Cleanup

Referred to: The Energy, Environment and Sustainability Committee (Chairman Hewitt and Legislators Donaldson, Greene, Litts, Nolan, Stewart, and Walls)

Legislator Manna Jo Greene and Legislators Donaldson, Hewitt, McCollough and Stewart offer the following:

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

WHEREAS, for 30 years, from 1947-1977, General Electric (“GE”) dumped polychlorinated biphenyls (“PCBs”) into the Hudson River from two capacitor manufacturing plants located in the towns of Fort Edward and Hudson Falls, N.Y.; and

WHEREAS, as a result of GE’s PCB contamination, the U.S. Environmental Protection Agency (“EPA”) designated a 200-mile stretch of the Hudson River from Fort Edward to New York Harbor as a Superfund Site in 1984; and

WHEREAS, PCBs are man-made, bioaccumulative, persistent organic pollutants that have been linked to a wide variety of adverse health effects, including, among others: cancers, 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 still found at dangerous levels throughout the Hudson River ecosystem and as far south as New York Harbor: 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, in 2002 EPA selected a two-part cleanup plan to address in-river sediments in the Upper Hudson River, a 40-mile stretch of the Hudson River between Fort Edward and the Federal Dam at Troy, which called for targeted dredging of PCB-contaminated sediment from the river bottom, followed by an extended period of natural recovery; and

WHEREAS, the selected cleanup remedy was designed to reduce the dangerous health risks to humans and wildlife living in and near the Hudson River PCBs Superfund Site in an expedited time frame and reestablish the ecological and economic health of the Hudson River; and

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WHEREAS, EPA's original cleanup plan also focused on minimizing the long-term downstream transport of PCBS to the Lower Hudson River, a 160-mile stretch of the Hudson River from the Federal Dam at Troy to New York Harbor; and

WHEREAS, with the completion of dredging in 2015, the cleanup has transitioned from the dredging phase to the natural recovery phase; and

WHEREAS, federal Superfund law requires EPA to conduct a study every five years to evaluate the implementation and performance of the remedy to determine if the remedy is protective of human health and the environment; and

WHEREAS, on July 10, 2024, EPA released its draft third five-year review concluding that EPA needs more years of fish data to determine if the cleanup is meeting the expectations of the original cleanup plan; and

WHEREAS, EPA's draft third five-year review report does not adequately address scientific data and analysis that show that there has been little improvement in fish and sediment PCB concentrations since the completion of dredging; and

WHEREAS, PCB concentrations in Upper Hudson River fish and sediment are not declining as anticipated by EPA to reach key remediation targets and adequately minimize the downstream transport of PCBs to the Lower Hudson River; and

WHEREAS, the continued presence of PCBs in the Hudson River has significantly diminished economic activity and recreational use and enjoyment of the river; and

WHEREAS, the understanding of the relationship between how much PCB was left behind in the sediments and the rates of recovery in sediment and fish needs to be updated to determine if further remedial work is necessary to protect human and environmental health; and

WHEREAS, the data available supports the conclusion that the selected remedy is not protective of human health and the environment. The human health and ecological risks are well in excess of EPA's acceptable risk ranges, and will not be in the acceptable range for the foreseeable future; now, therefore be it

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RESOLVED, that the Ulster County Legislature hereby urges the EPA to adopt a “not protective determination” in the third five-year review, to acknowledge the failure of the Upper Hudson River remedy to meet the goals and objectives of the cleanup, and to begin the process of assessing additional remedial actions to protect the environment and our vulnerable communities along the Hudson River, who will otherwise continue to be exposed to toxic levels of PCBs for generations to come; and, be it further

RESOLVED, the Clerk of the Ulster County Legislature shall forward copies of this resolution to US Environmental Protection Agency – Region 2 and Hudson River Field Office, the New York State Department Environmental Conservation, New York Governor Kathy Hochul, New York Attorney General Letitia James, and all Ulster County elected State Assemblymembers and Senators,

and moves its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 22 NOES: 0
(1 Abstention: Legislator Nolan)

Passed Committee: Energy, Environment and Sustainability on October 1, 2024

FINANCIAL IMPACT:
TBD

STATE OF NEW YORK
 ss:
COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 15th Day of October in the year Two Thousand Twenty-Four, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 17th Day of October in the year Two Thousand Twenty-Four.

[s] Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature