

February 15, 2024

The Honorable Michael Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Regan,

I am writing to express my concerns regarding the draft third five-year review (FYR) report for the Hudson River PCBs Superfund site that will soon be released by the U.S. Environmental Protection Agency (EPA). I believe it is clear that the selected remedy has not achieved the goals of the 2002 Record of Decision (ROD) and that additional remedial action must be taken to bring the Hudson River back to full health. Thus, I urge EPA to determine in the third FYR report that the dredging remedy is not protective of public health and the environment so that the agency can begin evaluating ways to ensure the Hudson River is fully cleaned up.

As you know, EPA is currently developing the draft of its third FYR report of the Hudson River PCBs Superfund site. The purpose of this third FYR is to determine whether the dredging remedy that EPA required General Electric (GE) to perform in the Upper Hudson River is achieving key PCB-reduction targets established in the 2002 ROD and is protective of human health and the environment.

I strongly believe that the goals set forth in the 2002 ROD are not being met and that the selected remedy is not protective of public health and the environment. While it is true that a considerable amount of PCB-contaminated sediment was removed through the dredging, the data indicates that a significant mass of bioavailable PCBs remains in the sediments of the Upper Hudson River. This has resulted in an unacceptably slow post-dredging natural recovery in both fish and sediments.

Recent independent analysis of sampling data confirms that the fish PCB concentrations have not been reducing as EPA anticipated. The first target established in the 2002 ROD regarding fish PCB concentrations was not met, and based on current trends, it is likely that the second target will also not be met. As a consequence, the human health and ecological risks remain well in excess of EPA's acceptable ranges. Without further active remediation, fish and sediment PCB concentrations will remain above the levels called for in the 2002 ROD for generations to come.

If EPA does not acknowledge that the dredging remedy has not and will not achieve the 2002 ROD's remedial goals in the upcoming third FYR, I am concerned that risk avoidance strategies like fish consumption advisories will continue to be relied upon. Such advisories unjustly place the burden of protectiveness on low-income and minority populations, which are most likely to subsist on Hudson River fish. I respect EPA's long-standing commitment to environmental justice

communities and applaud your efforts to make it an even larger part of the agency's mission. However, in this instance, EPA risks failing such communities if it does not change course. Until EPA acknowledges that the dredging remedy is not working as intended and begins the process of assessing additional remedial actions, our vulnerable communities along the Hudson River will continue to be exposed to toxic levels of PCBs.

Lastly, it is also important to note that EPA would not be showing weakness or failure by determining that the remedy is not protective of public health and the environment. Rather, it would represent an important affirmation that the Superfund law and process work, while further demonstrating and emphasizing the administration's leadership and EPA's fundamental commitment to holding polluters accountable and protecting public health and the environment.

Thank you for your attention to this urgent and important matter.

Sincerely,

A handwritten signature in blue ink that reads "Kirsten Gillibrand". The signature is written in a cursive, flowing style.

Kirsten Gillibrand
United States Senator

cc. Jeff Zients, White House Chief of Staff
Brenda Mallory, Chair of the Council on Environmental Quality