Hudson River
PCBs SUPERFUND SITE

Region 2: NJ, NY, PR, VI • 290 Broadway, New York, NY 10007

EPA Settlement with GE on Hudson River Dredging

October 2005

Highlights

The US Environmental Protection Agency (EPA) has reached an agreement with the General Electric Company (GE) to conduct and pay for the first phase of Hudson River dredging, scheduled for the 2007 spring through fall dredging season. Under the terms of a consent decree lodged in Federal District Court on October 6, 2005 by the U.S. Department of Justice (DOJ) on behalf of EPA, GE will construct the sediment transfer/processing facility needed for the project and perform Phase 1 of the dredging according to design plans developed under a prior agreement. The agreement also calls for GE to pay EPA up to $78 million for the Agency's past and future costs. EPA has already collected $37 million from GE through past settlements.

SETTLEMENT PROVISIONS

The October 2005 agreement with GE includes provisions that cover Phase 1 dredging, the construction of the sediment transfer/processing facility needed for the cleanup project, independent peer review of Phase 1, and the remaining dredging work. *The following are key elements of the consent decree:*

Construction of the Sediment Processing/Transfer Facility

Under the terms of the consent decree, GE has agreed to construct the sediment processing/transfer facility needed for the Hudson River cleanup. The layout of the facility, which will be built in Fort Edward, New York, was detailed in the Intermediate Design Report for Phase 1 of the cleanup released by GE for public comment in August 2005. Construction of the sediment processing/transfer facility is expected to be completed in time for GE to begin the first phase of dredging in the spring of 2007.

Phase 1 Dredging

The 2002 Record of Decision (ROD) for the site divides the dredging into two phases. The agreement with GE calls for the company to conduct Phase 1 of the dredging. Phase 1 will remove about 10 percent of the total volume of PCB-contaminated sediment slated for dredging during the full cleanup project and, together with the construction of the sediment transfer/processing facility, is expected to cost between $100 million and $150 million. Phase 1 dredging will be conducted during the 2007 construction season.

Phase 1 Evaluation

During late 2007 and early 2008, following the conclusion of Phase 1 dredging, EPA and GE will each evaluate whether the engineering performance standards developed for the project will need to be changed for Phase 2. Evaluation reports prepared by EPA and GE will be provided to the public and to an independent peer review panel of scientific experts.

EPA will then consider the conclusions of the peer review panel and make a decision about whether any changes to the engineering performance standards, the quality of life performance standards, or the way the Phase 2 work is to be performed, are needed. The Agency expects to inform GE in the spring of 2008 of any modifications that would be required during Phase 2 of the dredging program, which is expected to take five years.

Phase 2 Dredging

Under the agreement, after EPA informs GE of any modifications needed for Phase 2, GE has a fixed period of time in which to notify EPA whether it agrees to conduct Phase 2 of the dredging. If the company agrees to conduct Phase 2, that work will be carried out under the terms of the consent decree. Because the settlement is comprehensive and addresses both phases of the project, it allows for a seamless transition in the event that GE agrees to perform Phase 2. If GE does not agree to conduct the Phase 2 dredging, EPA has fully reserved all of its enforcement authorities. These include its right to direct the company to perform Phase 2 dredging and/or sue the company in district court to require it to perform the Phase 2 dredging or to reimburse EPA for its costs if EPA conducts Phase 2 using government funds.

Transition between Phase 1 and Phase 2

The agreement contains a provision to help ensure that there is no delay in the transition between Phase 1 and Phase 2 of the project. It requires GE to spend up to $5 million, between the end of the Phase 1 dredging and the date of GE's decision whether or not to voluntarily conduct Phase 2, to prepare for the initiation of the second phase of dredging during the fall of 2008.

Reimbursement of Past and Future Costs

The agreement calls for GE to pay EPA about $78 million for the Agency's past and future costs at the site if GE agrees to take on Phase 2, and about $43 million for such costs if GE does not agree to Phase 2. With the approximately $37 million collected under previous settlements, the Agency could ultimately receive a total of $115 million from GE for its work at the site. If GE does not choose to conduct Phase 2 under the consent decree, EPA will be free to seek the recovery of Agency costs associated with Phase 2 from GE.

Support for State Fish Consumption Advisories

The agreement includes a provision that helps to ensure that people are fully aware of state restrictions on eating Hudson River fish. Although New York State is not a party to the settlement, the agreement requires GE to pay the state $3 million to support its efforts to assist the public in understanding and complying with state fish consumption advisories. GE will provide an additional $1 million to this effort if it decides to conduct the Phase 2 dredging under the consent decree.

Public Comment

EPA and DOJ will accept public comments on the consent decree during a 30-day public comment period. Copies of the consent decree can be found on EPA's Web site at www.epa.gov/hudson. Hard copies are available for review at information repositories in Glens Falls, Fort Edward (EPA Hudson River Field Office), Ballston Spa, Albany, Poughkeepsie, New York City (EPA Region 2 offices), and Edgewater, New Jersey.

Cleanup Project Milestones

EPA has made substantial progress toward cleaning up the Hudson River since the February 2002 ROD for the project. The Agency has reached two previous agreements with GE under which the company agreed to conduct the extensive sediment sampling needed to identify the areas to be dredged, and to design the project. Other milestones include the collection and analysis of more than 48,000 samples from the river bottom, the completion of strict engineering and quality of life performance standards to protect public health and minimize impacts from the project, and the selection of a site for the sediment transfer/processing facility.

In August 2005, GE submitted the Intermediate Design Report for Phase 1 of the cleanup to EPA for review. This document contains key information about the cleanup of the river, including the type of dredging equipment that can be used, hours of operation, and the layout of the sediment transfer/processing facility in Fort Edward, New York.

In addition, under the previous agreements, GE has paid a total of $20 million in partial reimbursement of EPA's outstanding past costs, and over $15.5 million toward the costs incurred by EPA in performing activities for which it has lead responsibility and in overseeing GE's performance of the work. These payments, plus approximately $1.5 million received under earlier agreements, account for the $37 million EPA has received from GE to date.

Background

EPA's cleanup plan for the Hudson River PCBs Superfund site was selected through the Agency's February 1, 2002 ROD for the site. The ROD calls for targeted environmental dredging and removal of approximately 2.65 million cubic yards of PCB-contaminated sediments from the Upper Hudson River, between Fort Edward and the Federal Dam in Troy.

As PCB-contaminated sediments are dredged, the sediments will be transported to the dewatering/transfer facility by barge. The sediments will then be processed to remove water and stabilized using cement or fly ash to harden the material, as necessary, for shipment. The water will be sent to an on-site plant for treatment before it is released back into the river.

For More Information

Visit, call toll-free **(1-866-615-6490)**, or write to the Hudson River Field Office at the address below or log on to **www.epa.gov/hudson**.

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The Field Office hours are Monday - Friday 8:00 am - 4:30 pm, with evening hours by appointment. Email hrfo@capital.net.

EPA Regional Public Liaison

EPA Region 2 has designated a public liaison as a point-of-contact for community concerns and questions about the federal Superfund program in New York, New Jersey, Puerto Rico, and the U.S. Virgin Islands. To support this effort, the Agency has established a 24-hour, toll-free number that the public can call to request information, express concerns, or register complaints about Superfund. The public liaison for EPA's Region 2 office is: George H. Zachos, U.S. EPA, Region 2, 2890 Woodbridge Avenue MS-211 Edison, New Jersey 08837, (732) 321-6621, Toll-free (888) 283-7626.

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