

Scenic Hudson, Inc.
One Civic Center Plaza, Suite 200
Poughkeepsie, NY 12601-3157
Tel: 845 473 4440
Fax: 845 473 2648
email: info@scenichudson.org
www.scenichudson.org



**NYS Senate Standing Committee on Health
NYS Senate Standing Committee on Environmental Conservation
NYS Assembly Standing Committee on Environmental Conservation
NYS Assembly Standing Committee on Health**

**Legislative Hearing on
Water Quality and Contamination**

Wednesday, September 7, 2016
Hamilton Hearing Room B, Legislative Office Building
2nd Floor, Albany, New York
11:00 A.M.

Testimony presented by:
Andy Bicking
Director of Public Policy, Scenic Hudson

Introduction

Thank you, Chairmen Hannon, O'Mara, Englebright and Gottfried and members of the joint legislative committee on Health and Environmental Conservation for the opportunity to provide testimony today.

Scenic Hudson works to protect and restore the Hudson River and its majestic landscape as an irreplaceable national treasure and a vital resource for residents and visitors. Our work combines land acquisition, farmland protection, citizen-based advocacy and sophisticated planning tools to create environmentally healthy communities and to protect the state's most irreplaceable natural resources.

We commend the Legislature for leading the state's discussion to achieve clean water and protect and restore damaged water resources. It goes without saying too often that clean water is a cornerstone of the state's quality of life. The legacy of toxic Polychlorinated biphenyls (PCBs) in the Hudson River and Champlain Canal, perfluorooctanoic acid (PFOAs) in drinking water supplies in Newburgh, Hoosick Falls and Petersburg, and fecal coliform and emerging pollutant contamination transported through crumbling sewer and wastewater infrastructure each represent a severe risk to public health and lost economic potential. While the responsibility of solving these issues can seem daunting, much progress has already been made and the path forward is clear.

Hudson River PCB Superfund Cleanup Not Done and Will Not Achieve Targeted Reductions in PCB Levels in the Upper Hudson River

Last June, 161 members of the state legislature and 81 municipalities took bold and decisive action and called on the General Electric Corporation (GE) to voluntarily commit to removing hundreds of thousands of pounds of highly concentrated PCBs from the federal Superfund site near Fort Edward and Glens Falls that the US Environmental Protection Agency (EPA) had proposed leaving in the Hudson River. The presence of these sediments and the obstacle they present to the restoration and recovery of the Hudson were made public in a peer-reviewed paper published in 2015 by the National Oceanic and Atmospheric Administration (NOAA) yet had been communicated to the US EPA as early as 2011. The EPA recognized this science in 2012 but refused to act on it.

Cleanup and recovery of the Hudson River is significant to New York State and essential to protect public health and the environment:

- The latest PCB-human studies show increased rates of diabetes, melanomas, liver cancer, gall bladder cancer, biliary tract cancer, gastrointestinal tract cancer, brain cancer, and most recently, links to breast cancer. Reproductive and neural damage, especially in children, has been documented since the 1960's.
- Dr. David Carpenter, a public health expert at the University of Albany, has published peer-reviewed studies that show that volatilized airborne PCBs in Hudson waterfront communities are responsible for increased rates of disease in the region, even while residents have strong indicators of healthy lifestyles compared to other regions.
- Water intakes on the Hudson River that supply dozens of communities with drinking water must be outfitted with costly filters. While these are currently paid for through the cleanup remedy, it is untenable that water from the Hudson is not potable.
- Fish in the Hudson River are exposed to contaminated sediments through the food chain and consequently are not safe enough for a majority of the population to eat, and they will not be for several generations longer than anticipated. Meanwhile, the cleanup remedy's institutional controls to curtail fish consumption have not been as effective as hoped.
- Federal Superfund policy requires that the "polluter pays." If the cleanup is left unfinished, New York State, not GE or the federal government, could ultimately bear the cost.
- The Hudson River Valley's iconic brand, valued at \$5 billion in annual tourism revenues, is tarnished.

The Legislature's letter to GE – and a second letter sent to the Governor – drew much needed public attention to the long-misunderstood fact that EPA's current dredging plan will leave hundreds of acres of contaminated sediments behind and slow the river's recovery for decades or more.

While GE and the EPA have not yet heeded the Legislature's call, NYS Department of Environmental Conservation recently issued a bold letter to EPA calling for the mandatory "5-year review process [to] be conducted in the most expeditious manner possible, and that the study include a comprehensive, independent, and objective analysis of all available data." The Legislature's leadership on this issue has been noted and is much appreciated by the Hudson Valley's environmental community.

Commissioner Seggos announced the letter alongside US Representative Sean Patrick Maloney, who has also been outspoken in citing the need for additional dredging. Their call for action was well-timed and poignant. In the fall of 2015, EPA gave GE permission to dismantle its dredging operations even before the required 5-year review of the cleanup's effectiveness had begun. In January of 2016, the EPA Region 2 Administrator penned an op-ed to the Albany Times Union titled "EPA removal of PCBs from the Hudson worked" that responded to criticisms that the cleanup was incomplete by saying, "You can't unring a bell." EPA's recalcitrance in the face of credible science that questioned the cleanup remedy was disappointing, and this comment was terribly unfortunate. Federal policy requires that evaluation of the dredging remedy for the Hudson River Superfund Site be based on scientific data and grounded in the knowledge that removal of PCB-contaminated sediment is the only path to achieve specific public health and environmental objectives.

Today, under the existing remedy that has been supported by EPA, the Hudson will remain the nation's largest Superfund toxic waste site and New Yorkers will continue to suffer the effects of PCB contamination in water, air and fish and wildlife for generations to come. The most optimistic date for reaching the cleanup goal of safely eating one fish per week by 2067 has been pushed back an estimated 40 years to the 22nd century. This unacceptable situation has been made more distasteful by EPA's call for additional studies, modeling and reliance on public fish consumption advisories (referred to as 'institutional controls.' While these measures are important safeguards, they should not be relied on as a protective remedy in and of themselves. Federal policy requires that the remedy be grounded in removal of PCB-contaminated sediment as the only path to achieve specific public health and environmental objectives. Commissioner Seggos' letter is to be commended for underscoring this point.

Commissioner Seggos' and Representative Sean Patrick Maloney's statements are critical to the future health of the Hudson River. Experience has taught those of us who live and work on the Hudson that the EPA tends to call for stringent remedy measures only when a strong policy argument can be made and when political support exists at all levels. It is with this in mind that Scenic Hudson respectfully asks the

Joint Committees and the Legislature as a whole to maintain its call for additional dredging of the Hudson River, and to support DEC's advocacy for this outcome through the 5-year review process.

Demand for Wastewater Treatment and Drinking Water Infrastructure Outstrips Available Funding

Studies by environmental organizations and industry groups have demonstrated that US Environmental Protection Agency criteria for safe swimming in the Hudson River and New York Harbor often fail to be met, especially after major storm events. The reason for this – aging sewage treatment facilities and Combined Stormwater Overflow systems – are clear. Meanwhile, recreational use of the river is increasing, with the Mid-Hudson's own Regional Economic Development Council positioning the leveraging of the region's exceptional natural resources, including the Hudson River, as a core strategy for job growth. The Legislature's vision and commitment to the Clean Water Infrastructure Act has begun a process of transformation in the region, with several communities receiving funds. Yet, more work needs to be done to meet demand and address one of the Hudson Valley's most expensive environmental problems.

Scenic Hudson respectfully requests that the Legislature reauthorize the Clean Water Infrastructure Act in the upcoming budget and increase available funds. We ask that the Legislature consider reforms to the program that help applicants with collaborative funding and inter-municipal projects compete more strongly in the application process. In addition, we ask that the Legislature consider an amendment to the program that would allow for the finance of new waste water facilities for Villages and Towns who are operating with septic fields, and whose systems could be expanded and upgraded on a limited basis to allow for the community to maximize density within a defined area according to smart growth principles. This amendment would help several municipalities create a stronger "sense of place" in their downtowns, maximize efficiency and relieve pressure for development on surrounding open space.

Address PFOA/PFOS Contamination in Affected Communities

Reports of perfluorooctanoic acid in water supplies and the blood of the state's citizens have been widely reported statewide, and raise serious health concerns that must be addressed. In the Hudson River Valley, Newburgh is among the affected communities. While Scenic Hudson is not currently engaged with this issue at a high level, we support calls for local support that will address this public health and environmental crisis.