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GE guilty of Hudson dumping

ALBANY, N.Y. (AP) — A "verdict" of guilty has been returned against the General Electric Co. for dumping PCBs into the Hudson River in violation of two sections of the state's 1968 Environmental Conservation Law.

But Abraham Sofaer, the hearing examiner in the state's case against GE, also returned a "verdict" of guilty against the state and federal government Monday for knowing for sometime about the PCB pollution and failing to take action. Their failure to take action, he said, was a factor in his dismissal of a state complaint claiming a third violation.

"GE has discharged PCBs in quantities that have breached applicable standards of water quality," Sofaer's interim opinion read. "The PCBs have injured fish, and have destroyed the viability of recreational fishing in various parts of the Hudson River by rendering fish dangerous to consume. Fish analyses in evidence present a grim picture in which PCB contamination reaches over 100 times the temporary tolerance level established by the U.S. Food and Drug Administration in 1971."

It continued, "These unlawful consequences are the product of both corporate abuse and regulatory failure; corporate abuse in that GE cause the PCBs to be discharged without exercising sufficient precaution and concern; regulatory failure in that GE informed the responsible federal and state agencies of its activities, and they too exercised insufficient caution and concern until this action was instituted by New York's present Commissioner of Environmental Conservation (Ogden Reid)."

Sofaer said the testimony at recent state hearings "overwhelmingly demonstrates" that GE violated two general state prohibitions regarding pollution of waters injurious to fish life — ECL 17-501 and ECL 17-0511. But Sofaer dismissed a third complaint against GE — violation of a more specific section of the law that prohibits pollution injurious to "wildlife or waterfowl" in addition to fish.

"Effective regulatory surveillance would have prevented much of the harm that GE has inflicted," the interim order read.

"GE has operated openly and negligently rather than in secret or in disregard of PCB discharge limits set in its permits. For this reason, among others, the charge under ECL-11-0503 is dismissed."

Reid said Sofaer would conduct additional hearings to determine what should be done about the poisoning of water and its sediment, organisms and fish. Following Sofaer's final recommendations, Reid will issue an order.

Sofaer said "minimum" action he would recommend would be an order drastically limiting the discharges; mandating use of substitute products "wherever feasible"; and requiring the company to rectify "the effects of its prior violations where lawfully proper, and economically and environmentally practicable."

GE uses polychlorinated biphenyls, a chemical similar in structure and effect to DDT, in the making of capacitors at plants on the upper Hudson River in the Washington County villages of Hudson Falls and Fort Edward.

General Electric said it will have to close the plants if the state attempts to force it to eliminate all discharges of the chemical, but Reid said no one in his department has proposed such a step.

The state has proposed, however, that GE stop dumping PCBs into the Hudson River from the two plants by this fall. That proposed order was the subject of the Sofaer hearings.

A dispute over what to do about the pollution problem broke out in public between Reid, who advocated pursuit of the hearing procedure, and Gov. Hugh Carey, who indicated that he would be satisfied if GE met less stringent federal dumping standards.

Reid based his announcement on recommendations from Sofaer, a Columbia Law School professor, who said further hearings could determine what GE should be required to do and what the state could lawfully expect of the company.

"PCBs are toxic substances which pose grave risks to public health," Reid concluded and noted the damage that has resulted in warnings against the eating of fish taken from the Hudson River.

"DEC is anxious to resolve outstanding remedial issues," Reid said, asserting that his department would act to protect "the public health and water quality."