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GE says pollutants don't violate state law

By FREDRIC U. DICKER

The General Electric Co. contended Monday that even if PCBs are being discharged into the Hudson River from its two Washington County plants the discharges are not heavy enough to be a violation of state law.

Speaking at the opening of a state Environmental Conservation Department hearing aimed at obtaining an order to halt the discharges, company attorney N. Earle Evans said the issue to be determined is "not simply that we are loosing the substance (PCBs.) The critical question is whether they are being lost in amounts that will be injurious to the fish life or impair the best uses of the water."

The hearing is the first formal step taken by EnCon to enforce action against GE announced by Commissioner Ogden R. Reid in early September.

Reid said discharges of PCBs, or polychlorinated byphenyls, at GE's Hudson Falls and Fort Edward capacitor manufacturing plants may have caused "irreparable damage" to the Hudson River.

To stop it, Reid said his department would seek an order requiring GE to halt all discharges by Sept. 30, 1976, eliminate PCBs from all areas at the two sites where pollution can occur, and force the company to take steps to restore the river and eliminate past contamination.

The complaint also seeks civil penalities against GE and the posting of a $2 million compliance bond.

LITTLE NEW GROUND was covered at Monday's hearing. Abraham D. Sofaer, a Columbia University Law School profes-

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sor appointed by Reid to preside, conceded, however, the hearing is likely to be a difficult one.

"This is a very complicated case, involving many technical questions," he stated.

After opening statements from Evans and EnCon attorney Philip Gitlen, Sofaer indicated a preliminary willingness to view the case as a limited enforcement action rather than a major struggle to save the Hudson River. "The issue is the law, not the use of PCBs," Evans contended, to which Sofaer responded in agreement, "this is not a rule-making proceeding."

A mirror clash occured between Evans and Gitlin at the end of the two-and-one-half-hour long opening session.

Gitlen proposed that at least some future sessions be held in New York City in an effort to obtain greater public exposure.

However, Evans shot back that the suggestion could turn the hearings into a "circus. I'm just absolutely amazed that such a suggestion would come from the department. I just can't believe my ears."

Sofaer appeared to side with Evans, noting the hearing location will be changed only at the "convenience of both parties."

TAKEN UNDER consideration by Sofaer were requests from the state Commerce Department and the Natural Resources Defense Council, which represents the Hudson River Fishermen's Association, the Hudson River Sloop Restoration Inc., and the Federated Conservationists of Westchester County, to gain "party" status to participate in the hearings.

The NRDC's attorney, Sarah Chasis, said her organization wished to present evidence and witnesses to supplement EnCon's case.

John Clemente, a Commerce Department attorney, argued for an opportunity to present information on the economic impact of the closing of the two GE plants, an action GE officials say might be necessary if the zero discharge order is put into effect.

GE opposed participation by NRDC, arguing it would delay the hearing and was unnecessary since the group's arguments could be offered by EnCon.

Also, Edward J. Block, a representative of the United Electrical Workers union which represents some 900 of the 1,300 persons employed at the GE plants, asked Sofaer's permission to read a statement into the hearing record at a later date. Sofaer agreed.

The next formal meeting was tentatively set for Nov. 3, at which time EnCon witnesses, whose written statements will have been provided to GE, will be cross-examined.

In addition, Sofaer is expected to announce his decision on the requests from the Commerce Department and NRDC.

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