$2 MILLION OFFER BY G.E. REPORTED IN POLLUTION CASE

But Reid, Conservation Aide, Fights Terms In Discharge of PCB's Into Hudson

EXONERATION' OPPOSED

Official's Position in Dispute Complicates His Strained Relations With Carey

By RICHARD SEVERO
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ALBANY, April 24—The General Electric Company has reportedly offered to pay the state at least $2 million to settle the controversial PCB's case, provided the payment is not cited as a penalty and the company is not required to make "restoration, reclamation or other like remedy" because of its discharge of the toxic chemical into the Hudson River.

Moreover, G. E. insists that the state sign a "good faith clause" in which the state would say that G. E. "acted in good faith, unintentionally, and in reliance upon its [Federal pollution discharge] permit." The PCB's case involves the discharge of polychlorinated biphenyls.

The bargaining position of G. E. and Conservation Commissioner Ogden R. Reid's attitude against it has made him the renewed center of controversy. The situation complicates further Mr. Reid's already strained relations with Governor Carey.

Breaks His Silence

Mr. Reid broke his silence about the PCB's hearings over the weekend and said he had no intention of "caving in" to what he called "pressure" from General Electric for a complete exoneration.

However, Mr. Reid conceded that he might be literally forced to resign "because of the orchestrated attack that has manifested itself in the news media."

"I stand ready to negotiate with General Electric in good faith, but I have no intention of selling out to them," Mr. Reid said. "It would be impossible for me to suggest to the hearing officer [Prof. Abraham D. Sofaer of the Columbia Law School] that this could be the basis for a settlement in the public interest."

The controversy came to a head this past week when an Albany newspaper, The Knickerbocker News, described Mr. Reid as hanging on to his job "only by his fingernails" and asserted that he had impaired chances for an early out-of-court settlement with G.E. The newspaper quoted aides of Governor Carey as their source for

Continued on Page 46, Column 1

Continued From Page 1, Col. 1

both assertions.

A spokesman for the Governor could not confirm the quotation and expressed doubt that anyone in the Governor's office would have made such statements.

Albany observers suggest that Governor Carey and Mr. Reid lack personal rapport and that their working relationship has become strained, not only because of the PCB's case but also because of major administrative problems that have appeared in the Department of Environmental Conservation since Mr. Reid became its Commissioner in January 1975. Mr. Reid's relations with some of the Governor's top aides also have not been good, according to Albany sources.

However, Governor Carey said last Feb. 18 that he wanted the hearings to continue without interruption if it was for the purpose "of having the hearing officer involved" in the negotiations. At the same news conference, he indicated his "strong support" for Mr. Reid's stand on environmental issues.



The New York Times
Ogden R. Reid

The Governor held the news conference nine days after G.E. was found to have violated the state's water quality standards by discharging PCB's into the Hudson River from two capacitor plants at Fort Edward and Hudson Falls, about 50 miles north of Albany.

The administrative hearings at which the company's guilt was determined are now in their second phase. This phase is supposed to determine what, if anything, the company should do to repair the damage it has done to the river.

The river is believed to contain 458,000 pounds of PCB's, a chemical that has caused cancer in laboratory animals and a variety of illnesses among workers who have been in contact with the substance over a long period of time.

As a result of studies showing that Hudson River fish contained dangerously high levels of PCB's, well above Federal guidelines, Mr. Reid first warned the public not to eat the fish and the closed the Hudson to most types of commercial fishing.

Mr. Reid and his staff began negotiations with the company to reach a settlement, negotiations that involved at times both the Governor and his aides. No settlement was reached, and nobody would comment substantively about what was going on.

At one point, Mr. Reid thought a settlement was forthcoming. That occurred several weeks ago when the company offered $2 million and agreed to reduce its discharge of PCB's to practically nothing by July 1, 1977, the date set by the Federal Government, which decided last December to review the pollution discharge permit it had granted.

Mr. Reid, who originally wanted "zero" discharge by next Sept. 30, compromised and agreed to the extension.

"I thought we had it settled until it became clear that they were going to insist on complete exoneration, even though they had been found guilty of violating water quality standards," Mr. Reid said.

"In my opinion," he added, "they are taking this position not only for themselves but for all industry. Industry does not want to see a precedent set whereby they might be held responsible for the damage they do to the environment."

G.E. officially declined to comment on what offers it had made and what it wanted in the negotiations. Talks that were scheduled for last Tuesday were canceled by G.E., according to Mr. Reid, and no talks are under way now, although Mr. Sofaer has said in the hearings that he saw no reason why they should not continue while the hearings were in progress.

A spokesman for General Electric said, "We did not break off negotiations and we don't feel it is appropriate to comment further."

Deep Concern Seen

Sources within the company say privately, however, that there is deep concern over the possibility of establishing the precedent being sought by the Department of Environmental Conservation.

The general concern of the business and industrial community was underscored last

MONS 036698

week when Associated Industries of New York State, which says it represents 2,800 companies, became an intervenor. In its petition, Associated Industries said that if G.E. were ordered to restore that portion of the Hudson involved, it would have "far-reaching and serious economic consequences to Associated's members."

As for environmentalists, among even those restrained about Mr. Reid's administrative difficulties there is strong support for the continuance of the hearings so that if a settlement cannot be negotiated, the issue can be decided in the courts.

"You just don't make deals when it comes to public health and public welfare," said David Seymour, president of the Hudson River Fishermen's Association. "G.E. knew for years that PCB's were a poison and now they want to be kissed and forgiven and released and exonerated. I don't know how they can ask for it."

Fear Expressed

Fear has been expressed among environmentalists that Mr. Reid would be forced to resign and that the hearings would be either terminated or ignored by the Governor. An aide to the Governor denied on Friday that this was his intention.

Some of Mr. Reid's critics have suggested that he alone stands in the way of settlement. However, department records indicate he is listening to the advice of his own legal division.

On April 8 Mr. Reid received a memorandum from his general counsel, Robert Hallman, on G.E.'s proposed "good-faith clause."

Mr. Hallman called the clause "unacceptable" and asserted that agreeing to it "would constitute an unconscionable abrogation of the state's responsibility for controlling and abating harm from industrial dischargers and, further, would constitute an unwarranted impediment to legal action by environmental organization throughout the state."

"This is far too high a price to pay," Mr. Hallman wrote, "for a settlement on any terms of this particular matter."

Mr. Hallman also contended that "the fact that G.E. has been aware of the toxic nature of PCB's at least during the last four years raises a serious question as to its 'good faith' in continuing to discharge these materials."

The company says it is now discharging about two or three pounds of PCB's a day into the river. Previously dischrarges were 40 to 50 pounds and more a day.

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