GENERAL ELECTRIC
COMPANY

REAL ESTATE AND CONSTRUCTION
OPERATION

DIAL COMM
8*235-5882

RECO SERVING PROGRESS

Schenectady, December 30, 1975

Mr. George B. Farnsworth
Vice President and General Manager
Electronic Components Business Division
Syracuse, New York

Dear George,

Here are some observations regarding the decision of EPA Region II to modify the NPDES permit already issued to Fort Edward/Hudson Falls.

1. Region II appears to have jumped the gun in trying to follow what Russell Train said he had directed the EPA Regions to do.

In the text made available in connection with Train's press conference of December 22, this statement appears:

> "I have directed our regional offices to complete ongoing surveys* of these plants within the next 60 days to determine the precise manner in which PCBs enter the land, air and water from each plant and what precise measures can be taken at each plant to eliminate or drastically minimize such PCB contamination. I have further directed our regional offices to assure immediately thereafter that all water discharge permits issued to these facilities are revised to require that all those measures affecting water discharges are undertaken expeditiously, and to further assure that such measures are also undertaken by facilities which discharge into municipal treatment works and are not therefore required to procure such permits." (emphasis added)

The only survey made by Region II was its monitoring of the effluents from the Fort Edward and Hudson Falls plants during the period August 20-26, 1975. The Region has not determined "what precise measures can be taken at each plant to eliminate or drastically minimize ... PCB contamination." Thus Region II appears to have acted prematurely in proposing to revise our permit before completing the survey directed by Train.

* The results of these surveys will also be used to determine whether an air emission standard for PCBs should be developed, and, if so, what it should be.

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2. The modification proposed for interim PCB limits is based on incomplete information.

The Public Notice states on Page 2:

"Therefore, as a reflection of the current state of the permittee's discharge, the limitations for PCBs in DSN 002 shall be a daily maximum of 0.1 lbs/day during dry weather and 0.4 lbs/day during periods of wet weather; the limitations for PCBs in DSN 004 shall be a daily maximum of 1.4 lbs/day during dry weather and 5.4 lbs/day during periods of wet weather."

This "reflection" is based solely on sampling done by the EPA Edison Laboratory during the period August 20-26, following the reopening of the plants after a two-week vacation shutdown. The extensive monitoring that has been conducted virtually on a daily basis since early September, provides a more realistic picture of the "current state of the permittee's discharge" and should be the basis for the interim limitations. Certainly these more recent data, which were supplied to the New York State Department of Environmental Conservation in our answers to the DEC interrogatories, were available to EPA.

3. No valid reason is given for setting a final PCB effluent limitation of "NONE."

a. The Public Notice states on Page 2:

"Information presented at the recent National Conference on Polychlorinated Biphenyls, as well as other data recently gathered by the Region II staff concerning water quality requirements and treatment capabilities, as they both relate to PCBs, leads to the conclusion that a zero discharge limitation for PCBs is both necessary and achievable."

1) Nothing was presented at the National Conference on PCBs to suggest that zero discharge of PCBs is achievable.

2) No indication is given as to the "other data recently gathered by the Region II staff concerning ... treatment capabilities."

b. Under the Federal Water Pollution Control Act, any one of three bases may be used to establish the ultimate 1977 effluent limitation:

1) The limitation shall represent the application of "the best practicable control technology currently available (BPCTCA)."

For PCBs, BPCTCA does not produce zero discharge.

2) The limitations may represent "any more stringent limitations ... necessary to meet ... any State law or regulations ... or required to implement any applicable water quality standard established pursuant to this Act."

There are no Federal water quality criteria for PCBs that require zero discharge for their implementation. The present litigation between GE and DEC hinges on the unresolved question of whether State laws or regulations require zero discharge.

3) Promulgation of a toxic effluent standard for PCBs more stringent than that in our permit would require modification of the permit in accordance with such standard or prohibition.

No toxic effluent standard has yet been promulgated for PCBs.

Recommendations

A. In our written comments we should argue:

1. If any revisions are to be made in the interim limitations, the revised limits should be based upon a review by us of all of our monitoring data since early September. These data and our interpretation of them should be included in our written comments.

2. The abatement program that is now underway and planned for completion by June 30, 1977, does represent BPCTCA for PCBs, and in our opinion will keep our discharges below 100 g/day, the limitation in our present permit. We have argued, through our testimony and brief presented during the DEC hearing, that a discharge of no more than 100 g/day provides an ample margin of safety for meeting the NYS water quality standards. In the absence of a more stringent Federal toxic effluent standard for PCBs, there is no justification for changing the final effluent limitation from 100 g/day (maximum) to "None."

B. Even if we are successful in the foregoing arguments, we should expect that EPA will propose, early in 1976, a toxic pollutant effluent standard for PCB that will be more

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stringent than 100 g/day. Present indications are that EPA will base its proposed standard upon a water quality criterion of 1 part per trillion. Such a proposed standard, as applied to our Hudson River plants, would limit the discharge to no more than 7 g/day (which would be equivalent to a concentration of about 5 ppb in our effluent). Within the variability of routine, daily monitoring, this would be essentially a zero discharge requirement. EPA will hold a hearing on its proposed standard, and promulgation should be expected by mid-1976. Unless the law is amended, the standard would become effective no later than mid-1977.

Thus, whether through regional or national action, EPA seems determined to get zero discharge into our permit.

All of the arguments that can be made for and against the stringent PCB toxic effluent standard that we expect EPA to propose have already been made in the record and briefs of the DEC hearing. If we lose with DEC, I don't think we have a chance of deflecting EPA from its course. If we win with DEC, we have a strong argument that zero discharge to the Hudson River is not necessary to protect either fish to humans.

C. Looking further down the road, Train appears to have decided that even zero discharge by manufacturers of capacitors and transformers will not be sufficient without controls over the ultimate disposal of the millions of pounds of PCBs per year that are distributed throughout the country in such electrical equipment. He is pushing for passage of toxic substances control legislation, which is under active consideration by the Congress. He would probably use the authority contained in such legislation to ban all uses of PCBs, giving adequate time for the "phase-in" of substitutes for capacitor and transformer use. We would then face the question of what effluent standards EPA would deem necessary to control losses of these substitute fluids.

Sincerely yours,

Dr. E. L. Simons, Manager
Environmental Protection Operation

ELS:am

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