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River pollution hearing begins

By PETE WALSH
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ALBANY — A hearing into whether General Electric Co. has been polluting the Hudson River by discharging chemicals called PCBs from two plants opened here Monday with arguments about whether to allow environmental groups to take part.

General Electric has denied a charge by the State Department of Environmental Conservation that PCBs from its Hudson Falls and Fort Edward plants may have done irreparable damage to fish and the river environment, and asked that the charge be dismissed.

An attorney for General Electric, N. Earle Evans, said that the state would have to show not only that discharges had taken place, but prove which of the approximately 200 varieties of the chemicals generally known as PCBs — short for polychlorinated biphenyl — it found in the river, and that the quantities were sufficient to be a violation.

The state charged that PCBs are persistent in the environment, which means that they are not naturally broken down into other, simpler substances, and that the PCBs discharged by G.E. plants had settled into river silts and were absorbed through the food chain by bottom-feeding fish.

Environmental Conservation Commissioner Ogden Reid has issued public warnings against eating certain types of fish taken from the Hudson. The state charge against G.E. asked that it be ordered to end all PCB discharges by next September, post a $3 million bond to assure that the work was done, and take what steps it could to restore the environment.

The first hearing to take testimony in the case, which is expected to be long and complex, was set for Nov. 3.

At an opening session Monday, attorneys for several environmental groups and the State Commerce Department asked for permission to intervene in the case.

The groups seeking to take part were the Natural Resources Defense Council, Hudson River Fishermen's Association, Inc., Hudson River Sloop Restoration, Inc., and the Federated Conservationists of Westchester County, Inc.

Environmental groups have frequently participated in cases in which a permit was sought, such as the Consolidated Edison request to build nuclear power plants, but the charge against G.E. is that it violated the law, making it much like a criminal charge in some respects. Allowing them to enter this case might prolong the proceedings and make it difficult or impossible to negotiate a settlement, Evans said Monday.

On the other hand, barring them from the proceedings might leave whatever decision emerged open to attack in the courts later, said hearing officer Abraham D. Sofaer, a Columbia University law professor. He asked for memorandums on the question from all parties and said he would make a decision shortly on who would be allowed to participate.

Sofaer also turned down a suggestion by the Environmental Conservation Department that some of the hearings might be conducted outside Albany, probably in New York City, in order to give the public a greater opportunity to hear the proceedings.

Evans objected to the suggestion and said it would make the case into "a traveling circus."

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