

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor  
George E. Meyer, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TDD 608-267-6897

June 13, 2000

The Honorable James E. Doyle  
Attorney General  
123 W. Washington Ave.  
Madison, WI 53707-7857

Subject: Superfund Consent Decree Negotiations  
Regarding the Sheboygan River and Harbor Superfund Site

Dear Attorney General Doyle:

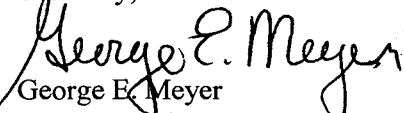
The U.S. Environmental Protection Agency, Region 5 issued a Record of Decision ("ROD") for the Sheboygan River and Harbor Superfund Site on May 12, 2000. We expect that within a few weeks, U.S. EPA, Region 5 will mail special notice letters to the potentially responsible parties ("PRPs") for the site. It is our understanding that these special notice letters will invite Tecumseh Products Company, the Kohler Company and Thomas Industries (companies that have already been identified by U.S. EPA as PRPs for the site) and any other PRPs that U.S. EPA may identify, to participate in consent decree negotiations.

In the consent decree negotiations, the PRPs will be asked to agree to implement the remedy that was selected by U.S. EPA in the recently issued ROD. If an agreement is reached, the federal Superfund Law (the Comprehensive Environmental Response, Compensation and Liability Act - CERCLA) requires that the agreement be filed in federal court as a consent decree, for court approval. If negotiations are successful, it will be necessary for the Wisconsin Department of Justice to file in federal court a civil complaint, and a motion to consolidate our action with the lawsuit that will be filed by the U.S. Department of Justice, in order for the State of Wisconsin to join the lawsuit and sign-on as a party to the consent decree.

For this reason, the Department of Natural Resources requests that your office assign an Assistant Attorney General to represent the State in negotiations regarding the Sheboygan River and Harbor Superfund Site, and to represent the State in federal court, if necessary. We will send a letter to Governor Thompson in the next few days to request authorization from the Governor for the Department of Justice to initiate a civil action in federal court if the consent decree negotiations are successful.

Staff Attorney Linda Meyer in the DNR's Bureau of Legal Services will serve as legal liaison for this matter. A copy of the Sheboygan River and Harbor Superfund Site ROD and other information about the site is being sent to your office separately. Thank you.

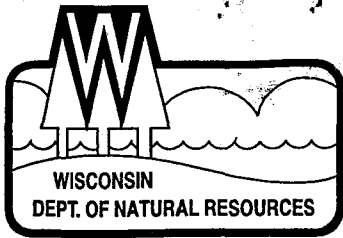
Sincerely,

  
George E. Meyer  
Secretary

Quality Natural Resources Management  
Through Excellent Customer Service



cc: Jay Hochmuth – AD/5  
Bruce Baker – AD/5  
Linda Meyer – LS/5  
Candy Schrank – FH/3  
Gloria McCutcheon – SER  
Tom Wentland – SER ←



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~~June 15, 2000~~ July 5, 2000

Governor Tommy G. Thompson  
Governor's Office  
Room 125 South  
State Capitol  
Madison, Wisconsin 53707

Subject: Consent Decree Negotiations and the Filing of a Lawsuit in Federal Court  
Regarding the Sheboygan River and Harbor Superfund Site

Dear Governor Thompson:

I am writing to request that you authorize the Department of Justice to file a lawsuit in federal District Court on behalf of the State of Wisconsin if the Department of Natural Resources, the Wisconsin Department of Justice, the U.S. Department of Justice and the U.S. EPA are successful in reaching an agreement with the potentially responsible parties ("PRPs") for the implementation of the remedy that U.S. EPA has selected for the Sheboygan River and Harbor Superfund Site.

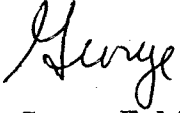
On May 12, 2000, U. S. EPA, Region 5 issued a Record of Decision ("ROD"), selecting the remedy for the Sheboygan River and Harbor Superfund Site. U.S. EPA, Region 5 has informed us that they expect to issue special notice letters to the PRPs for the site within a month, inviting the PRPs to negotiate a consent decree with the federal government and the State of Wisconsin, under which one or more of the PRPs would agree to implement the remedy. The Department of Natural Resources is hopeful that the natural resource trustees for the Sheboygan River and Harbor Superfund Site (WDNR, the U.S. Fish and Wildlife Service and NOAA) will also be able to reach agreement with the PRPs on a settlement of our natural resource damage claims, in order to achieve a "global settlement" for the site.

If the agencies are able to reach agreement with the PRPs on the terms of a consent decree, it will be necessary for the Wisconsin Department of Justice to file in federal court a civil complaint and a motion to consolidate our action with the lawsuit that will be filed by the U.S. Department of Justice, in order for the State of Wisconsin to join the federal lawsuit and sign-on as a party to the consent decree. If the State of Wisconsin is a party to the consent decree, we will be able to insist that U.S. EPA consult with DNR as the remedy is implemented, and the State of Wisconsin would have to agree to any changes that either U.S. EPA or the PRPs might later propose to make to the consent decree.



We have enclosed a draft letter to Attorney General Doyle for your consideration. If you or your staff have any questions about this request, please contact either Division Administrator Jay Hochmuth at (608) 267-9521 or Staff Attorney Linda Meyer at (608) 266-7588. Thank you.

Sincerely,



George E. Meyer  
Secretary

cc:

JoAnne Kloppenburg - DOJ  
Jay Hochmuth - AD/5  
Bruce Baker - AD/5  
Mark Giesfeldt/Jane Lemcke - RR/3  
Linda Meyer - LS/5  
Candy Schrank - FH/3  
Gloria McCutcheon - SER  
→ Tom Wentland - SER

Enclosure

The Honorable James E. Doyle  
Attorney General  
123 W. Washington Ave.  
Madison, WI 53707-7857

Subject: Sheboygan River and Harbor Superfund Site Consent Decree Negotiations

Dear Attorney General Doyle:

Secretary George Meyer of the Department of Natural Resources has requested that I authorize the Department of Justice to file a lawsuit in federal District Court on behalf of the State of Wisconsin if the Department of Natural Resources, the Wisconsin Department of Justice, the U.S. Department of Justice and the U.S. Environmental Protection Agency are successful in reaching an agreement with the potentially responsible parties ("PRPs") for the Sheboygan River and Harbor Superfund Site, under which the PRPs would agree to implement the remedy that U.S. EPA recently selected to address PCB-contaminated sediment in the Sheboygan River and Harbor.

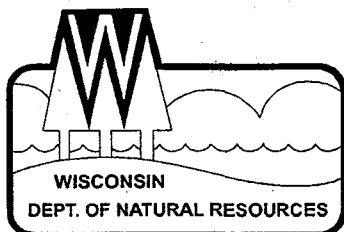
I understand that WDNR, WDOJ, U.S. DOJ and U.S. EPA expect to start negotiations with the PRPs for the Sheboygan River and Harbor Superfund Site within the next month, and that if an agreement is reached, it will be necessary to formalize the agreement in a consent decree to be filed in federal district court. Further, it is my understanding that if the State of Wisconsin is to be a party to the consent decree, I will need to authorize DOJ to commence a lawsuit in federal court that will be consolidated with the action filed by the U.S. DOJ.

Accordingly, pursuant to s. 165.25, Stats., I hereby authorize the Department of Justice to commence a lawsuit in federal court against the PRPs for the Sheboygan River and Harbor Superfund Site, and to appear on behalf of the State of Wisconsin in any matter relating to a proposed consent decree for the Sheboygan River and Harbor Superfund Site.

Sincerely,

TOMMY G. THOMPSON  
Governor

→ Tom FTI



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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George E. Meyer, Secretary

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TDD 608-267-6897

July 25, 2000

The Honorable Herbert Kohl  
United States Senate  
Suite 330 Hart Senate Office Building  
Washington, DC 20510

Ref File: 3500

Herb  
Dear Senator Kohl:

Your assistance is urgently needed to obtain \$100,000 in the FY 2001 Energy and Water Appropriations Bill for a reconnaissance study to evaluate environmental dredging at Sheboygan Harbor, Wisconsin. Based upon recent negotiations between the Wisconsin Department of Natural Resources (WDNR) and U.S. Environmental Protection Agency (EPA), it now appears that the State will have funding and will be able to participate in environmental dredging much sooner than originally, anticipated.

In 1974, EPA identified moderate to high concentrations of lead, zinc, chromium and arsenic in Sheboygan Harbor sediments. In 1977 the WDNR identified elevated concentrations of PCBs in Sheboygan River fish. The U.S. Army Corps of Engineers confirmed the presence of metals and PCBs in the lower Sheboygan River and Harbor in 1979. The lower 14 miles of the Sheboygan River from Sheboygan Falls through the Sheboygan Harbor on Lake Michigan was designated a Superfund site in 1985. EPA issued a Record of Decision to the Potentially Responsible Parties in May, 2000.

PCB sediment contamination precludes the general public and Corps of Engineers (COE) from being able to conduct maintenance dredging to promote safe navigation of the river. The public has expressed their concerns to the Wisconsin Department of Natural Resources (WDNR) and to the U.S. EPA in public meetings about this limitation on maintenance dredging and how it has restricted the use of the channel in this reach and associated redevelopment plans. Power craft operate from the public boat launch at Kiwanis Park in Sheboygan, down through the federally authorized navigation channel that begins at Pennsylvania Avenue and extends through the Lower River and Inner Harbor to Lake Michigan. To date, dredge operations cannot be conducted on the channel without addressing the PCB contaminated sediment.

In addition to the impacts to navigation, evidence indicates that vessels navigating the channel often re-suspend sediment. The resuspended contaminated sediment appears to factor strongly in continuing injuries to fish as well as avian and mammalian resources. WDNR currently has fish and wildlife consumption advisories for the lower 14 miles of the Sheboygan River and Harbor. Dredging in the lower river and harbor will be required to maintain safe navigation depths for current uses as well as to protect the species of this ecosystem from being further exposed to continuing resuspension of PCB contaminated sediment. This effort would work in concert with EPA's Record of Decision (ROD). The clean-up identified in the ROD for the Sheboygan River will proceed from the upper river downstream; consequently, the timing is ideal for the COE's assessment of the Harbor. This will build on EPA's effort and bring additional resources for environmental dredging for the remediation of the Sheboygan River.

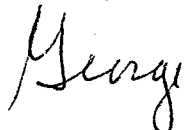


The requested funding would permit the COE to evaluate the feasibility of undertaking environmental dredging in the Sheboygan Harbor under the authority of Section 312 of the Water Resources Development Act of 1990, as amended.

Your assistance in obtaining this funding will help us and others work in partnership towards restoring the Sheboygan River for the people of Sheboygan and the State.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "George".

George Meyer  
Secretary

cc: Gloria McCutcheon - SER  
Chip Krohn - SER  
Vic Pappas - SER  
Susan Sylvester - AD/5