

**The
Anacostia
Watershed
Restoration
Partnership**

Akridge

Anacostia Watershed
Citizens Advisory
Committee

Audubon Naturalist
Society

Cohen Companies

District of Columbia

District of Columbia Water
and Sewer Authority

Maryland Department of
Natural Resources

Maryland Department of
the Environment

Mayor of College Park,
Maryland

Metropolitan Washington
Council of Governments

Montgomery County

National Oceanic and
Atmospheric
Administration

National Park Service

Prince George's County

Summit Fund of
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Engineers

US Environmental
Protection Agency

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DRAFT

The Honorable Lisa P. Jackson, Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Mail Code 1101A
Washington, DC 20460

Dear Administrator Jackson,

We believe that the Anacostia watershed is at a historic turning point. Thanks to the committed efforts of USEPA and other partners, the watershed is no longer the most neglected in the Nation— it has an unprecedented plan to “green the watershed-clean the river” that our Partnership is beginning to implement. As Chair of the Steering Committee of the Anacostia Watershed Restoration Partnership, I speak for all the Partners in giving sincere thanks to you and your strong team, copied below, for the your dedication and hard work on behalf of the Anacostia, especially in the areas of controlling stormwater and sewage overflows.

As you know, toxic pollutants in the sediments, water and fish of the Anacostia continue to be a serious problem. Studies conducted by the U.S. Fish and Wildlife Service have indicated that 50-68 percent of the brown bullhead catfish studied from the Anacostia River have liver tumors and 13-23 percent have skin tumors. The prevalence of liver tumors is the highest recorded in North America. These rates are alarming, since scientists consider waters with a liver tumor rate of more than 5 percent to be highly contaminated. Although Maryland and the District have issued fish advisories, we know that subsistence fishermen take fish from the river, creating a potential health hazard for families who are hard pressed to put food on their families’ tables or to receive proper care if their health is adversely affected by eating these fish.

Today we are writing to ask USEPA to increase its efforts in ~~act to~~ cleaning up the toxic hot spots in the River, and the sources that contribute to them. Actions could include:

(I) Chairing a river-wide sediment cleanup/natural resource restoration effort, to which all parties could contribute;

(II) Ensuring the cessation of continued discharges from upriver sources, for example, in Maryland; and

(III) In conjunction with the District and NPS, devising strategies to ensure the creation of enforceable commitments to investigate and cleanup and/or restore natural resources associated with contaminated sites on the banks of the river—sites that ~~for which that~~ have been known to be contaminated for a decade or more but which have not been fully investigated or remediated, including:

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- Kenilworth Landfill
- The Pepco Benning Road site
- The Washington Gas site

Last October, we asked for and received a status report on some of these sites from Region III (attached). While not a detailed summary, it indicated that action at these sites was proceeding at a slow pace. At one of the sites, Kenilworth Landfill, USEPA recommended specific actions in 2002, but the recommended actions have still not been implemented. Kenilworth Landfill is also cited by the State of Maryland as one of the largest sources of PCBs to the Potomac River,¹ and it is reported that live ordnance has been found there. We only have partial analyses of the dangers and ecological or health risks related to these sites or the extent the sites listed above are continuing to leach toxics into an already very contaminated river, and we have no final Records of Decision and agreed-upon cleanup plans. We are particularly concerned about this issue of ongoing contamination of the river because several of the contaminated “hot spots” in the sediments in the river (identified by USEPA) are adjacent to these sites (see the attached map).

It should be noted that these three sites ~~listed~~ are located in communities that have some difficult challenges. A quick review of ~~US Census tracts the data for the US Census tracts that contain these three sites~~ indicates that each of these sites are in census tracts with median household incomes of less than \$20,000 to \$40,000. We understand from activists that- it is difficult for families to address environmental problems when they are working hard to make ends meet. This, as you know, is all the more reason why the government must act on their behalf.

~~It is our~~We understand~~ing~~ that Region III personnel ~~have been~~are reviewing the information and possible actions related to these sites, ~~and have discussed with the District a strategy and deadlines for execution of enforceable cleanup commitments~~. We urge USEPA to act within a reasonable time frame. ~~We also encourage USEPA to consider mechanisms it may use to ensure that the District is meaningfully participating in federal-lead efforts, and/or is able to institute its own, for example, where USEPA may be unable to take enforcement action against sister agencies. As the legal maxim goes: “justice delayed is justice denied.” We request that USEPA issue complete information to the our Partnership and to the public about what is known (and what should be investigated) regarding the ecological and health risks associated with the sites and issue appropriate orders for the investigation and remediation of the sites by September 1, 2010.~~ We stand ready to provide any assistance that we can. Our Executive Director, Dana Minerva, can be reached at: 202-962-3322 and dminerva@mwkog.org.

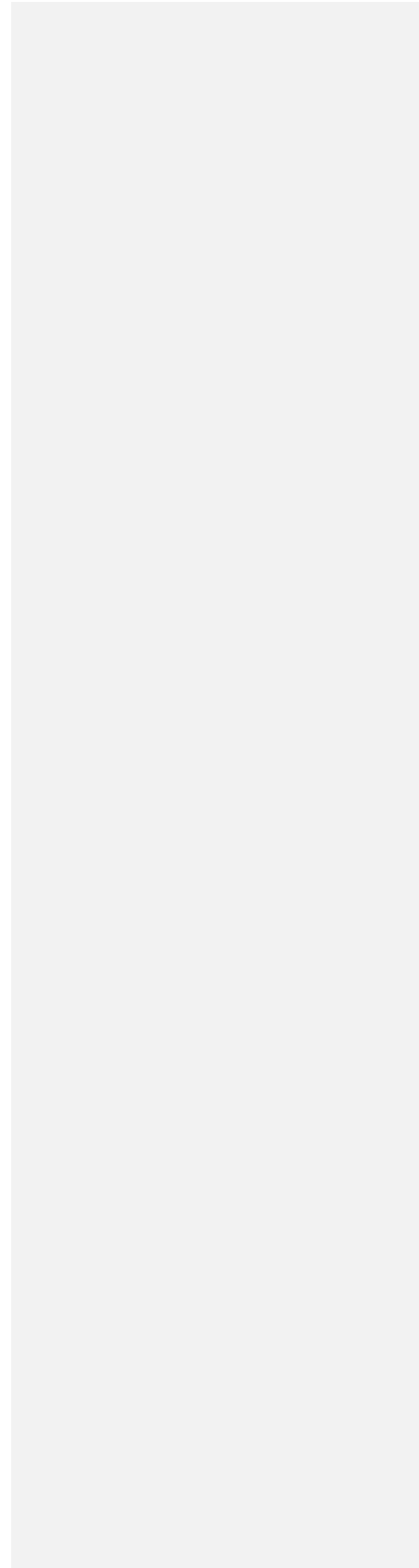
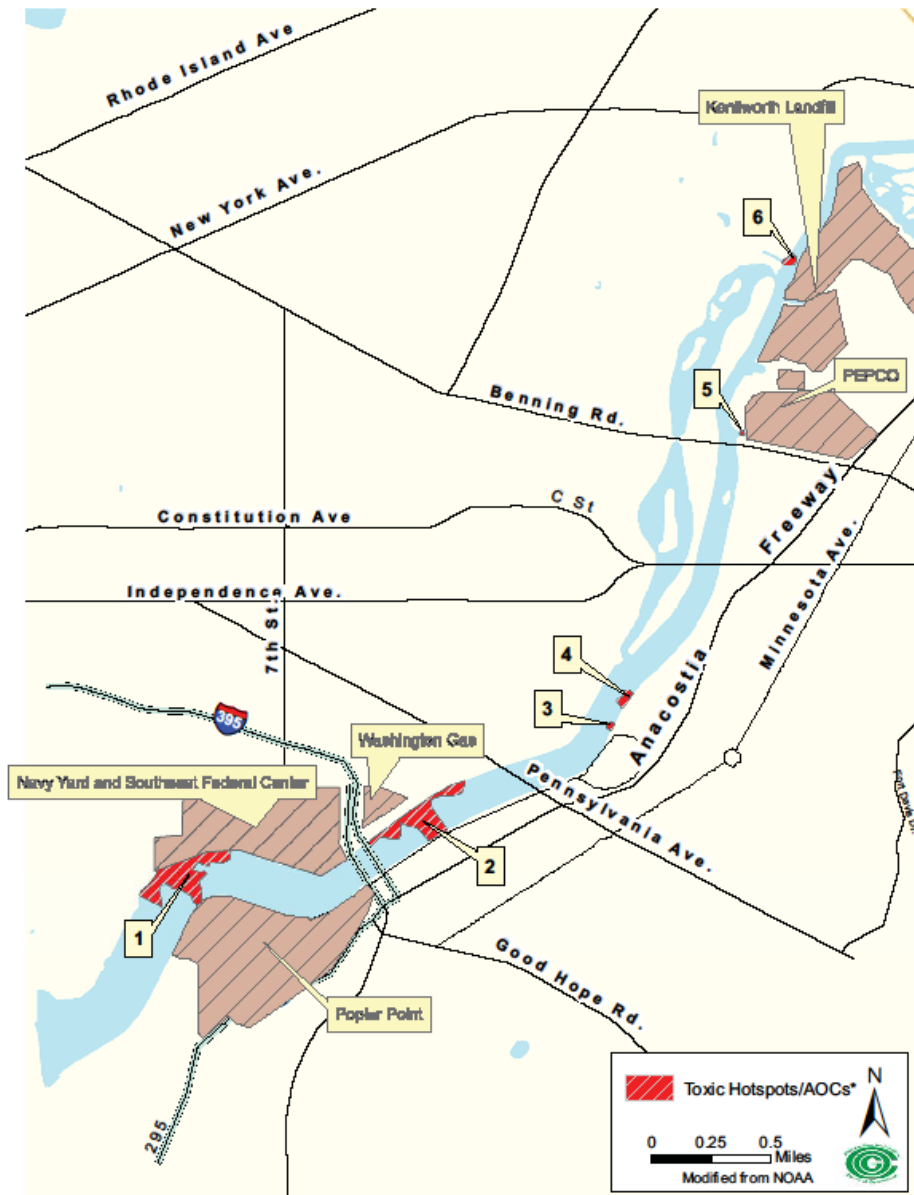
We hope that you will find this letter helpful and again, thank you very much for your ongoing strong support for the restoration of the Anacostia.

¹ Maryland Department of the Environment, *Total Maximum Daily Loads of Polychlorinated Biphenyls (PCBs) for Tidal Portions of the Potomac and Anacostia Rivers in the District of Columbia, Maryland, and Virginia* (2007).

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Mr. Frank Dawson, Chairman
Steering Committee

cc: Mr. Robert Perciasepe, Deputy Administrator
Mr. J. Charles Fox, Senior Advisor on the Chesapeake Bay and Anacostia River
Mr. Shawn Garvin, Regional Administrator, Region III
Mr. Jon Capacasa, Director, Water Protection Division, Region III
Ms. Dominique Lueckenhoff, Associate Director, Water Protection Division, Region III
Ms. Diana Esher, Director-, Air Protection Division, Region III
Ms. Catherine King, Anacostia Program Manager
Secretary Ken Salazar, Department of the Interior
Deputy Secretary David Hayes, Department of the Interior
The Honorable Adrian Fenty, Mayor, District of Columbia
Anacostia Watershed Restoration Partnership Steering Committee



To: Jon Capacasa, Director, Water Protection Division, EPA Region III
Dana Minerva, Executive Director, Metro. Wash. Council of Governments
From: Frank Fritz & Cindy Weiss, Assistant Regional Counsels, EPA Region III
Date: October 21, 2009
Re: Anacostia River: Summary of Six Possible Sources of Sediment Contamination

Washington Navy Yard

Ownership: Dept. of Defense (DoD)
CERCLA lead agency (land): DoD
Entity performing cleanup: DoD
Agreement(s): 1998 Barry Farm Residents Council-U.S. consent decree;
1999 CERCLA § 120 Federal Facility Agreement
Contam. linked to sediment: PCBs
Status: On the NPL. Several removals completed, including removing PCB-contaminated sediment from storm sewers and excavating PCB-, petroleum- and lead-contaminated soil from several sites. Remedial investigation/feasibility study (RI/FS) ongoing. First round sediment sampling done. Second round sampling (sediment and fish tissue) finished Sept. 2009.

Southeast Federal Center/The Yards

Ownership: Partly GSA, partly private developer
CERCLA lead agency (land): no CERCLA actions planned at this point
Entity performing cleanup: GSA and other entities on certain parcels
Other PRPs: Navy
Agreement(s): 1998 Barry Farm Residents Council-U.S. consent decree;
1999 RCRA § 3013 order issued by EPA to GSA.
Contam. linked to sediment: PAHs, metals, PCBs
Status: GSA cleaned out contaminated sediment (PCBs, etc.) from storm sewers, and replaced old timber pier with concrete pier. RCRA Facility Investigation (site-wide, including sediment) completed. More intensive assessment and contaminant abatement has been completed on parcel-by-parcel basis, prior to development. 2008 Human Health Risk Assessment includes screening level assessment of risks to humans from eating fish contaminated by sediment, with caveats regarding DC restrictions on fish consumption.

Poplar Point

Ownership: National Park Service (NPS)
CERCLA lead agency (land): NPS
Entity performing cleanup: DC
Other PRPs: Navy, Architect of the Capitol, Army Corps of Engineers
Agreement(s): NPS-DC order for DC to conduct RI/FS
Contam. linked to sediment: PCBs, PAHs
Status: DC implementing RI/FS, including investigation of sediment along shore and at Stickfoot sewer outfall. Georgetown Law Center notified U.S. and DC of intent to file RCRA citizen suit.

Washington Gas Light (WGL)

Ownership: WGL owns East Station parcel. DC owns former NPS parcel adjacent to water.

CERCLA lead agency (land): DC

Entity performing cleanup: WGL

Agreement(s): 2000 DC-WGL East Station Letter Agreement (pump, capture, treat contaminated ground water); 2006 draft NPS-Washington Gas-DC consent decree to implement 2006 NPS Record of Decision

Contam. linked to sediment: PAHs, metals

Status: WGL continues to pump and treat groundwater to prevent coal tar contamination from migrating to the river. NPS performed RI/FS of NPS/DC property and issued ROD in 2006. Draft NPS-WGL consent decree to implement ROD not finalized due to transfer of property from NPS to DC. In 2009, WGL voluntarily submitted work plans to sample sediment. EPA, NPS and DC commented; WGL is preparing a response.

PEPCO Benning Road

Ownership: PEPCO

CERCLA lead agency (land): DC

Entity performing cleanup: PEPCO

Agreement(s): none known to the authors

Contam. linked to sediment: PCBs, PAHs

Status: EPA finished CERCLA preliminary assessment in 2000. EPA sampled soil, sediment as part of CERCLA site investigation in fall 2008. EPA is currently evaluating data and response options.

Kenilworth Landfill (former DC dump)

Ownership: NPS

CERCLA lead agency (land): NPS

Entity performing cleanup: NPS

Agreement(s): none known to the authors

Contam. linked to sediment: Fill materials had PCBs, PAHs, metals

Status: NPS conducted RI/FS in 2002, proposed cap. EPA recommended excavation of waste material between landfill and aquatic habitat, wetland, restoring riparian habitat, forested buffer, and low impact development technologies. NPS installed riprap to prevent erosion.

Notes:

This summary focuses on the status of environmental investigation and cleanup related to contaminated sediment hotspots in the Anacostia River. It lists some of the main contaminants at each facility that may have migrated to sediment hotspots. No attempt is made to list all contaminants in sediment or on land.

The CERCLA lead agency for cleanup of the river bottom appears to be the Department of Interior. The CERCLA lead agencies named above are for cleanup of land.