

■ *Capital District Breast Cancer Action* ■ *Center for Health, Environment & Justice* ■ *Citizens' Environmental Coalition* ■ *Citizen Action of NY/Working Families Party of Southern Tier* ■ *Clean Air Coalition of Western NY* ■ *Clean & Healthy New York* ■ *Coalition for Economic Justice* ■ *Empire State Consumer Project* ■ *Environmental Advocates of New York* ■ *Environment Committee* ■ *Fiscal Policy Institute* ■ *Fluoride Action Network* ■ *Grassroots Environmental Education* ■ *Finger Lakes Citizens for the Environment* ■ *Greenwich Citizens Solid Waste Network* ■ *Healthy Schools Network* ■ *Hudson River Sloop Clearwater* ■ *Hunger Action Network of NYS* ■ *Metro Justice of Rochester* ■ *New Yorkers for Fiscal Fairness* ■ *New York Public Interest Research Group* ■ *Nuclear Information and Resource Service* ■ *Occupy Albany* ■ *Public Employees Federation* ■ *Rochester Environment* ■ *Rochester Association for Immigration Reform* ■ *Rochester Against War* ■ *Save the Pine Bush* ■ *Sierra Club Atlantic Chapter* ■ *Sierra Club - Rochester Regional Group* ■ *The Ilion Project* ■ *United Neighbors Concerned about GE Dewey Loeffel Landfill* ■ *Webster Village Residents for Monroe County Water* ■ *Western New York Council on Occupational Safety and Health* ■

**NEWS RELEASE**

For Immediate Release:  
July 29, 2013

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**National, State and Local Groups Urge Governor and DEC to Clean Up Eastman Business Park and Hold Kodak Accountable for Decades of Pollution**

***Don't Stick NYS Tax Payers with Kodak's Clean Up Bill!***

(Albany, N.Y.) Over 30 national, state and regional organizations sent a letter to Governor Andrew Cuomo and Department of Environmental Conservation (DEC) Commissioner Joe Martens expressing strong opposition to the proposed \$49 million Eastman Kodak environmental liability plan.

The groups stated that the plan likely significantly underestimates the amount of funding necessary to comprehensively remediate highly complex contaminated sources, soil, buildings, groundwater and sediment contamination at Kodak Park and the Genesee River.

“For decades, Kodak has refused to clean up dozens of toxic hot spots and the contaminated Genesee River,” said **Anne Rabe of the Center for Health, Environment & Justice**. “Now Kodak, DEC and the Governor have negotiated a toxic bailout proposal in total secrecy with a totally inadequate \$49 million fund. If this terrible precedent is approved, state taxpayers will end up paying for Kodak’s toxic legacy, when the company made billions over the years using cheap, environmentally unsound waste disposal practices.”

The proposed Kodak settlement would require both the state and federal environmental agencies to waive their rights to sue the company in the future for environmental problems. Given that the proposed \$49 million fund is inadequate to comprehensively cleanup Kodak Park and the Genesee River, New York State taxpayers could be stuck footing the bill. The groups are deeply concerned that Kodak would be relieved of all legal liability for past contamination, and therefore we strongly oppose to the proposed plan. The groups support the Environmental Protection Agency’s opposition as they have not agreed to waive liability.

“Everyone wants to see this massive, toxic Business Park cleaned up,” said **Ron Deutsch, Executive Director of New Yorkers for Fiscal Fairness**. “What we don’t want to see is Kodak being absolved for any future problems discovered on the site after remediation begins. New York taxpayers should not be on the hook for a massive clean-up bill that Kodak should be paying.”

The groups said the proposed plan is also in total conflict with how the State Superfund and Brownfield programs operate. It is standard procedure for the state to require companies to first conduct a comprehensive environmental investigation to fully ascertain the scope of the pollution and cleanup options. Only then can the cleanup costs be determined. The state would be “putting the cart before the horse” by agreeing to a cap of only \$49 million without knowing if that will be sufficient. A single toxic waste site can cost \$100 million or more to remediate. Kodak has a number of contaminated sites and has not done comprehensive environmental testing to determine the breadth and scope of their pollution. If it costs more than \$49 million to cleanup, which is highly likely, the taxpayers will be left to pay the bill as the State Superfund is on the verge of bankruptcy.

“This Kodak moment is a bad deal for Rochester and New York taxpayers,” said **Mike Schade, Markets Campaign Coordinator for Center for Health, Environment & Justice (CHEJ)**. “Kodak has known about their contamination problems in Rochester for decades. They have a moral and financial responsibility to comprehensively clean up the area once and for all.”

The groups requested that New York State and the DEC work with the EPA to have Kodak first conduct a comprehensive multi-media remedial investigation/feasibility study at Kodak Park and the Genesee River to more accurately characterize the scope of contamination and remediation costs. They also urged the state to oppose any settlements that relieve Kodak of legal liability given its decades of hazardous discharges and violations.

Copy of Letter:

The Honorable Andrew M. Cuomo  
Governor of New York State  
NYS Capitol Building  
State Street  
Albany, NY 12224

Commissioner Joseph Martens  
Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233

July 29, 2013

Dear Governor Cuomo and Commissioner Martens:

We are writing to express our opposition to the proposed \$49 million Eastman Kodak environmental liability plan, which significantly underestimates the amount of funding necessary to comprehensively remediate highly complex contaminated sources, soil, buildings, groundwater and sediment contamination at Kodak Park and the Genesee River. The proposed Kodak settlement would require both the state and federal environmental agencies to waive their rights to sue the company in the future for environmental problems. Given that the proposed \$49 million fund is inadequate to comprehensively cleanup Kodak Park and the Genesee River, New York State taxpayers could be stuck in footing the bill. We are deeply concerned that Kodak would be relieved of all legal liability for past contamination, and therefore we strongly opposed to the proposed plan.

According to a recent court filing by the United States of America objecting to the proposed plan, "The United States does not intend to provide the covenant not to sue or the contribution protection contemplated in paragraph 3.2(e) of the EBP Settlement Agreement because: (i) there has not been sufficient characterization of the nature and extent of contamination to provide a basis for confidence that the \$49 million allocated to EBP Environmental Response Actions through the EBP Settlement Agreement will be sufficient. It has been EPA's experience that sites of this size and complexity, especially ones that include river sediment contamination, can be very costly; and (ii) the United States has significant concerns about the consequences of forgoing its authorities to ensure compliance with RCRA's closure, post-closure, corrective action, and financial assurance requirements, as well as other remedies under the environmental laws, in the event that the cleanup of all existing contamination is incomplete at the Eastman Business Park and in or near the Genesee River."

The proposed plan is also in total conflict with how the State Superfund and Brownfield programs operate. It is standard procedure for the state to require companies to first conduct a comprehensive environmental investigation to fully ascertain the scope of the pollution and cleanup options. Only then can the cleanup costs be determined. The state would be "putting the cart before the horse" by agreeing to a cap of only \$49 million without knowing if that will be sufficient. A single toxic waste site can cost \$100 million or more to remediate. Kodak has a number of contaminated sites and has not done comprehensive environmental testing to determine the breadth and scope of their pollution. If it costs more than \$49 million to cleanup, which is highly likely, the taxpayers will be left to pay the bill as the State Superfund is on the verge of bankruptcy.

Kodak Park was historically the largest industrial facility in New York State, covering over 1,100 acres, and nearly 4 miles through the City of Rochester and the Town of Greece. There were more than 125 manufacturing buildings supported by an infrastructure that included nearly 30 miles of roads, power plants, two hazardous waste incinerators, hundreds of emissions sources, its own sewer system, railroad, fire department and water treatment facilities.

### **History of Air and Water Pollution**

Kodak was New York State's number one polluter, according to the federal Toxics Release Inventory (TRI). Over the years Kodak reported releasing tens of millions of pounds of methylene chloride, a carcinogen, into Rochester's air and water. For instance, Kodak reported releasing approximately 9.6 million pounds of carcinogens in 1987, when they were first required to report their emissions under the TRI program. By even 2000, Kodak continued to report releasing over one million pounds of carcinogens. According to a national report published by the US Public Interest Research Group (US PIRG), "Zip code 14652 in Rochester, New York led all zip codes for emissions of cancer-causing chemicals from 1987 to 2000. Of the 64.4 million pounds of carcinogens released over that period, more than 58 million pounds were air releases of dichloromethane by the Eastman Kodak Co. In addition, Eastman Kodak's Kodak Park facility in Rochester ranked among the top 100 facilities nationwide for TRI releases of dioxin in 2000"

### **Surface and Groundwater Pollution**

For decades, Kodak discharged methylene chloride, dioxins and furans, heavy metals such as silver and other hazardous pollutants into the Genesee River, which today has still never been fully characterized nor remediated. For example, Kodak helped contribute to the Genesee River's dubious recognition as having received the greatest amount of toxic pollution of any water body in New York State between 1990 and 1994. The Hudson River came in second, having received about 1 million pounds less pollution than the Genesee. During that time period, Kodak discharged more carcinogens, persistent toxic metals, and the greatest amount of toxic chemicals that cause reproductive damage or birth defects into New York's waters than any other business in New York State. These emissions in some cases were later found

to be under-reported. For two years in a row, Kodak under-reported their releases of nitrate compounds into the Genesee River by 503,000 pounds in 1995 and 1996. For 1996, instead of reporting 350,000 pounds, Kodak reported 80,000. For 1995, they reported of 67,000 pounds discharged, instead of the correct 300,000 pounds.

After decades of operations and releases at Kodak Park, soil and groundwater became severely contaminated with methylene chloride and other pollutants, which led to New York State adding numerous sites at Kodak Park to the state Superfund program. Kodak Park had and likely continues to have 31 miles of underground industrial sewage pipes; many carried hazardous waste and contributed to groundwater and soil contamination at Kodak Park. According to the EPA, "investigations conducted by Kodak indicate soils on site have been contaminated with metals, as well as volatile and semi-volatile organic compounds. Ground water is contaminated primarily with volatile organic compounds, although other constituents have also been detected at elevated concentrations. Contaminated ground water in the shallow flow zones is generally contained on-site. Limited off-site migration of contamination in deeper bedrock ground water has been previously identified adjacent to several areas of Kodak Park."

### **Health Problems at Kodak Park**

Over the years, Kodak Park neighbors and workers complained of cancer and other health problems that they believed may have been attributed to pollution from Kodak. The New York State Department of Health found that women living near Kodak Park had approximately an 80 percent greater risk of developing pancreatic cancer which is often fatal. That rate increased to 96 percent among women who lived in the Kodak Park area for at least 20 years. Some parents were also concerned about a childhood cancer cluster near Kodak, which led to a \$75 million lawsuit against Kodak.

Given these and many other concerns, we feel the proposed plan is woefully inadequate. **We urge New York State and the DEC to work with the EPA to have Kodak first conduct a comprehensive multi-media remedial investigation/feasibility study at Kodak Park and the Genesee River to more accurately characterize the scope of contamination and remediation costs. We also urge you to oppose any settlements that relieve Kodak of legal liability given decades of hazardous discharges and violations.**

We look forward to your responses. Thank you for your attention to this matter.

Sincerely,

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**Loeffel Landfill**

Nassau, NY

Michele Anderson

**Webster Village Residents for Monroe County  
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Webster, NY

Germain Harnden  
**Western New York Council on Occupational  
Safety and Health**  
Buffalo, NY

cc: US Senator Charles Schumer  
US Senator Kirsten Gillibrand  
Representative Louise Slaughter  
New York State Attorney General Eric Schneiderman  
EPA Regional Administrator Judith Enck  
Rochester Mayor Thomas Richards  
Monroe County Executive Maggie Brooks

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