



23 March 2023

Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
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[Submitted via email to pubcomment-ees.enrd@usdoj.gov]

Re: U.S. V. ALDEN LEEDS, INC., ET AL. (Consent Decree Outlining Settlement Among Potentially Responsible Parties and USEPA in regard to the Passaic River Superfund Cleanup)

NY/NJ Baykeeper is submitting the following comments in support of the action-oriented leadership of the US Department of Justice (Justice) and the US Department of Environmental Protection (EPA) in holding the identified potentially responsible parties accountable and forwarding the cleanup process for the Passaic River Superfund in Northern New Jersey.

Justice and EPA are pursuing the parties they deem most responsible for the historical industrial pollution to the Passaic River that caused seventeen miles of the river to be added to the National Priorities List (Superfund) in 1984. The potentially responsible parties, approximately 100 identified companies, have been determined based on decades of studies and background investigations done in and adjacent to the Passaic River as part of the Superfund Remedial Investigation and creation of Record of Decision for the Lower and Interim Record of Decision for the Upper Passaic River. While some PRPs seek to delay paying their allocated share, the communities along the river continue to suffer the ill-effects of all the PRPs historical actions.

The current Consent Decree, settling for a sum of \$150 million among eighty-five of the PRPs deemed responsible for a smaller fraction of the contamination, relative to the primary PRP, will help move the work along for both sides. The PRPs can pay their share of the contribution determined between them and EPA and move on, while EPA can apply these funds toward moving the cleanup plan forward on behalf of the communities who have long suffered the ill-effects of living with a Superfund site in their community. After nearly 40 years, the cleanup is

long overdue and owed to the people who have spent four decades without safe, meaningful access to one of the most remarkable Rivers in NJ.

At the heart of Superfund is the concept that the polluter pays, not the victims of pollution. EPA has put decades of research and investigation into determining who the polluters of the Passaic River are and to what extent each company is implicated. NY/NJ Baykeeper has been engaged with the clean-up of the Passaic River (and other Superfund and contaminated site clean-ups) for 30 years and serves as Co-Chair of the Passaic River Community Advisory Group with Ana Baptista, Ph.D. We have worked with EPA during numerous administrations and on multiple sites, and in our opinion none have worked harder than the current to address the rightful concerns of the public and communities along the Passaic River.

We have every reason to trust and support EPA's settlement agreements with each of these eighty-five PRPs. It is important to understand that each party is pursued to pay its fair share for the pollution in the Passaic River, and the party with the greatest contribution will have the greatest financial responsibility. These eighty-five PRPs have chosen to settle (rather than delay) and are not responsible for the widespread and most damaging contamination along the River.

The lion's share of the more than \$1 billion price tag for the full remediation of the Passaic lies with a few large corporations, and in turn, the parties who recently settled have a smaller share relative to their contribution. They are still paying their share, and that falls in line with the goals of Superfund law and the intent of the EPA, on behalf of the communities along the Passaic, to ensure that all PRPs pay for this historic remediation effort and not those harmed by the pollution each PRP has been identified as contributing.

Ultimately, our singular goal is for a safe, remediated Passaic River to be returned to the communities along it, and one that is achieved without financially burdening the communities along its banks or subjecting the public to further harm to human health and the environment. Families in the communities along the Passaic have lived with a heavily contaminated and often inaccessible waterway for generations. They have been barred from meaningful access and denied the immense ecological, economic and recreational benefits that come with a remediated, healthy Passaic River. There is no excuse to prolong this injustice any longer, the people of our communities are owed better and EPA's effort here is a step in the right direction.

It is EPA's goal to manage the cleanup effort and recoup financial expenditures from PRPs through settlements or other legal means. We support EPA in their efforts and believe that they will do what is in the best interest of the process and allow them to do their work expeditiously.

Sincerely,



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