

Unpublished letter to the editor from David Allen, December 2000.

Dear Editor:

Why is the WDNR so upset with its sister natural resource agencies? The U.S. Fish & Wildlife Service, the National Oceanic and Atmospheric Administration, Michigan, and the Oneida, Menominee, and Little Traverse Bay Tribes of Indians have joined forces to restore Green Bay. We have assembled dozens of national experts, collected detailed and relevant information about Green Bay, coordinated with dozens of local and State agencies and experts, and have opened our process to the entire public and scientific community so that the Wisconsin and Michigan public can participate in one of the only sites in the U.S. with a comprehensive natural resource damage assessment. Why here? Because most of the PCBs have already escaped the Fox River where they could have been cleaned up, and the natural treasures throughout thousands of square miles of Green Bay have been injured for decades and will be for decades more. We welcome everyone's thoughtful comments because we want to forge a coordinated cleanup and restoration which is based on the facts, fair to the public, and fair to the paper mills who are responsible for the Fox River and Green Bay PCB problem.

Secretary Meyer has some comments related to a recent settlement between Wisconsin and Fort [Howard] Corporation. He quotes me as agreeing with his charge that my agency routinely proposes extremely high claims and then settles for ten cents on the dollar. This, he implies, is a better explanation for differences between the State settlement and the co-trustees' recently published "Restoration and Compensation Determination Plan" (www.fws.gov/r3pao/nrda) than potential biases in Fort [Howard's] work which underpin the State settlement. However, if I believe that all government agencies often settle for less than the public deserves, I also believe that the reason is usually insufficient information, expertise, and time to prove the claims, and I believe that we are much better prepared to prove our claims for Green Bay than is typical. There is no reason to settle for 10 cents if a dollar is appropriate and can be proved!

Secretary Meyer also has questions about our economics methodologies, which is why the co-trustees offered to pay for an independent review by qualified experts chosen jointly with the DNR, and why the co-trustees held a 52-day comment period with 5 public meetings throughout the assessment area. We are disappointed that DNR rejected our offer and did not attend any of our public meetings. We are also perplexed that Secretary Meyer has stated such sweeping and misleading conclusions about methodologies used by natural resource agencies and private companies throughout the U.S., including by Fort [Howard's] consultants. In his letter, Secretary Meyer asserts that the 'economic theory used by the Fish and Wildlife Service in this case was struck down by a federal court in California in a case involving Montrose Chemical Company' and the settlement was a fraction of the federal claim. These statements are incorrect. In fact, natural resource injuries were removed by the court, making the economic study no longer relevant. The economic theory and methods were not addressed in the Montrose case. However, the same theories and methods have been upheld by other courts on other cases and in review of federal regulations. Secretary Meyer also mentions that Professor McFadden has expressed reservations with aspects of certain methods to

compute damages. However, Secretary Meyer fails to note that other economics Nobel prize winners have worked with federal agencies to enhance the very same methods as part of the regulatory process.

Finally, Secretary Meyer often claims that the 'value' of the \$7 million State settlement is \$55 million, neglecting to note that this is the high end of a \$17-55 million range calculated by Fort [Howards'] consultant. We note that, using the consultant's own past work and typical values in the literature, benefits could be even less than \$17 million. Rather than inflating the value of compensatory projects and attempting to decide issues unilaterally by settling, we would have preferred that the DNR join the rest of the co-trustees in a unified position on behalf of the entire Wisconsin and Michigan public. Perhaps the DNR should consider an alternative settlement consistent with the applicable NRDA regulations. First, the paper companies can provide projects to compensate for the losses above and beyond fishing. Second, the paper companies can provide, in cash, \$130 million (the mid-point of their consultant's estimated \$70 million to \$190 million) for fishing damages in Wisconsin plus a suitable similar settlement for fishing losses in Michigan. All of the various trustees could then collectively work with the public to determine the best uses of these monies to enhance natural resources throughout the Green Bay area. It is not too late for DNR to join us and to unify the public's claims.

Sincerely, P. David Allen II, U.S. Fish & Wildlife Service