December 29, 1999

MEMO

TO: Deborah Dalton, EPA
FR: Emily Green, Sierra Club Great Lakes Program
RE: Comments on Review of EPA Public Participation Policies

Please accept the comments below and the attached documents as input to your review of EPA public participation regulations and policies.

First, I would like to note that the Sierra Club Great Lakes Program has spent a considerable amount of time over the past two years evaluating EPA's public participation policies, particularly with respect to contaminated sediment cleanups in the Great Lakes. As these sites are subject to a variety of regulatory programs, we have looked at everything from voluntary and relatively informal public involvement programs to the more structured programs that take place at Superfund sites. During our evaluation, we met with communities across the basin to get input on what worked well and what could have worked better under these processes. The summary of this input and the recommendations that we developed based on our findings are contained in the two attached documents: *Community Decision Making in Contaminated Sediment Cleanups,* and *A Model Plan for Public Involvement in Contaminated Sediment Cleanups*. These documents constitute the bulk of our comments. Though they are based on sediment cleanups, we believe that the overarching principles, and certainly the comments on what has and has not worked, are applicable to your evaluation process.

In addition, I wanted to comment on the 1981 policy on public participation. One of the key challenges we face in securing meaningful public involvement is that of time. It is very difficult, when time and resources are limited, to meaningfully participate in the many different processes seeking public comment that occur at any given time. This is particularly true when the timeframe for these processes is short. For example, I received the notice seeking comment on this process in mid-December. Because I was too busy to address it before the holidays, I am now spending my vacation time to prepare and submit these comments by December 30. For the Agency to truly seek meaningful citizen participation in a process, it must spend enough time and effort to first find, then involve those constituents.

Part of the stated purpose of the 1981 policy is that public participation must begin early in the process and continue as necessary. It also states that Agency officials must avoid precommitment to a particular alternative prior to decision making. This does not often happen. In our experience, the public generally feels as if the decision has already been made when their input is sought. Often input is sought after the problem has been identified, evaluated, and alternatives assessed. It should be sought at the very beginning,

when the problem is first identified. This critical inconsistency between the policy and actual practice must be explored and remedied.

The 1981 policy identifies five basic functions of public participation: identification, outreach, dialogue, assimilation, and feedback. While every public involvement process is applied differently, we believe that typically, the Agency does not spend enough time identifying and reaching out to potentially interested parties. Conducting these steps thoroughly requires a significant investment of resources at the beginning of the process. Most of the public does not read the Federal Register, the most commonly used notification process. Therefore, the Agency should always explore and use other options, like local newspapers, TV, and radio, meetings with various groups, including neighborhood associations and other non-traditional, non-professional groups, and targeted outreach to community leaders. We believe that this early investment of resources can help avoid public backlash at the end of a process when interested groups were never informed or involved. We would be happy to discuss additional methods and strategies of identifying and reaching out to such constituents.

The 1981 policy is correct in stating that public involvement only works if the public has enough information to intelligently become involved. While we believe that the Agency is getting better at providing easily understood information to the public (EPA Region V has done a good job of this with respect to the Fox River cleanup in northern Wisconsin), often Agency documents are still written in beaurocratic lingo, filled with acronyms that are difficult even for professional environmental staff to understand. One of the most helpful improvements that could be made to the Agency's outreach is to simplify and shorten written documents, and describe project alternatives and their consequences much more clearly, with an eye to how they will impact the people living in the relevant community.

With respect to dialog with the public, it should begin to take place long before any decision is made. Public hearings, while often used, are not the most effective form of dialog, as they allow only for one-way communication and can exacerbate antagonistic situations. A full examination of the various types of agency-public dialog is outside the scope of these comments, but we strongly recommend that the Agency assess the many available alternatives, and make more specific recommendations to managers on what types of alternatives are best suited to particular situations. Again, we would be interested in assisting in this evaluation and would also note that Resources for the Future recently completed a similar assessment.

The 1981 document is correct in stating that the heart of public involvement is the degree to which it actually influences agency decisions. As stated previously, in practice, public involvement often seems to be an afterthought completed out of necessity, rather than a desire to influence the process. We understand that this is not true across the board, but would encourage the Agency, as part of this evaluation, to assess the extent to which the principles contained in the 1981 policy are actually and effectively applied.

With respect to the Agency's strategy to engage the public in its evaluation of public participation policies, we would recommend allowing enough time and resources to find and involve the groups and individuals interested in this process. We believe that effective public involvement is critical to environmental decision-making and thus applaud EPA for its effort to improve its own programs. But because this is such an important evaluation, it makes sense to take the time needed to do it right. The Agency should assess whether a formal advisory committee is necessary, or whether regional meetings with interested parties might suffice. Either way, we would strongly suggest a more interactive strategy than simple notice and comment periods. We would be happy to provide additional comments on the development of such a strategy as the Agency proceeds in its evaluation.

We are pleased to see an evaluation of EPA's public involvement programs and are willing to contribute to the evaluation process in any way that is helpful. We hope that the evaluation helps strengthen those aspects of EPA's programs that work well and helps change and improve those that have not worked. Please keep us informed and involved as you move forward with this process. Thank you for the opportunity to provide our comments.