

April 7, 2009

Administrator Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson,

Public Employees for Environmental Responsibility (PEER) has been working for the past eight years to ensure that the largest freshwater wetland in Massachusetts, the Hockomock Swamp, is not bisected by a proposed commuter rail. The Hockomock, which is a state-designated Area of Critical Environmental Concern (ACEC), and an EPA-designated priority wetland, provides drinking water to a number of communities, flood storage, water purification, and wildlife habitat for numerous state-listed species. The Massachusetts Executive Office of Transportation (EOT) has been trying to bisect the swamp for decades for the proposed Fall River/New Bedford commuter rail, despite the fact that the project is economically irresponsible and environmentally disastrous. Less environmentally damaging and far less costly options to the proposed route do exist.

This project has taken on a political life of its own. Therefore, PEER was extremely encouraged to read your January 23, 2009 memorandum to all EPA employees. In that memo, you pledged that:

- Science must be the backbone for EPA programs.
- You would not compromise the integrity of EPA's experts in order to advance a preference for a particular regulatory outcome.
- EPA must follow the rule of law.
- EPA's actions must be transparent.

If, as you pledged, science and the rule of law are the basis for decision-making at EPA, the Fall River/New Bedford rail would never be allowed to bisect the Hockomock. Therefore, it was with grave concern that I read an article in a Massachusetts newspaper that quoted Representative Barney Frank pledging exactly the opposite. Specifically, the article states:

Referring to objections over building the rail through the Hockomock Swamp along a possible Stoughton route, Frank said ***he and other supporters made sure the new leadership of the U.S. Environmental Protection Agency did not include anyone with "a record of hostility" to the project.*** "I think we are assured on that part," he said. "We're going to be environmentally responsible, but

we don't want obstacles put in the way" (emphasis added - see full text of the article at:

<http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20090328/NEWS/903280358>).

If science is the “backbone for EPA programs,” then bisecting the Hockomock is clearly not a viable alternative. If you do not compromise the integrity of your staff in order to reach a particular regulatory outcome, then this case will not be used as a litmus test for the Region 1 Regional Administrator or any other appointee within the agency. If EPA truly follows the rule of law, it will find that the route through the Hockomock is unpermissible under Section 404 of the Clean Water Act. And, finally, while Representative Frank’s remarks are certainly transparent, I do not believe this is quite the type of transparency you were seeking for EPA.

As a former Region 1 employee, I respectfully request that you take the time to investigate this matter. Specifically, PEER would greatly appreciate a prompt response from you or your staff as to whether EPA agreed, as implied by Representative Frank, that new appointees must be amenable to the Stoughton Alternative through the Hockomock Swamp.

Finally, PEER asks for your assurances that the environmental reviews for this project will be governed strictly by the rule of law, insulated from political pressure brought by federal and state officials.

Thank you for your attention to this matter.

Cordially,

Kyla Bennett, Ph.D., J.D.
Director
New England PEER