Dear Governor Paterson and Governor-Elect Cuomo:

Our groups have serious concerns about the recently-announced proposal to eliminate the state’s participation in federal Superfund site cleanups in New York. No information has been provided to environmental organizations, community groups, local governments, health organizations and cancer organizations, or the public at large about what activities will be suspended, what specific sites will be affected, and what the impacts of this proposal will be to our environment, our economy, and our health in New York. Prior to taking such a major action...
that could have serious adverse consequences, the state needs to conduct a comprehensive analysis of the potential impacts of this proposal and make this information available to the public.

Currently, there are 86 toxic waste sites across New York State that are on the EPA’s National Priorities List (NPL) of sites to be cleaned up under the federal Superfund program, and two other sites whose nominations to the NPL are currently pending (the Dewey Loeffel site in Rensselaer County and the Hudson Technology site in Rockland County). There are federal Superfund sites located in more than half of New York’s 62 counties, from Niagara to Suffolk.

Staff at the Department of Environmental Conservation (DEC) have historically played an important role at federal Superfund sites. Many of these sites were nominated to the federal Superfund list by the state after DEC staff conducted preliminary site assessments and found that hazardous waste at these sites presented a significant threat to public health or the environment. DEC staff collect field data, conduct biological and chemical monitoring, review proposed site remediation plans and agreements, and conduct oversight activities to ensure that site cleanups meet all requirements and local communities are protected. Because they are based here in New York, DEC staff are typically more familiar with local conditions and community concerns.

While the EPA is the lead agency responsible for the remediation of most federal Superfund sites in New York, the DEC’s website notes that “The DEC acts in a support agency capacity for these sites. The NPL sites are an important part of New York’s Inactive Hazardous Waste Disposal Remedial Program, since they are generally the most seriously contaminated sites and require a more complex and costly cleanup. DEC takes its support role very seriously in order to ensure that these sites are properly remediated.” (www.dec.ny.gov/chemical/8655.html) (emphasis added)

Our groups are concerned that DEC’s withdrawal from activities at federal Superfund sites could set back the clock on remediating contaminated sites across New York. Many of these sites have been on the NPL list for years, and have still not been cleaned up. Cleanup delays will increase the cost of remediation and further threaten the health of people living in the surrounding communities, where spreading contamination not only threatens drinking water supplies but can also impact air quality and accumulate in fish and wildlife. Festering toxic waste sites will also hamper economic development activities in the affected communities. This is a losing proposition, both environmentally and fiscally.

In addition, we are concerned that the federal EPA lacks sufficient resources to do the job adequately. A recent investigation by the U.S. General Accountability Office (GAO) found that EPA’s cleanups have been seriously delayed due to insufficient funding, even at sites with “unacceptable” human exposure.1 And it will only get worse. EPA officials estimate that cleanup costs will triple over the next five years, and the number of new sites expected to be added to the NPL list each year is much higher than in previous years.

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Finally, we question whether cutting back on state activities at federal Superfund sites would actually save any money for the state. We would like to bring several points to your attention:

- Under the federal program, when there is a responsible party (RP) for that site, the RP generally reimburses both the state and federal government for all of their expenses related to the cleanup;

- The DEC can request an annual management assistance grant from the EPA to reimburse the state for its oversight activities at NPL sites, but for some reason has stopped doing so, with the exception of a 5-year grant of $4.3 million that the state received for its work on the Hudson River PCB site;

- The state relies on data collected by DEC field staff at Superfund sites to support the state's Natural Resource Damages (NRD) claims against major polluters like GE. Hundreds of millions of dollars are at stake in the Hudson River NRD alone. It is critically important that the DEC continue its monitoring of contaminant levels in fish and wildlife, both to ensure sound cleanups and to support the state's legal claims.

It is ironic that the state of New York is proposing to step back from its traditional involvement at federal Superfund sites on the eve of the Superfund program's 30th anniversary. The federal Superfund program was created in response to the Love Canal toxic waste disaster in Niagara Falls, New York.

We can see no benefit to the state from discontinuing its valuable role overseeing cleanups at the state's most contaminated sites. Before the state proceeds with this action, the state should provide a justification for suspending its role in federal Superfund cleanup activities, along with a comprehensive analysis of what the impacts would be to New York's environment, health and economy.

Signed,

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Young Survival Coalition
New York, NY
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Hon. Charles Schumer, U.S. Senate
Hon. Kirsten Gillibrand, U.S. Senate
Members of the New York Delegation to the House of Representatives
Judith Enck, Regional Administrator, U.S. Environmental Protection Agency Region 2
Hon. Eric Schneiderman, Attorney General-Elect
Hon. Thomas P. DiNapoli, N.Y.S. Comptroller
Members of the New York State Legislature
Robert Megna, Director, N.Y.S. Division of the Budget
Peter Iwanowicz, Acting Commissioner, N.Y.S. Department of Environmental Conservation