

BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:)
)
) RCRA Appeal Nos. 16-01, 16-02, 16-
) 03, 16-04, and 16-05
GENERAL ELECTRIC COMPANY)
Modification of RCRA Corrective Action)
Permit No. MAD002084093)
)

REGION 1’S UNOPPOSED MOTION FOR EXTENSION OF TIME

Region 1 of the United States Environmental Protection Agency (“the Region”) respectfully submits this motion in connection with the five petitions for review of the Region’s Modification of the RCRA Corrective Action Permit (“the Permit”) to Permittee General Electric Company (“GE”). The Region requests that the Board extend the time required for the Region’s submission of its responses to the five petitions, along with the certified administrative record index, and the relevant portions of the administrative record.

A total of five petitions for review of the Permit have been filed, including from the Housatonic River Initiative, Inc. (“HRI”); C. Jeffrey Cook; the Housatonic Rest of River Municipal Committee (“Municipal Committee”); the Berkshire Environmental Action Team, Inc. (“BEAT”); and GE. The Region filed a partially unopposed, partially opposed motion on December 6, 2016, seeking, in pertinent part, an extension of time for filing its responses to the five petitions. In response to the Region’s December 6, 2016 motion, the Board, on December 15, 2016, issued an Order Granting Requests for Extension of Time, Denying the Region’s Request to File a Consolidated Response, and Clarifying that General Electric May File a Response (“December 15th Order”). In the December 15th Order, the Board, in pertinent part,

granted the Region's request for an extension to and including January 31, 2017, to file its individual response briefs to the petitions, as well as to file a single copy of the certified index to the record and the relevant portions of the record.

The Region has been diligently proceeding pursuant to the December 15th Order. However, based on its review of the five petitions, its coordination with other affected EPA offices, and following consultation with the five petitioners, the Region respectfully requests that the Board extend the time required for the Region to submit each of its five individual responses to the Petitions, along with its single copy of the certified Administrative Record index, and relevant portions of the Administrative Record, from January 31, 2017, to February 14, 2017. The Region has also notified the Commonwealth of Massachusetts, the State of Connecticut, and the Massachusetts Audubon Society of this motion.

In light of the complexity of this matter and the time afforded the Region, the Region will not object to reasonable requests by the petitioners for additional time for their replies to EPA's response, including as specified below. Moreover, for responses by Connecticut or Massachusetts pursuant to 40 C.F.R. Section 124.19(b)(4), the Region does not object to them being afforded the same time for submittal as the Region.

The Region's request is justified because the extended due date for the response will provide the Region with an adequate opportunity to respond to the issues raised by the five parties, and to assemble and produce the necessary responses, and administrative record information. The petitions raise a number of different complex issues for response by the Region. The Region is also coordinating response to each issue with EPA's Office of General Counsel and Office of Enforcement and Compliance Assurance. Additionally, when the Region originally sought a due date of January 31, 2017, it was in conjunction with a request for filing

one consolidated response. The Region is finding that the production and assembly of five separate responses is necessitating additional time and work.

The Region has consulted with the petitioners regarding this motion, and no petitioner opposed the motion. Jane Winn of BEAT, Jeffrey Cook, and Benno Friedman of HRI each do not oppose the motion. GE does not oppose the Region's request to the extent that the Region agree that it would not oppose a reasonable request for an extension of time for GE's Reply brief up to at least March 24, 2017.

The Municipal Committee states as follows:

Typically, a party's reply is due 15 days after service of the responding brief. 40 C.F.R. § 124.19(c)(2). Here, if EPA is given an extension, there will be two different responding briefs to the Municipal Committee's petition for review being filed at different times – GE's responding brief on Jan. 31 and EPA's responding brief on Feb. 14. Thus, to the extent that EAB grants EPA's request, the Municipal Committee requests that its deadline to reply to the responding briefs be calculated based upon the last-filed responding brief so that it can file one consolidated reply to GE and EPA's responding briefs.

The Region agrees with the specific requests from GE and the Municipal Committee.

Respectfully submitted,

January 18, 2016

(s) Timothy M. Conway

Date

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CERTIFICATE OF SERVICE

I, Timothy M. Conway, hereby certify that true and correct copies of EPA Region 1's Unopposed Motion for Extension of Time were served:

Via the EPA's E-Filing System on January 18, 2017, and Overnight Mail on January 19, 2017, to:

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