
ATTACHMENT 11
EXCERPTS FROM EPA'S FINAL DECISION IN DISPUTE OF
EPA'S NOTIFICATION OF INTENDED FINAL DECISION ON
REST OF RIVER REMEDY (OCTOBER 13, 2016)
(REGIONAL COUNSEL DECISION)

FINAL ADMINISTRATIVE DECISION

IN RE GE'S DISPUTE OF EPA'S INTENDED FINAL DECISION
ON REST OF HOUSATONIC RIVER REMEDY

On January 19, 2016, General Electric Company (GE) submitted a Statement of Position (SOP) initiating the formal dispute process under the October 27, 2000 Consent Decree (CD) regarding cleanup of the Housatonic River in Massachusetts and Connecticut. On February 29, 2016, the U.S. Environmental Protection Agency (EPA) responded by submitting its SOP. On March 15, 2016, GE submitted its Reply to EPA's SOP. In accordance with the CD, I have been designated as the official responsible for resolving this formal dispute.¹ This Final Administrative Decision represents my final decision regarding this matter. Pursuant to Paragraphs 136 and 141 of the CD, I have given the Commonwealth of Massachusetts and the State of Connecticut a reasonable opportunity to review and comment on this decision. I have considered their comments and incorporated such changes to the draft final decision that I deemed appropriate.

Standard of review

I recognize there can be legitimate differences of opinion about the various possible alternatives for such a large-scale, complex remediation effort. Federal courts frequently have to grapple with such differences of opinion between federal agencies, the regulated community and members of the public. Under the Administrative Procedure Act and other federal laws, judicial

¹ Memorandum from Curt Spalding, Regional Administrator to Carl Dierker, Regional Counsel, dated January 21, 2016

policies and guidance, and developing a rational, supportable approach (including its approach to downstream transport) for protecting human health and the environment. Given the scope and variability associated with a site of this size and complexity, EPA's development of a cleanup approach overall is entirely reasonable and is supported by the data and information in the administrative record.

Conclusion

Based on the information submitted to me to resolve this dispute, I find that EPA has compiled an extensive administrative record showing the Agency's thorough consideration of exhaustive scientific and technical information, as well as a wide variety of stakeholder views, including GE's. There has been a vigorous exchange of views among the interested parties which is clearly reflected in the comprehensive responses contained in EPA's Statement of Position, including attachments, tables and figures, dated February 29, 2016. While I can appreciate GE's disagreement with EPA's exercise of its discretion in making complex scientific, technical and engineering decisions, and with the way it has weighed and balanced other important factors, I find that overall EPA's reasoning, rationale and analysis are sound and adequately supported by the data and information it has carefully considered.



Carl F. Dierker
Regional Counsel
U.S. EPA, Region 1, New England

October 13, 2016
Date