



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

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ENVIRONMENTAL BOARD

March 31, 2005

**BY UPS OVERNIGHT DELIVERY**

Eurika Durr  
Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
1341 G Street, NW  
Suite 600  
Washington, DC 20005

**Re: In the Matter of Grand Street Mercury Site  
The General Electric Company, Petitioner  
Petition Number: CERCLA 106(b) 05-01**

Dear Ms. Durr:

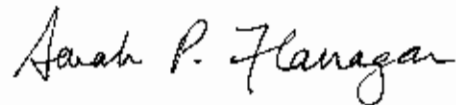
As per your letter dated March 4, 2005 to Delmar Karlen, Office of Regional Counsel, U.S. Environmental Protection Agency, Region 2, enclosed for filing in the above-referenced case please find one original and two copies of an Unopposed Motion to Stay EPA's Response to the Petition for Reimbursement of General Electric Company, proposed order, and certificate of service. Please file the original and two copies of the motion.

A third copy is also enclosed. Please stamp the third copy and return it to me at the address below:

Sarah Flanagan  
U.S. Environmental Protection Agency  
Office of Regional Counsel  
290 Broadway, 17<sup>th</sup> floor  
New York, NY 10007-1866

Thank you for your assistance in this matter.

Sincerely yours,



Sarah P. Flanagan  
Assistant Regional Counsel

Enclosures

cc (w/encl.): Samuel I. Gutter, Esq.  
Sidley Austin Brown & Wood LLP  
1501 K Street, N.W.  
Washington, D.C. 20005

James A. Moss, Esq.  
Herrick, Feinstein LLP  
2 Park Avenue  
New York, NY 10016

Kirk Macfarlane, Esq.  
General Electric Company  
Counsel, GE Corporate Environmental Programs  
640 Freedom Business Center  
King of Prussia, PA 19406

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY 2005 APR -1 AM 11:22  
WASHINGTON, D.C.

ENVIR. APPEALS BOARD

In the Matter of:	)	Petition No.
	)	CERCLA 106(b) 05-01
Grand Street Mercury Site,	)	
Hoboken, New Jersey	)	
	)	
The General Electric Company,	)	
	)	
Petitioner	)	
	)	
Petition for Reimbursement Under	)	
Section 106(b)(2) of the	)	
Comprehensive Environmental	)	
Response, Compensation, and	)	
Liability Act of 1980, as	)	
amended, 42 U.S.C. § 9601 et seq.	)	

**UNOPPOSED MOTION TO STAY EPA'S RESPONSE TO THE PETITION FOR  
REIMBURSEMENT OF GENERAL ELECTRIC COMPANY PENDING EPA'S  
DETERMINATION OF COMPLETION OF RESPONSE ACTIONS REQUIRED TO BE  
PERFORMED BY PETITIONER**

The Respondent, U.S. Environmental Protection Agency, Region 2 ("EPA"), by and through its Office of Regional Counsel, hereby moves this Board pursuant to Sections II.I.1 and V.B. of the Board's Practice Manual dated June 2004, and Section IV.A.1 of the Board's Revised Guidance on Procedures for Submission and Review of CERCLA Section 106(b) Reimbursement Petitions dated November 10, 2004, for a stay of EPA's time to respond to the petition for reimbursement of General Electric Company ("GE") dated March 1, 2005, until July 15, 2005.

GE has filed the Petition seeking to recover costs incurred in complying with the terms of two unilateral administrative orders issued by EPA in connection with the Grand Street Mercury

Superfund Site under Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9606(a). Completion of the required actions is a statutory prerequisite for obtaining review under Section 106(b)(2) of CERCLA, 42 U.S.C. § 9606(b)(2). However, EPA has not yet made a determination, pursuant to the procedure established in EPA's Unilateral Administrative Order Docket No. II-CERCLA-98-0108, issued on April 1, 1998 and amended on June 18, 1998 and September 28, 1998 ("Remedial Action UAO"), that GE has completed the response actions required under the Remedial Action UAO. It is EPA's position that until GE submits, and EPA reviews and approves, the Remedial Action Report required under the Remedial Action UAO, and notifies GE that the response actions have been fully performed, the matter is not ripe for review.

In the interests of judicial economy and to promote the efficient use of resources, rather than seeking dismissal of the Petition, EPA moves that EPA's time to respond to the Petition be stayed until July 15, 2005. EPA reserves its right to seek a further stay or extension of its time to respond to the Petition if EPA deems it necessary and/or appropriate, either because EPA determines that the response actions are not yet complete or for any other valid reason. EPA has consulted with GE and GE has agreed that it will not oppose this motion, without waiving any legal rights that GE may have in this matter, including the right

to object to a future EPA motion for a further stay or extension.

Dated this 31<sup>st</sup> day of March, 2005.

Respectfully submitted,

Delmar Karlen, Branch Chief  
New Jersey Superfund Branch  
Office of Regional Counsel  
U.S. EPA, Region 2  
New York, NY 10007-1866

By: *Sarah P. Flanagan*  
Sarah P. Flanagan  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 2  
290 Broadway, 17 Floor  
New York, NY 10007-1866  
(212) 637-3136  
FAX (212) 637-3136

*Clarence Featherston*  
Clarence Featherston  
Attorney Advisor  
Office of Site Remediation  
and Enforcement  
U.S. EPA  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460  
(202) 564-4234  
FAX (202) 564-0086

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

In the Matter of:

Grand Street Mercury Site,  
Hoboken, New Jersey

The General Electric Company,  
Petitioner

Petition No.  
CERCLA 106(b) 05-01

ORDER

The time for the United States Environmental Protection Agency, Region 2 ("Respondent") to respond to the petition for reimbursement of the General Electric Company ("Petitioner") submitted under Section 106(b)(2) of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9606(b)(2), is hereby stayed pending EPA's determination that the response actions required under the terms of UAO II-CERCLA-0108 have been completed. Petitioner and Respondent have agreed that Respondent's time to respond should be stayed until July 15, 2005.

So ordered.

Dated: \_\_\_\_\_

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_

Environmental Appeals Judge

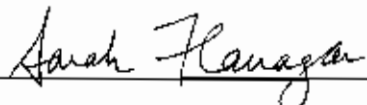
CERTIFICATE OF SERVICE

I, Sarah Flanagan, hereby certify that on the 31<sup>st</sup> day of March, 2005, the original and two copies of the foregoing Unopposed Motion to Stay EPA's Response to the Petition for Reimbursement of General Electric Company Pending EPA's Determination of Completion of Response Actions Required to be Performed by Petitioner and Proposed Order were sent via United Parcel Service to Eurika Durr, Clerk of the Board, U.S. Environmental Protection Agency, Environmental Appeals Board, 1341 G Street, N.W., Suite 600, Washington, DC 20005, and that true and correct copies were sent via United Parcel Service to the following counsel for Petitioner:

Samuel I. Gutter, Esq.  
Sidley Austin Brown & Wood LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000

James A. Moss, Esq.  
Herrick, Feinstein LLP  
2 Park Avenue  
New York, NY 10016  
(212) 592-1414

Kirk Macfarlane, Esq.  
General Electric Company  
Counsel, GE Corporate Environmental Programs  
640 Freedom Business Center  
King of Prussia, PA 19406  
(610) 992-7976

  
\_\_\_\_\_