

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

IN THE MATTER OF:)
General Electric Co.) Nos. RCRA 16-01, 16-02, 16-03, 16-04, 16-05
RCRA Permit No. MAD002084093)
)

MOTION FOR EXTENSION OF TIME TO SUBMIT AMICUS BRIEFS

The Housatonic Rest of River Municipal Committee respectfully requests an extension of the deadline to submit amicus briefs, including an amicus brief that the Municipal Committee intends to submit along with other entities and/or individuals interested in the resolution of the petitions related to the Housatonic River “Rest of River” cleanup. This amicus brief will be devoted solely to expressing support for portions of the Region’s selected remedy.

The Municipal Committee requests an extension to March 27, 2017 for all amicus briefs. This is the same deadline that now applies to reply briefs in support of the petitions for review. *See* Order Granting Request for Extensions of Time for Response and Reply Briefs at 2 (Jan. 24, 2017) (“Order”). Under the briefing schedule set out in the rules, both amicus briefs and reply briefs are to be submitted within 15 days of the permit issuer’s response to the petitions for review – which is to say that reply briefs and amicus briefs ordinarily are both due at the end of the briefing process. 40 C.F.R. § 124.19(c)(2) & (e). Although the Board has recently extended the deadline for all reply briefs to March 27, the order does not address whether this common deadline also applies to any amicus briefs. Order at 2. Absent an extension, amicus briefs would be due on March 1, 2017, 15 days after the Region submits its responses to the petitions on February 14.

The extension request is supported by several reasons. First, the travel and vacation schedules of counsel would make it very difficult to draft an amicus brief in the 15-day period immediately following February 14. Second, it would presumably be more helpful to the Board if the amicus brief takes into account the briefs that the Region and potentially others are expected to submit on February 14. Third, it is expected to be time-consuming to obtain agreement from potential amici who are expected to review a single amicus brief; an extension may help prevent submission to the Board of numerous (potentially redundant) amicus briefs. Fourth, this appeal involves complex issues and numerous parties. *See* Order at 2. Finally, an extension to March 27 would not delay the close of briefing or oral argument in this matter.

The amicus brief will be limited to 7,000 words, as provided by the rules. 40 C.F.R. § 124.19(d)(3).

The Municipal Committee contacted all other parties by email and requested their assent to this motion at approximately 2 p.m. on Friday, February 10. The Region, the Commonwealth of Massachusetts, the State of Connecticut, the Massachusetts Audubon Society, and C. Jeffrey Cook all assented to the motion. GE stated that it intends to oppose the motion. As of Tuesday morning, no response has been received from the Housatonic River Initiative and the Berkshire Regional Action Team.

The Municipal Committee respectfully requests that the Board grant this motion and extend the deadline for the submission of all amicus briefs to March 27, 2017.

February 14, 2017

Respectfully submitted,

Housatonic Rest of River Municipal Committee

/s/ Matthew F. Pawa
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CERTIFICATE OF SERVICE

I certify that a copy of this motion has been sent to the counsel listed below.

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