

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, 16-05

GENERAL ELECTRIC COMPANY)
Modification of RCRA Corrective Action)
Permit No. MAD002084093)

EPA REGION 1 RESPONSE ON CITATIONS FROM ORAL ARGUMENT

In response to the Environmental Appeals Board’s June 8, 2017 order requiring that parties notify the Board by June 19, 2017 of any citations requested during the oral argument, the U.S. Environmental Protection Agency, Region 1 (“the Region”) provides such citations on the attached two pages.

Respectfully submitted,

June 19, 2017

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CITATIONS REQUESTED DURING ORAL ARGUMENT, submitted by EPA Region 1:

---Tr. 52: Whether EPA made the point about “any other relevant information” prior to the Response to Comments: February 2016 EPA Statement of Position (“Statement of Position”)(AR 586286), pp. 45-46.

---Tr. 101-103, Record citations for discussion of TSCA regulations as ARARs: GE’s Revised Corrective Measures Study (“RCMS”), pages 9-48 to 9-50, and Table T-3 C, page 29. AR 472605, 580275, 580282; EPA Response to Comments (“RTC”) 546 at 238-239 (AR 593922).

---Tr. 104-105: Record support for parenthetical on page 239 of RTC: RCMS, 9-48 to 9-49; Statement of Position, p. 51-52; RTC 546 at 238-239.

---Tr. 112-113: Record information on where the Response to Comments disavows the point about protectiveness in Comparative Analysis at 61: Statement of Position, p. 43; RTC Section III.F.2, including RTC 56 *et al.* at 235, RTC 546 at 238-239, RTC 576 at 269.

---Tr. 119-120: Analytical framework for decision on disposal: Comparative Analysis, pp. 59-77 (AR 557091); Statement of Basis, pp. 35-39 (AR 558621); Statement of Position, pp. 42-56; RTC Section III.F.2, including RTC 56 *et al.* at 235, and RTC 576 at 269.

---Tr. 151, Record information about flooding in the Housatonic River:

1. EPA, Nov. 2006. Final Model Documentation Report: Modeling Study of PCB Contamination in the Housatonic River. AR 258097. Volume 2 Appendix A.5: Soil Horizon Sampling, p. 1.
2. RCRA Facility Investigation Report, Section 2.4.1, pp. 2-20 to 2-21. AR 200656.
3. Video: SSERC, 1 ½ Mile 10-Year Flood Video (1.29 GB). AR 211634. 6/7/00.
4. Video: Oct. 2003 Flood Video: Canoe Meadows, New Lenox Road Bridge Area, Decker Canoe Launch, Select Vernal Pool and Backwater Areas, Canoe Launch Areas, Woods Pond, and Woods Pond Dam (95.74 MB). AR 211640. 10/31/2003.
5. Final Completion Report -- 1½ Mile Reach Removal Action, pp. 4-21 to 4-23. AR 480377.

---Tr. 178: Whether the 21 comments described as encouraging the use of new and innovative technologies raised the question or the push for use of thermal desorption: The 21 comments were made by HRI and 12 other commenters (RTC Section III.F.3 at 270). The comments did not propose thermal desorption. Also, Region searched for thermal desorption in HRI’s 2014 comments and only found one reference to it. deFur comments, AR 568046, referencing it as one of five Treatment/Disposition alternatives already being considered.

---Tr. 179, 181-182: Record information on Ward Transformer Site or DaNang Air Force Base: Ward Transformer is not mentioned in HRI’s 2014 comments or in HRI’s Petition. DaNang was not mentioned in HRI’s 2014 comments. Region has not found reference in the record to DaNang prior to HRI’s Petition.

---Tr. 205: Remedy attainment of MA Water Quality Standards: Statement of Basis, at 40. Technical Impracticability Determination of Certain Water Quality Criteria.

---Tr. 206: HRI opportunity to comment on EPA documents for peer review: 1.

Modeling Documents--Examples of HRI Comments: Review of Model Validation: March 2006. AR 251773; Review of Model Calibration Dec. 2004. AR 220719; Comments by Tim Gray on Model Calibration, Feb. 2005, AR 220720. **2. Human Health Risk Assessment (HHRA)--Examples of HRI Comments:** July 31, 2003, Peter de Fur, AR 508649; July 31, 2003, Peter de Fur, AR 45276; July 31, 2003, Tim Gray, AR 45300; Nov. 18, 2003, Peter deFur, 200632. **3. Ecological Risk Assessment (ERA)—Examples of HRI Comments:** Sept. 30, 2003, Tim Gray, AR 200605; Sept. 30, 2003, Peter deFur. AR 200602; Jan. 13, 2004, Tim Gray, AR 200676; Jan. 13, 2004, Peter deFur, AR 200671; Jan. 18, 2005, Peter deFur, AR 220092.

---Tr. 208-209: Record information on how the core areas were decided on: 1. Jan. 31, 2011, Massachusetts comment letter, pages 4-6, and App.'s A (Tables and Figures) and B (July 2010, MA Natural Heritage and Endangered Species Program, ("NHESP"), *Rare Species and Natural Community Surveys in the Housatonic Watershed in Western Massachusetts*), AR 554361. **2.** July 23, 2011, Massachusetts letter to EPA National Remedy Review Board. AR 487356, pp. 143-145. **3.** NHESP, 2011, *The River and Its Valley, Conserving Biodiversity in the Housatonic River Watershed in Western Massachusetts*. AR 518390. **4.** 2014 Comparative Analysis, Attachment 2: *Channel Dynamics and Ecological Conditions in the Housatonic River Primary Study Area*, pp. 21-29.

--- Tr. 272-274: Citation in record on whether sediment is being removed throughout Rising Pond solely so that the cap does not reduce flood storage, or whether PCBs are at levels of concern in that sediment: Comparative Analysis, p. 4, last paragraph; Statement of Basis, pp. 23-24; Statement of Position, pp 35-36; RTC 640 at 185, and RTC 641 at 185.

---Tr. 342-343, Information in record of 2002 study on exposure of humans to PCBs in floodplain, in particular whether peer reviewers were aware of the 2002 study:

-June 2003: HHRA, Volume IIIA, page 4-9 (AR 44019).
-July 2003: GE Comments on HHRA. AR 45319. Floodplain User Survey Report ("Report") cited in Executive Summary, and on pp 2-1, 3-1, 3-7, 6-17, 7-1, and Att. A to the comments.
-Nov. 2003: GE presented parts of the Report to the HHRA Peer Review panel. AR 200628.
-Dec. 2003: Peer Reviewers Roger O. McClellan and Stephen T. Washburn comments, respectively, Report referenced, pp 3, 11, 15, and 33. AR 200648, and Report referenced, p. 9. AR 200651.
-March 2004: Region 1 releases HHRA Responsiveness Summary. AR 204922. Report referenced, pp. 17-19, 65, and 123.
-Feb. 2005: Region 1 releases HHRA. AR 219190. Report referenced, Vol. I, p. 1-12; Vol. IIIA, pp. 4-3, 4-40, 4-51, 4-52, 6-22; Volume V, p. 2-7.
-June 2005: Region 1 releases the *Responsiveness Summary to Public Comments New Information in the Human Health Risk Assessment for the GE/Housatonic River Site Rest of River*. AR 225585. Report referenced, pp 24-30.

CERTIFICATE OF SERVICE

I, Timothy M. Conway, hereby certify that true and correct copies of EPA Region 1's Response on Citations from Oral Argument were served:

Via the EPA's E-Filing System on June 19, 2017 to:

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Clerk of the Board
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Via U.S. Mail, or E-Mail (per agreement of the parties) on June 19, 2017 to:

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