



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

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ENVIR. APPEALS BOARD

July 14, 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:

Enclosed for filing in the above-referenced case please find one original and two copies of a Status Report, as ordered by the Environmental Appeals Board in the Order Granting in Part Motion for Stay and Order to Show Cause Why Petition for Reimbursement Should Not Be Dismissed in Part as Premature, dated April 6, 2005, and a certificate of service. Please file the original and two copies of the motion.

A third copy is also enclosed, which we request that you stamp and return in the enclosed self-addressed, stamped envelope.

Thank you for your assistance in this matter.

Sincerely yours,

Sarah P. Flanagan  
Assistant Regional Counsel

Enclosures

cc (w/encl.): Samuel I. Gutter, Esq.  
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BEFORE THE ENVIRONMENTAL APPEALS BOARD RECEIVED  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY U.S. E.P.A.  
WASHINGTON, D.C.

2005 JUL 15 AM 10:13

In the Matter of:	)	ENVIR. APPEALS BOARD
	)	Petition No.
Grand Street Mercury Site,	)	CERCLA 106(b) 05-01
Hoboken, New Jersey	)	
	)	
The General Electric Company,	)	
Petitioner.	)	

**STATUS REPORT**

The Respondent, U.S. Environmental Protection Agency, Region 2 ("EPA"), by and through its Office of Regional Counsel, respectfully submits this status report pursuant to the Order Granting in Part Motion for Stay and Order to Show Cause Why Petition for Reimbursement Should Not Be Dismissed in Part as Premature (Reich, J.), dated April 6, 2005.

**SUMMARY**

As reported below, EPA is nearing completion of its review of the Remedial Action Report submitted by petitioner The General Electric Company ("GE" or "Petitioner"), but is not yet able to issue a notice of completion to GE with respect to the second unilateral administrative order directed to GE at the Grand Street Mercury Site. EPA anticipates that, barring any unforeseen complications, it should be able to issue the requisite notice by the end of August, 2005 at the latest.

## REPORT

On March 1, 2005, GE filed a 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). The first UAO, UAO II-CERCLA-97-0108 (the "Removal Action UAO"), was issued by EPA on February 24, 1997 and was amended on May 5, 1997. The second, UAO II-CERCLA-98-0108 (the "Remedial Action UAO"), was issued by EPA on April 1, 1998, and was amended on June 18, 1998 and September 28, 1998.

By letter dated February 9, 2005, EPA provided GE notice that the response action required by the Removal Action UAO had been completed. However, as of the time that GE filed the Petition, EPA had not issued a notice of completion with respect to the Remedial Action UAO.

On April 1, 2005, EPA filed an unopposed motion seeking a stay until July 15, 2005 of its time to file a response to the Petition and the certified index to the Administrative Record. EPA sought this time to allow GE to submit, and EPA to review, the Remedial Action Report required by the Remedial Action UAO. In response, the Board issued two orders. The first, dated April 6, 2005, stayed this proceeding until July 15, 2005, directing EPA to submit a report by that date concerning the status of its

review of the Remedial Action Report. It also ordered GE to show cause why the Petition should not be dismissed without prejudice insofar as it concerned the Remedial Action UAO. The second order, dated May 11, 2005 dismissed the Petition to the extent it sought recovery of costs incurred with respect to the Remedial Action UAO, without prejudice to refiling.

On March 30, 2005, EPA received GE's 17-volume draft Remedial Action Report for the activities conducted pursuant to the Remedial Action UAO. By letter dated June 16, 2005, EPA provided comments on the draft Remedial Action Report to GE, requiring GE to make certain changes to the report. By letter dated July 6, 2005, GE provided a narrative response to EPA's comments, and transmitted to EPA revised pages to insert into the Remedial Action Report. EPA is currently reviewing GE's corrected pages and narrative response. This review is expected to take no longer than two weeks. It is possible that EPA will request further revisions as a result of its review, though those are not expected to be substantial or extensive.

Also in June, 2005, GE collected an additional round of groundwater samples at the Grand Street Mercury Site. The data from that sampling event have recently been submitted to EPA, and EPA expects to ask GE to include the data in the Remedial Action Report. When EPA has completed its review of the revised pages, and GE has made any final changes and added the groundwater data to the Remedial Action Report, EPA will be prepared to issue a

notice of completion.

In summary, EPA anticipates that by the end of August, 2005, if not before, it will have issued a notice of completion to GE with respect to the Remedial Action UAO. EPA understands that at that point, GE will have an opportunity to resubmit its Petition concerning the Remedial Action UAO and seek consolidation of the two Petitions, after which the Board would lift the stay in this proceeding and require a response from EPA to the Petition(s).

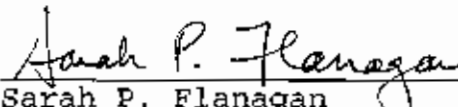
EPA would like to advise the Board that it has raised with GE the possibility of seeking a further stay of this proceeding, based on an already pending federal court action. EPA anticipates that the parties will conclude their discussions of this possibility shortly, and EPA will likely make a further motion on this matter, either with GE's consent or over its opposition.

. Dated this 14th day of July, 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:

  
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**CERTIFICATE OF SERVICE**

I, Sarah Flanagan, hereby certify that on the 14<sup>th</sup> day of July, 2005, the original and two copies of the foregoing Status Report 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:

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