

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

In the Matter of:)	
)	
GENERAL ELECTRIC COMPANY)	RCRA Appeal Nos. 16-01M and 16-02
Modification of RCRA Corrective Action)	
Permit No. MAD002084093)	
)	

REGION 1’S UNOPPOSED MOTION FOR EXTENSION OF TIME AND
ESTABLISHMENT OF A SINGLE DEADLINE FOR RESPONSES TO PETITIONS FOR
REVIEW

Region 1 of the United States Environmental Protection Agency (“the Region”) respectfully submits this motion that the Board extend the time required for the Region’s response to the Housatonic River Initiative’s petition for review of the Region’s Modification of the RCRA Corrective Action Permit (“the Permit”) to Permittee General Electric Company (“GE”), and that the Board also allow for the same deadline to apply for the Region’s responses to all petitions to review.

On November 1, 2017, GE filed an unopposed motion to increase the word limit of its petition for review of the Permit, stating its intention to file such a petition; the Board granted that motion on November 8, 2016. On November 8, 2016, the Housatonic River Initiative, Inc. (“HRI”) filed its petition for review of the same Permit. Also on November 8, 2016, the Region, prior to knowing of HRI’s petition, or its timing, submitted its response to GE’s motion to exceed the word limitations. In its response, the Region stated that given the uncertainties with the number of potential appeals of the Permit, the Region would defer until receiving petition(s) for review any motion for expansion of word limits and/or time for its response.

In light of the timing of the HRI petition for review, and the resulting deadline for the Region's response to the HRI petition, the Region asks that the Board extend the time required for its response to the HRI petition, to allow for establishing one deadline for the Region's responses to all petitions. The Region proposes that the Region be allowed to propose a date for such a consistent deadline following receipt of all petitions for review, but that such date be no earlier than 30 days after the last timely petition received.

Having one deadline for the Region's responses to all petitions will serve the following purposes:

1. As GE stated in its motion, this Permit raises many complex and multi-faceted issues. Allowing one deadline for the Region's responses will reduce the duplication that would result from the Region responding at separate times to similar issues.
2. If the Board chooses to offer Alternative Dispute Resolution, this proposal will allow the Board to wait to do so until after the deadline for the filing of all petitions has passed, and will allow the Board to set an appropriate stay of proceedings before the Region is required to respond to any single petition.
3. Having one deadline will permit the Board to set an appropriate length for the Region's response(s) to the petitions, and make any determination on consolidation, in light of the number of petitions that are ultimately filed.

Finally, consistent with the Region's November 8, 2016, filing, the Region would again propose that, as soon as practicable after the Region has received all timely petitions for review, the Region would file, after consulting with petitioners, a motion regarding any potential consolidation of its responses and a proposed joint schedule addressing the date and word limit for the Region's responses to the petitions, and a single date for replies.

EPA has consulted with Benno Friedman of HRI and with Thomas Hill, counsel for GE. HRI does not oppose EPA's request for additional time to respond to the HRI petition to allow for establishing a single response date for all petitions; provided however, that by not opposing, HRI is not necessarily agreeing to a future request by EPA to consolidate its eventual response to the petitions. GE does not oppose EPA's request for additional time to respond to the HRI petition to allow for establishing a single response date for all petitions; GE is prepared to discuss with EPA, after receipt of all petitions for review, a coordinated response and reply schedule.

Respectfully submitted,

11/16/16

Date

(s) Timothy M. Conway

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CERTIFICATE OF SERVICE

I, Timothy M. Conway, hereby certify that on November 16, 2016, true and correct copies of EPA Region 1's Unopposed Motion for Extension of Time and Establishment of a Single Deadline for Responses to Petitions for Review were served:

Via the EPA's E-Filing System to:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, N.W.
Mail Code 1103M
Washington, D.C. 20460-0001

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