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

	)	
IN THE MATTER OF:	)	
General Electric Co.	)	Appeal No. RCRA 16-04
RCRA Permit No. MAD002084093	)	
	)	

## HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE MOTION FOR CLARIFICATION AND MOTION FOR EXTENSION OF TIME

The Housatonic Rest of River Municipal Committee ("Municipal Committee") hereby submits this motion seeking clarification of the Board's January 19, 2017 order, which granted the Region's motion for an extension of time to submit the Region's response briefs. The Municipal Committee also seeks its own extension to submit a reply brief responding to the Region's upcoming brief.

In the Region's motion, the Region stated that it had agreed not to oppose any request by GE to move the deadline for GE's reply brief from March 1 to March 24. The Municipal Committee was not informed of this agreement when the Region requested its consent to extend the Region's time; the Municipal Committee first learned of the agreement when the motion was served. The Board has stated that it intends to issue a more detailed decision on the Region's motion sometime this week. The Municipal Committee requests two things:

(1) First, the Municipal Committee requests that all deadline extensions applicable to GE's reply brief or to any other reply brief also be applied equally to any and all briefs that would otherwise be due on the same date (*i.e.*, within 15 days of the Region's response brief under 40 C.F.R. § 124.19). The basis of this request is to ensure that all petitioners and interested parties may submit their briefs on the same

date as GE, instead of several weeks in advance. This would afford everyone an equal amount of time to prepare, and would prevent any party from responding to briefs that, under the rules, are to be submitted at the end of the briefing process.

(2) Second, the Municipal Committee requests that this common deadline, which would ordinarily be March 1 if the Region files its response brief on February 14, be extended to March 14. This is because of the complexity of the issues, because there are going to be at least two briefs filed (by GE and EPA) in response to the Municipal Committee's petition, and because the travel and vacation schedules of the Municipal Committee's counsel would make it difficult to draft a reply brief in the two-week period immediately following February 14. To the extent GE does ultimately request an extension for its reply brief to March 24, the Municipal Committee has no objection to this request, provided the deadline is applied equally to all other briefs, as described above.

The Municipal Committee contacted all other parties by email or by phone and requested their assent to this motion at approximately 3 p.m. on Friday afternoon. By Sunday afternoon, the only response was by the Region, which consented to this motion.

January 22, 2017

Respectfully submitted,

Housatonic Rest of River Municipal Committee

/s/ Matthew F. Pawa
Matthew F. Pawa
Benjamin A. Krass
Pawa Law Group, P.C.
1280 Centre Street
Newton, MA 02459
617 641-9550; 617 641-9551 (fax)
mp@pawalaw.com
Attorney for Municipal Committee

## **CERTIFICATE OF SERVICE**

I certify that on January 22, 2017 I have sent a copy of this motion to the counsel listed below.

/s/Benjamin A. Krass

For EPA Region 1:

Timothy Conway
Senior Enforcement Counsel
U.S. EPA Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912
conway.tim@epa.gov

By email

For Mass. Audubon:

Kathleen E. Connolly Louison, Costello 101 Summer Street Boston, MA 02110 kconnolly@lccplaw.com

By email

For Housatonic River Initiative:

Benno Friedman
P O Box 321
Lenoxdale, MA 01242-0321
benno2@verizon.net

By email

For Permittee GE:

Jeffrey R. Porter Mintz, Levin One Financial Center Boston, MA 02111 JRPorter@mintz.com

By email

C. Jeffrey Cook 9 Palomino Drive Pittsfield, MA 01201

By first-class mail (to be mailed Monday, Jan. 23)