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

In re:	)	
	)	
General Electric Company	)	RCRA Appeal No. 16-01
	)	
Modification of RCRA Corrective Action	)	
Permit No. MAD002084093	)	
	)	

ORDER DENYING MOTION FOR PARTIAL RECONSIDERATION

I. *INTRODUCTION*

The U.S. Environmental Protection Agency, Region 1 ("Region") seeks reconsideration of one aspect of the Environmental Appeals Board's decision in *In re General Electric*, RCRA Appeal Nos. 16-01 to 16-05 (EAB Jan. 26, 2018), 17 E.A.D ___. In that decision, the Board remanded in part a corrective action permit ("Permit") that the Region issued to the General Electric Company ("GE") under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992k. The Permit prescribes the remedial activities that GE must undertake to address polychlorinated biphenyl ("PCB") contamination in a substantial portion of the Housatonic River in western Massachusetts and Connecticut. *See* U.S. EPA, General Electric Co. – Pittsfield, MA RCRA Corrective Action Permit (Dec. 5, 2007), AR280170 ("Permit"). The Board denied review of most of the Permit decision but remanded on two grounds. First, the Board remanded the Permit provisions that authorize the Region to require GE to undertake additional response actions in the event that third parties conduct certain projects in the future in the remedial action area. Second, the Board remanded the Permit provision that requires GE to

dispose of the excavated PCB-contaminated material off-site. In its motion, the Region seeks reconsideration of only the Board's decision to remand the provisions related to additional response actions for future third-party projects.

As explained below, we deny the Region's motion because the arguments that the Region now raises could have been included in its brief responding to GE's Petition and, in any event, the Region has not shown that the Board demonstrably erred.

II. *STANDARD FOR RECONSIDERATION*

A motion for reconsideration "must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors." 40 C.F.R. § 124.19(m). The Board reserves reconsideration for cases in which the Board has made "a demonstrable error," such as a mistake on a material point of law or fact. *In re Missouri Permit*, NPDES Appeal No. 17-01, at 2 (EAB Nov. 2, 2017); *In re Bear Lake Props., LLC*, UIC Appeal No. 11-03, at 2-3 (EAB July 26, 2012) (Order Denying Motion for Partial Reconsideration) (citing cases). A party should not regard reconsideration "as an opportunity to reargue the case in a more convincing fashion," *In re Town of Newmarket*, NPDES Appeal No. 12-05, at 1-2 (EAB Jan. 7, 2014) (Order Denying Motion for Reconsideration) (citing cases); *see also In re Energy Answers Arecibo*, PSD Appeal Nos. 13-05 to 13-09 (Apr. 11, 2014) (Order Denying Motion Requesting Extension of Time to File for Reconsideration), or to "serve as the occasion to tender new legal theories for the first time," *Bear Lake*, UIC Appeal No. 11-03, at 3. To the contrary, "[a] party's failure to present its strongest case in the first instance does not entitle it to a second chance in the form of a motion to reconsider." *In re Russell City Energy Ctr.*, PSD Appeal Nos. 10-1 to 10-05, at 2-3 (EAB Dec.

17, 2010) (Order Denying Motion and Supplemental Motion for Reconsideration and/or Clarification and Stay) (citations omitted).

III. *HISTORY OF BOARD PROCEEDINGS PERTINENT TO RECONSIDERATION*

In its Petition, GE sought review of many aspects of the Permit. Of particular relevance here is GE's challenge to two separate sets of Permit provisions obligating it to undertake additional response actions in the event of future contingencies. Petition of General Electric Company for Review of Final Modification of RCRA Corrective Permit Issued by EPA Region 1, RCRA Appeal No. 16-01, at 43-51 (Nov. 23, 2016) ("GE Pet."). The first of these two sets of provisions authorizes the Region to require GE to take additional response actions if either of two numerical performance standards are exceeded. These performance standards require monitoring the concentration of PCBs transported downstream in the river and the concentration of PCBs in fish tissue (referred to in the Permit, respectively, as the "Downstream Transport performance standard" and the "Biota performance standard"). Permit §§ II.B.1.a(1), II.B.1.b(1)(a). The second set of provisions authorizes the Region to require additional response action by GE if, in the future, a third party conducts certain governmentally-approved work projects in and around the Housatonic River (e.g., flood management activities or road and infrastructure projects). Permit §§ II.B.2.j .k, & *.l,* II.B.6.b(1) & (2)(b) & (c), II.B.6.c.

The Board denied review of the Downstream Transport and Biota performance standard provisions, but remanded the provisions relating to additional response actions for third-party projects. It is the latter decision for which the Region seeks reconsideration. However, because the manner in which GE, the Region, and the Board addressed both sets of provisions is relevant to the Region's reconsideration motion, we begin with a brief summary of GE's arguments in its

Petition on both sets of provisions, the Region's response to this portion of the Petition, and the Board's decision on these matters.

A. *GE's Petition*

GE argued that both of these sets of provisions are inconsistent with the judicial consent decree ("Consent Decree") that established the framework for selecting a response action for the Housatonic River. GE Pet. at 44, 48-49 (acknowledging "similar reasons" support its challenge to both sets of provisions). Under that Consent Decree and a RCRA permit attached to the Decree, the Region is required to select a response action and to include it in a RCRA corrective action permit. *In re General Electric,* RCRA Appeal Nos. 16-01 to 16-05, at 26 (EAB Jan. 26, 2018), 17 E.A.D ___. GE contended that the challenged additional response action provisions violate the Consent Decree requirement that the Permit "will set forth the proposed Remedial Action" because the provisions authorize the Region to require response actions not specified in the Permit. As GE phrased it, the Downstream Transport and Biota performance standards are invalid because they "purport[] to give EPA the ability to require *any* 'additional actions' it deems necessary," GE Pet. at 45, and the provisions relating to additional response actions for third-party projects similarly violate the Consent Decree because they "give EPA unfettered discretion to impose whatever response action it eventually decides to require." *Id.* at 49.

In GE's view, the Permit could not authorize the Region to require GE to perform response actions unspecified in the Permit other than through the procedures in the Consent Decree for modifying the Permit's response action as detailed in the Statement of Work, *see* Consent Decree ¶ 39, or for reopening the Region's claims against GE for cleanup of the Housatonic River, *see id.* ¶¶ 162, 163. GE was particularly concerned that the provisions

allowed the Region to require additional response actions "without requiring the Agency ever to evaluate its [additional response action] selection under the Permit criteria, and without giving this Board or the First Circuit any present basis on which to review the Agency's decision." GE Pet. at 49.

B. *The Region's Response*

In its response to GE's petition, the Region defended the Downstream Transport and Biota performance standards on distinctly different grounds than those it asserted as to the provisions relating to additional response actions for third-party projects. As to the Downstream Transport and Biota performance standards, the Region argued that its authority under these performance standards to require additional response actions does not violate the Consent Decree because this authority is "by the Permit's own definition, in accordance with the Decree." Region 1's Response to General Electric Company's Petition for Review of Final RCRA Corrective Action Permit Modification Issued by Region 1, RCRA Appeal No. 16-01, at 47 (Feb. 14, 2017) ("Region Resp. to GE Pet."). In support, the Region relied on the language in the Downstream Transport and Biota performance standards that explicitly requires the Region to "determine any additional response actions necessary to achieve and maintain the Performance Standards *in accordance with the Decree*." *Id.* at 46. Moreover, the Region stressed that Paragraph 39 of the Decree, which defines the conditions under which the Region may modify the Statement of Work for the remedial action, applies to the Region's determination of additional response actions under these performance standards. According to the Region, the Downstream Transport and Biota performance standards "provide for the modification of the

Rest of River [Statement of Work] '*in accordance with the [Consent Decree],*' which obviously includes Paragraph 39.a." *Id.* at 47.

In contrast, the Region defended the provisions relating to additional response actions for third-party projects by asserting that additional response actions under these provisions: (1) "are a logical and common approach to ensure that the residual PCB contamination will not impede future protectiveness," *id.* at 50; (2) are authorized as "Conditional Solutions" under the Consent Decree,[1] *id.* at 52-53; and (3) would be limited to only certain future work and in only certain locations, *id.* at 50-51. Unlike its response to GE's argument on the Downstream Transport and Biota performance standards, the Region did not contend that the provisions relating to additional response actions for third-party projects must be chosen in accordance with the Consent Decree, including the conditions on modifications of the Statement of Work under Paragraph 39.

C. *The Board's Decision on GE's Petition*

Consistent with the Region's position in its response brief, the Board upheld the additional response action provisions associated with the Downstream Transport and Biota Performance Standards reasoning that, (1) those Permit provisions include express language requiring that the Region choose any additional response actions "in accordance with the Consent Decree," Permit §§ II.B.1.a(1), II.B.1.b(1)(a); and (2) the Consent Decree specifies in

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[1] A Conditional Solution is a procedure outlined in the Consent Decree "for addressing PCB contamination on privately-owned property where GE cannot gain present access or rights." *General Elec.*, slip op. at 88, 17 E.A.D. ___; *see* Consent Decree ¶¶ 34-38.

Paragraph 39 that the Region may modify response actions included in the Statement of Work only to the extent the modification is "consistent with the scope of the response action," Consent Decree ¶ 39.a. *General Elec.*, slip op. at 84-85, 17 E.A.D. ___. The Board concluded that these provisions thus sufficiently constrain the Region's discretion in choosing additional response actions such that the Downstream Transport and Biota performance standards are not facially in conflict with the Consent Decree mandate that the Region must specify the response action in the Permit. *Id.* at 85.

The Board reached the opposite conclusion regarding the provisions relating to additional response actions for third-party projects. First, the Board noted that that the provisions are worded "very broadly" and that, although the Permit gives examples of the types of response actions contemplated, the examples are provided "without limitation." *Id.* at 87. The Board concluded that the third-party projects provisions "could be read to give the Region broad discretion to devise any response action needed – in the Region's view – 'to be protective' of a third-party project or 'maintain[] the effectiveness' of the remedy." *Id.* at 88.

Second, the Board considered whether the Region's authority to require any additional response actions to address third-party projects would be constrained to the same extent as the Region's authority to require additional response actions to address exceedances of the Downstream Transport and Biota performance standards. The Board called attention to the fact that unlike the Downstream Transport and Biota performance standards, the third-party projects provisions do not explicitly require that the Region determine any additional response actions in accordance with the Consent Decree. *Id.* at 87. The Board reasoned that this selective use of the "in accordance with the Consent Decree" language in the Downstream Transport and Biota

performance standards but not in the third-party projects provisions created ambiguity as to whether the limitations included in the Consent Decree, including the standard for modifying the Statement of Work in Paragraph 39, apply to the third-party projects provisions. *Id.* The Board also noted that that additional response actions to address third-party projects might be necessary prior to the Region's approval of the Statement of Work for the implementation of the Permit-defined remedy. *Id.* at 87-88. In those circumstances, even if the Consent Decree requirements generally govern the choice of additional response actions, the Consent Decree provision requiring that modifications of the Statement of Work be limited to changes consistent with the scope of the response action would appear not to apply. *Id.*

Finally, the Board considered the Region's response to GE's claim that the provisions relating to additional response actions for third-party projects violate the Consent Decree's requirement that the Permit set forth the remedial action. The Board concluded that the Region's assertions regarding the important policy goal served by the provisions and the implementation of additional response actions as Conditional Solutions were not responsive to GE's argument regarding the constraint the Consent Decree imposed on the selection of the response action. *Id.* at 88. Further, although acknowledging that the Region's argument that the additional response action requirement for third-party projects only applies to certain projects in certain locations, the Board concluded that as to "properly-qualified" projects there was not "any meaningful limitation" on the additional response actions that the Region could require. *Id.*

Hence, the Board concluded that the Permit's provisions relating to additional response actions for third-party projects, as currently drafted, appear to facially conflict with the Consent Decree's requirement that the Permit set forth the response action. *Id.* at 89.

IV. *THE REGION'S MOTION FOR RECONSIDERATION*

A. *The Region's Argument*

The Region contends that the Board's conclusion that the provisions relating to additional response actions for third-party projects appear to lack any meaningful limitations on the Region's choice of additional response actions is clearly erroneous because the Board "fail[ed] to account for Decree and Permit language that expressly limits the operation of the Additional Work Requirements [for third-party projects]." EPA's Motion for Partial Reconsideration, RCRA Appeal No. 16-01, at 3 (Feb. 5, 2018) ("Region Recon. Motion"). The Region cites to generic introductory language in the Permit requiring that "the Permittee shall perform" and "conduct[]" activities described in the Permit "pursuant to the [Consent Decree] and this Permit." *Id.* at 3; *see* Permit § II.A. Similarly, the Region relies on language from the Consent Decree requiring "the Settling Defendant" (i.e., GE) to "design[,]" "implement[,]" and "perform" the Permit's designated response action "pursuant to this Consent Decree." Region Recon. Motion at 3-4; *see* Consent Decree ¶¶ 22.p, .w, & .z.

The Region asserts that it is appropriate to raise this new legal argument in a motion for reconsideration because the Board's rationale for remanding the provisions relating to additional response actions for third-party projects "was advanced by the Board for the first time in its decision, *sua sponte.*" Region Recon. Motion at 5.

B. *GE's Response*

GE opposes the Region's request for reconsideration. GE asserts that the Region's argument for reconsideration is both (1) a "new argument" that the Region had "ample opportunity" to make "during the appeal process," and thus not cognizable in a motion for

reconsideration; and (2) does not show that the Board made a "manifest error." General Electric Company's Opposition to EPA's Motion for Partial Reconsideration, RCRA Appeal No. 16-01, 1-4 (Feb. 13, 2018) ("GE Opp.").

As GE notes, the Region does not deny that it has included a new argument in its reconsideration motion, but rather, the Region contends that it can raise its new argument "because it could not have made the argument before." *Id.* at 2. GE disputes the latter claim. GE points out that it challenged the additional response action requirements for both the Downstream Transport and Biota performance standards and the third-party projects provisions on the same grounds and that the Region defended the Downstream Transport and Biota performance standards as lawful because those provisions explicitly required that additional response actions be selected in accordance with the Consent Decree. "[N]othing," GE argues, "prevented the Region from arguing then – as it does now – that language appearing elsewhere in the Modified Permit and the Consent Decree subjected" the Permit's provisions regarding additional response actions for third-party projects to the terms of the Consent Decree. *Id.* at 3. GE concludes that the Region "is not asking for a correction of the Board's error, but for a chance to supplement its appellate arguments in order to rectify its own omission." *Id.*

GE further argues that the Region has not shown a manifest error by the Board in concluding that the provisions relating to additional response actions for third-party projects appear to conflict with the Consent Decree. GE asserts that the Permit and Consent Decree provisions the Region now relies upon "say only that GE will *perform, conduct,* or *implement* the [response action] pursuant to the Consent Decree, and thus do not clearly bind the Region to follow the Consent Decree in its *determination* of specific future response action." *Id.* at 6.

Additionally, GE contends that the new importance that the Region places on the effect of generic Permit and Consent Decree language on additional response action requirements calls into question the purpose of the specific language in the Downstream Transport and Biota performance standards directing that additional response actions under those provisions comply with Consent Decree requirements. *Id.* at 6-7.

V. *ANALYSIS*

A. *The Region is Attempting to Reargue Its Response to GE's Petition by Introducing a New Legal Theory That Could Have Been Raised Earlier*

A motion for reconsideration does not "serve as the occasion to tender new legal theories for the first time." *Bear Lake*, UIC Appeal No. 11-03, at 3 (declining to consider a new argument made in a motion for reconsideration); *accord In re Windfall Oil & Gas, Inc.*, UIC Appeal 14-73 to 14-190, at 3 (EAB July 16, 2015) (Order Denying Motions for Reconsideration); *In re Core Energy, LLC*, UIC Appeal No. 07-02, at 3 n.1 (EAB Jan. 15, 2008)(Order Denying Motion for Reconsideration). Here, the Region has raised a new legal theory by relying on previously-unreferenced Permit and Consent Decree provisions to argue that the Region must determine additional response actions for third-party projects in accordance with the Consent Decree. Nonetheless, to avoid the force of Board precedent, the Region asserts that its presentation of a new legal theory in its motion for reconsideration is "necessitate[ed]" by the Board's "*sua sponte*" adoption of a rationale not raised by GE as the "basis" for remanding the provisions relating to additional response actions for third-party projects. Region Recon. Motion at 5; EPA's Reply to GE's Opposition to EPA's Motion for Partial Reconsideration, RCRA Appeal No. 16-01, at 2 (Feb. 16, 2018) ("Region Reply"). The new rationale that the Region attributes to the Board is that the third-party projects provisions did not clearly constrain the Region's

discretion for choosing additional response actions "for want of the phrase 'in accordance with the Consent Decree' or similar formulation." Region Reply at 2. The Region's position on this point is not well-founded.

The Region's new legal theory is not an attempt to show a specific demonstrable error in a particular rationale in the Board's decision but a new general response to GE's Petition and as such should have been raised in its brief responding to the Petition. The linchpin of the Region's new legal theory is that the third-party projects provisions comply with the Consent Decree's requirement that the Permit set forth the response action because there is "Decree and Permit language that expressly limits the operation of [these provisions]" to determining additional response actions "in accordance with the Decree." Region Recon. Motion at 3-4. That legal theory directly responds to GE's claim in its Petition that the third-party projects provisions violate the Consent Decree by giving the Region "unfettered discretion" to choose additional response actions. *See* GE Pet. at 49. In fact, the Region's new legal theory is the mirror image of the Region's prior argument, in its brief responding to GE's Petition, addressing GE's identical "unfettered discretion" challenge to the Downstream Transport and Biota performance standards. *See* Region Resp. to GE Pet. at 46 (where the Region argued that "the Performance Standards [require] * * * that EPA determine any additional actions necessary to achieve and maintain the Performance Standards *in accordance with the Decree*"). Thus, the Region's own actions in defending GE's challenge to the Downstream Transport and Biota performance standards demonstrate that its new legal theory was a pertinent defense to the original grounds in GE's Petition for challenging the third-party projects provisions. Because this response could

have been raised in response to GE's Petition, it cannot be raised for the first time in a motion for reconsideration.[2]

Moreover, the Region should not have been surprised that the Board took into account that the third-party projects provisions, unlike the Downstream Transport and Biota performance standards, did not expressly specify that the Region must determine additional response actions "in accordance with the Consent Decree." The Board's approach here was not "*sua sponte*" – i.e., "without prompting or suggestion," Black's Law Dictionary 1437 (7th ed. 1991), as the Region claims. To the contrary, the Region itself put the relevance of such Permit language into play by arguing in its response to GE's Petition that the presence of such language in the Downstream Transport and Biota performance standards overcame GE's concern that those provisions gave the Region unbounded discretion in choosing additional response actions. Having accepted the Region's claim that the presence of this language was outcome determinative on GE's challenge to the Downstream Transport and Biota performance standards, it was appropriate for the Board to evaluate the effect of the absence of this language from the third-party projects provisions in the face of a similar challenge from GE to these provisions.

B. *The Region Fails to Establish That the Board Demonstrably Erred*

Even assuming the Region's new argument was properly and timely raised, we would nevertheless deny the motion for reconsideration. The Region has not shown that the Board

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[2] Similarly, the Board having rejected the defense of the third-party projects provisions the Region presented in its brief responding to GE's Petition, it is too late for the Region to offer a new, narrowing interpretation of these provisions in a motion for reconsideration.

demonstrably erred in concluding that the provisions relating to additional response actions for third-party projects appear to facially conflict with the Consent Decree requirement that the Region set forth the response action in the Permit.

To support its motion for reconsideration, the Region relies on generic permit language from the Permit and Consent Decree specifying that GE must generally "perform" and "conduct" the response action "pursuant to the Consent Decree." This language, however, is not directed at the Region, nor does it specifically address the Region's choice of additional response actions.

It is useful to contrast the Permit language the Region cites in its reconsideration motion with the Permit language the Board relied upon in denying GE's similar challenge to the Downstream Transport and Biota performance standards. The Permit language that the Board relied on in upholding the Downstream Transport and Biota performance standards is expressly directed at the Region's determination on the needed additional response actions: "EPA * * * will determine any additional actions necessary to achieve and maintain the Performance Standard in accordance with the [Consent Decree]." Permit ¶¶ II.B.1.a(1), II.B.1.b(1)(a). On the other hand, the Permit and Consent Decree language the Region cites in its reconsideration motion as constraining its selection of additional response actions for third-party projects addresses an obligation imposed on GE, not the Region, and does not address the matter in dispute here – the Region's determination of additional response actions – but a separate matter altogether – GE's performance of the response action. The Region does not explain how a

Permit provision establishing GE's obligations in conducting the response action applies to the Region's choice of an additional response action.[3]

Having rejected the premise of the Region's argument that generic language in the Permit and Consent Decree requires that the Region determine additional response actions for third-party projects in accordance with the limitations written into the Consent Decree, the Region's other arguments in its reconsideration motion concerning construction of the Permit in light of the cited Permit and Consent Decree language also fail. Nonetheless, the Region appears to assert that even if the Board is unconvinced by the newly-cited Permit and Consent Decree language, the Board should reconsider its decision as contrary to *In re Sun Pipe Line Co.*, UIC Appeal Nos. 02-01 & 02-02 (EAB July 11, 2002). Region Recon. Motion at 3. According to the Region, that decision stands for the proposition that two "separate" permit provisions should be construed to contain parallel requirements even if the requirement is only contained in one of the provisions. *Id.*; Region Reply at 2. Thus, presumably the Region is asserting that, under *Sun Pipe Line*, the language in the Downstream Transport and Biota performance standards requiring that the Region determine additional response actions in accordance with the Consent Decree should be read into the third-party projects provisions. Region Reply at 2 ("The issue in the

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[3] In its motion for reconsideration, the Region also contends that the Board erred in concluding that additional response actions might be required prior to approval of the Statement of Work. The Region claims that the Board's concern here is unfounded because these additional response action requirements specify that the additional response must be "perform[ed] * * * in accordance with the plans submitted and approved pursuant to Section II.H of this Permit[,]" pertaining to the Statement of Work. Region Recon. Motion at 5. However, this language does nothing more than state that additional response actions must be performed consistent with any Statement of Work plans then in existence.

instant case is conceptually identical to *Sun Pipe Line*, and the reasoning in that decision, if applied here, must lead to the conclusion that the [third-party projects] provision[s are] unambiguous.").

The permit provisions in the *Sun Pipe Line* decision, however, differ markedly from the two sets of additional response action provisions in the present case. The *Sun Pipe Line* decision involved interpretation of an Underground Injection Control permit with sequential subsections requiring the permittee to report certain incidents of noncompliance. The first subsection required the permittee to make an *oral* report within 24 hours. The second subsection required permittee to submit a follow-up *written* report within five working days. While the first subsection indicated to whom the oral report was to be made, the second subsection did not so specify. Despite the omission, the Board concluded that the "clear intent of the section" was for the written report to be submitted to the same official to whom the oral report had been made. *Sun Pipe Line*, UIC Appeal Nos. 02-01 & 02-02, at 20-21. The terms of the relevant permit provisions in the Permit here, however, are not analogous, and therefore, the *Sun Pipe Line* case does not support a claim that the "in accordance with the Consent Decree" proviso in the Downstream Transport and Biota performance standards can be read into the third-party projects provisions. Unlike the permit in the *Sun Pipe Line* case, the two different sets of provisions at issue in the Permit are not grouped together in the Permit, do not involve related permit obligations, and do not involve a common factual triggering event. Thus, *Sun Pipe Line* provides no authority for interpreting the third-party projects provisions in the manner suggested by the Region.

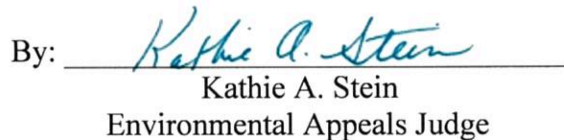
C. *Conclusion*

The Region's argument on reconsideration – that general language in the Permit and Consent Decree limits the Region to determining additional response actions needed for third-party projects to those that are "in accordance with the Consent Decree" – could have been presented in its response to GE's Petition. As such, the Region's argument is not properly or timely raised. See *Newmarket,* NPDES Appeal No. 12-05, at 1-2. Additionally, the language from the Permit and Consent Decree that the Region now relies upon to show constraints upon the Region's determination of additional response actions pertains only to GE's performance of its required activities under the Permit. Thus, the Region has not shown that the Board demonstrably erred in concluding that the Permit, as currently drafted, does not appear to meaningfully limit the Region's discretion in determining additional response actions for third-party projects. Accordingly, the motion for reconsideration is denied.

So ordered.[4]

ENVIRONMENTAL APPEALS BOARD

Dated: MAR - 7 2018

By: 
Kathie A. Stein
Environmental Appeals Judge

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[4] The three-member panel deciding this matter is composed of Environmental Appeals Judges Aaron P. Avila, Kathie A. Stein, and Mary Beth Ward.

CERTIFICATE OF SERVICE

I certify that copies of the attached **ORDER DENYING MOTION FOR PARTIAL RECONSIDERATION** issued March 7, 2018, in the matter of *In re General Electric Co.*, RCRA Appeal No. 16-01, were sent to the following persons in the manner indicated:

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