



GE  
159 Plastics Avenue  
Pittsfield, MA 01201  
USA

April 10, 2009

Tim Conway, Esquire  
Senior Enforcement Counsel  
United States Environmental Protection Agency, Region I (SAA)  
One Congress Street, Suite 1100  
Boston, Massachusetts 02114

Re: Rest of River Corrective Measures Study

Dear Mr. Conway:

Thank you for your March 17<sup>th</sup> e-mail presenting a “schedule for further development of GE’s new alternative.” That more ecologically sensitive alternative (“the ESA”), was discussed in our meeting on December 19, 2008 and more recently in the March 12, 2009 meeting with agencies of the United States, the Commonwealth of Massachusetts, and the State of Connecticut. In your e-mail you requested that GE submit a draft of the ESA work plan by April 24<sup>th</sup>, which GE will do.

Since that meeting we also received a letter dated April 1<sup>st</sup> from Susan Svirsky to Andy Silber (“the April 1<sup>st</sup> letter”) which covers some of the same ground covered in your March 17 e-mail as well as some ground not covered in any other prior EPA/GE correspondence, or the December 19<sup>th</sup> or March 12<sup>th</sup> meetings. Some of that new ground requires a response.

First, paragraph number 1 of the April 1<sup>st</sup> letter requests that GE evaluate a sediment remedial alternative that utilizes wet excavation techniques in Reaches 5A and 5B (“the EPA alternative”), and that GE include a proposal to do so in the draft work plan to be submitted by April 24<sup>th</sup>. This additional work was not discussed at the March 12<sup>th</sup> meeting, or at any time prior to that meeting, so it was not considered by GE in formulating the alternative approaches for the development of an ESA work plan presented on March 12<sup>th</sup>. In spite of this fact, GE will turn to the development of a draft work plan for the EPA alternative as soon as it has completed the draft ESA work plan. We will submit this draft work plan no later than May 8<sup>th</sup>. However, if we can submit it sooner we will.

Second, paragraph number 4 of the April 1<sup>st</sup> letter indicates that GE has “failed to provide a response to General Comment 42.” We are troubled by that characterization, as GE has not “failed” to do anything. On February 5<sup>th</sup>, Acting Regional Administrator Leighton sent a letter to Ann R. Klee of GE requesting that GE make a response to EPA’s September 9, 2008 comments by March 9<sup>th</sup>. On February 25<sup>th</sup>, Ms. Klee responded to Acting Administrator Leighton that GE would make such a response but that it would “not include responses to some comments or portions of comments that would be affected by the further definition of remedial alternatives, including the ESA, or that require additional time to complete.” At no time prior to the April 1<sup>st</sup> letter, including at our March 12<sup>th</sup> meeting, did EPA express concern about this statement or indicate that a response to the remaining EPA comments should be submitted earlier than the

revised CMS Report. Our filing on March 9<sup>th</sup> was fully compliant with our representations. Finally, we assume Ms Svirsky intends to reference Specific Comment 42 not General Comment 42. Consistent with her request, we will, in the ESA work plan, propose to respond to Specific Comment 42 by September 1, 2009.

Third, pursuant to paragraph numbers 2 and 3 of the April 1<sup>st</sup> letter, GE will propose an approach to analyze and evaluate the ESA in the draft ESA work plan. We will look forward to your thoughts.

Fourth, as anticipated by paragraph number 5 of the April 1<sup>st</sup> letter, GE will fully consider the ARARs implications of the Commonwealth's designation of the Upper Housatonic River Area as an Area of Critical Environmental Concern (ACEC).

GE will do all of this consistent with the terms of our RCRA permit.

If you have any questions, as always, feel free to give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Roderic McLaren/GMB".

Roderic McLaren  
Counsel, Pittsfield Housatonic River Remediation

Cc: James Owens, III, EPA  
Richard Cavagnero, EPA  
Dean Tagliaferro, EPA  
Susan Svirsky, EPA  
Michael Gorski, MADEP  
Eva Tor, MADEP  
Jane Rothchild, MADEP  
Richard Lehan, MADFG  
Jack Looney, CT AG  
Susan Peterson, CTDEP  
Kenneth Munney, USFWS  
Ken Finkelstein, NOAA  
Mayor James Ruberto, City of Pittsfield  
Michael Carroll, GE  
Thomas Hill, GE  
Andrew Silber, GE  
James Bieke, Goodwin Procter  
Jeffrey Porter, Mintz Levin