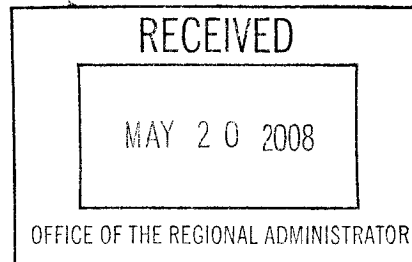




May 20, 2008



Via Hand Delivery
Robert W. Varney
Regional Administrator
U.S. Environmental Protection Agency
One Congress Street
Boston, MA 02114-2023

RE: Comments of the Massachusetts Department of Conservation and Recreation on the Housatonic River – Rest of River Corrective Measures Study (March, 2008), prepared by General Electric Company

Dear Mr. Varney:

The Commonwealth of Massachusetts Department of Conservation and Recreation (“DCR”), is pleased to submit these comments to the Environmental Protection Agency (EPA) in connection with the Housatonic River – Rest of River – Corrective Measures Study (the Report), dated March 2008 and prepared on behalf of the General Electric Company (GE). The Report outlines the conditions under which GE proposes to remediate the “Rest of River” (“ROR”) area, which is delineated as the downstream portion of the Housatonic River from the confluence of the East and West Branches in Pittsfield in Berkshire County, Massachusetts, to Long Island Sound in Connecticut.

The historical and environmental background for the Report is more particularly described in the comment letters submitted by the Massachusetts Departments of Environmental Protection (MassDEP) and Fish and Game (DFG). Upon review of the Report and comments by MassDEP and DFG, DCR has identified that it is the owner of a 23.6 acre parcel of land that is situated within Beartown State Forest, off Meadow Street (Route 102) in South Lee, and therefore within the ROR area. Additionally, DCR has identified three dams within the ROR area that are subject to regulation by DCR pursuant to G. L. c. 253, §§ 44-48 and DCR’s Dam Safety Regulations set forth at 302 CMR 10.00. In light of DCR’s authority and duty to exercise general care and oversight of the Commonwealth’s natural resources and regulate dams within the Commonwealth, DCR has a direct and substantial interest in the ROR cleanup. Accordingly, DCR submits these comments in support of the concerns and observations raised by MassDEP and DFG; and requests EPA to require GE to develop a supplemental CMS Report that analyzes in a more comprehensive and explicit manner the range of concerns identified by the environmental agencies.

COMMONWEALTH OF MASSACHUSETTS · EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS

Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston MA 02114-2119
617-626-1250 617-626-1351 Fax
www.mass.gov/dcr



Deval L. Patrick
Governor

Timothy P. Murray
Lt. Governor

Ian A. Bowles, Secretary, Executive
Office of Energy & Environmental Affairs

Richard K. Sullivan, Jr., Commissioner
Department of Conservation & Recreation

I. Mitigating or Avoiding Impacts to Habitats of State-Listed Rare Species and Other Significant Habitats

As noted above, DCR owns a certain 23.6 acre parcel of land within the Beartown State Forest, which is situated along the Housatonic River, and downstream of the confluence of the East and West Branches on the south side of the Housatonic River in Pittsfield, MA (ROR). DCR's ownership interest in the Beartown property is in keeping with its statutory authority to exercise general care and oversight of the natural resources of the commonwealth and adjacent waters. See G. L. c. 21, § 1. DCR is also responsible for acquiring and maintaining land and water areas for conservation purposes within the state parks under G. L. c. 184, §§ 31-33, and G. L. c. 132A, §§ 2A, 3 and 3A.

The Beartown property is situated entirely within the floodplain and consists of a mixture of open wet meadow, open fields, a floodplain forest and an oxbow, which is a unique feature of the property that should be maintained or otherwise restored as part of any remediation of this parcel. This parcel is within a priority habitat for rare species and estimated habitat for rare wildlife. This parcel also supports various non-native invasive plant species such as barberry, honeysuckle and multiflora rose. Consistent with the concerns raised by DFG, we urge EPA to fashion remediation measures that avoids any impact to these species and related habitats; and prevents the spread of these non-native invasive plant species. Moreover, given DCR's interest in the preservation of its habitat species, DCR endorses DFG and MassDEP's request that EPA's selected ROR remedy be based on a more thorough analysis of the alternatives in the CMS that would minimize or mitigate any temporary and permanent impacts to these identified habitat species.

II. Mitigating or Avoiding Impacts to Environmental Contaminants at the Dams

In addition to the foregoing, DCR has identified the following dams within the ROR area that are subject to DCR jurisdiction:

Rising Paper Co. Dam, owned by Neenah Paper, Inc. in Great Barrington, MA;
Columbia Mill, owned by Schwitzer-Mauduit, Inc. in Lee, MA; and
Woods Pond Dam, owned by General Electric Co., in Lee, MA.

In keeping with its authority under G. L. c. 253, §§ 44-48 and DCR's Dam Safety Regulations set forth at 302 CMR 10.00, DCR's Office of Dam Safety (ODS) issued a Certificate of Non-Compliance and Dam Safety Orders to Schwitzer-Mauduit, Inc., advising the owner that its

Columbia Mill dam is unsafe and has serious structural deficiencies. The Certificate and Order accordingly requires the owner to take actions to bring the dam into compliance with DCR's dam safety regulations. To address the structural deficiencies, DCR anticipates that the Columbia Mill dam will require significant structural work or will need to be breached. DCR further notes that while the other two dams are currently considered safe, they will nevertheless require structural repairs or need to be breached in the future. Such activities are likely to face significant scrutiny and impediments given the overall concern that these dams are likely to contain PCB laden silt behind them. The remedial design of any remedial alternative ultimately selected for the ROR needs to keep these dam safety considerations in mind. These concerns are consistent with MassDEP's request that GE's CMS adequately address any future utility maintenance, installation projects, bridge maintenance projects or channel or impoundment maintenance activities to minimize the impacts of any potential disturbance and re-suspension of contaminated sediments during any of these activities.

Based on the foregoing, DCR requests EPA to require GE to develop a supplemental CMS Report that analyzes in a more comprehensive and explicit manner the range of concerns identified by the Massachusetts environmental agencies. Thank you for soliciting our input on the CMS Report, and for your consideration of our comment letters.

Sincerely yours,



Richard K. Sullivan, Jr.
Commissioner

cc: Ian Bowles, Secretary of Energy and Environmental Affairs
Susan Svirsky, EPA Region I
EPA contact for submittal of comments
Laurie Burt, Commissioner, MassDEP
Mary Griffin, Commissioner, Mass DFG