



SDMS: 160245

08-0048

Corporate Environmental Programs
General Electric Company
100 Woodlawn Avenue, Pittsfield, MA 01201

October 5, 2001

Mr. Thomas W. O'Brien
Watershed Team Leader
Executive Office of Environmental Affairs
78 Center Street, Federal Building Room 206
Pittsfield, Massachusetts 01201

**Re: GE-Pittsfield/Housatonic River Site
Upper ½ Mile Reach Removal Action (GECD800)
Habitat Restoration and Monitoring**

Dear Mr. O'Brien:

As you know, representatives of General Electric (GE) and the natural resource Trustees (Trustees) have had various discussions related to the restoration of the certain sections of the banks of the Upper ½ Mile Reach of the Housatonic River between the Newell Street and Lyman Street Bridges. Our latest discussions concerned the August 2001 monitoring event and your letter of August 13, 2001 on GE's Spring 2001 Planting Monitoring Event and Proposed Maintenance Plan. This letter provides GE's responses to the comments in your August 13 letter. In particular, this letter presents GE's understanding of the relevant Performance Standards that govern this work under the Consent Decree, which are set forth in the Upper ½ Mile Reach Removal Action Work Plan (the "Work Plan") as approved by EPA after input and comment by the Trustees, since it appears that several disagreements between the parties stem from divergent interpretations of those Performance Standards.

GE Response to Plan cover letter Bullet #1:

The Trustees refer to plant vigor as a restoration performance standard. GE does not concur that plant vigor is a Performance Standard that requires plant replacement. Section 11.6.2 of the Work Plan provides explicitly that GE's certified arborist will perform an evaluation of apparent vigor, and that "[i]f the apparent vigor is determined to be less than adequate, appropriate watering, fertilizers, or other reasonable measures will be taken to the extent practicable to correct the deficiencies. Tree/shrub replacement will not be required based on an evaluation of vigor."

Additionally, the Trustees refer to a performance standard for species composition of the herbaceous community. However, there is no Performance Standard in the Work Plan related to species composition of the herbaceous community. The Trustees approved the seed mixture used on the banks of the Upper 1/2 Mile Reach. The species present in the seed mixture is not necessarily an indication of the exact species composition that will ultimately be growing in the restored areas. The applicable Performance Standard is for 100% herbaceous cover outside the foliar area of the trees/shrubs with up to 5% invasive species.

GE Response to Plan cover letter Bullet #2:

This bullet states that the Trustees' November 15, 2000 letter providing comments on GE's November 2000 invasive control plan requested GE to provide additional clarification in a revised invasive plant control plan and that they have still not received that revised plan. However, the Trustees' November 15, 2000 letter did not request that GE submit a revised invasive control plan. The Trustees required a modification to the wording of the plan with regard to the methodology of herbicide application but it was

not GE's understanding that the plan needed to be resubmitted. The Trustees' letter specifically indicated that they were not requesting further clarification with regard to the timing of herbicide application. The Trustees did request a plantings maintenance plan during the spring of 2001, which GE provided in its July 13, 2001 submission (which is the subject of the Trustees' comments). In any event, in response to the Trustees' comment in their August 13, 2001 letter, GE has revised the invasive control plan and a working draft (for discussion purposes) was submitted to the Trustees at the September 24, 2001 project status meeting.

GE Response to Plan cover letter Bullet #3:

No Response.

GE Response to Plan Attachment A Bullet #1

No Response.

GE Response to Plan Attachment A Bullet #2:

GE does not believe that additional detail regarding the assessment methodology is warranted. GE will be using the same methodology as the one employed during bank inspections of the Building 68 Removal Action Area conducted with EPA representatives (who, like the Trustees, have included personnel from Woodlot Alternatives, Inc. as oversight contractors). These assessments, with one exception, have been successfully completed. GE understands that the Trustees are separately developing inspection protocols and will be submitting a working draft to GE for discussion.

GE agrees to tag any tree or shrub for which remedial maintenance is recommended. However, these plants will not be recorded in a separate category. Rather, GE will identify these plants as a subset of the plants meeting the survivability Performance Standard. GE will evaluate the need for replacement of these plants over the next several years.

GE does not believe that it is required to make a recorded estimate of the percent cover of each invasive species observed during the monitoring inspection. Because the applicable Performance Standard is that no more than 5% of the riverbank may be occupied by invasive species in aggregate, individual species totals would not be useful.

GE Response to Plan Attachment A Bullet #3:

The planting times are noted in the text at the top of page 4 and 5 of Attachment A to GE's July 13, 2001 letter. The planting times are also presented on the Planting Schedule Chart that GE has periodically updated and submitted to the Trustees.

GE Response to Plan Attachment A Bullet #4:

The invasive species discussed with the certified arborist primarily included garlic mustard.

GE Response to Plan Attachment A Bullet #5:

No Response.

GE Response to Plan Attachment A Bullet #6:

As GE described in the Monitoring Report, herbivory has been an issue in the upper stretches of the riverbank downstream of Newell Street. GE has been actively working to reduce the number of woodchucks in the area and will continue to do so. GE anticipates installing tree guards as recommended by the Trustees during the fall 2001 planting activities.

As the Trustees recognize, it appears that many of the trees that were cut down due to animal activity have resprouted from the base and are growing. However, the Trustees state that all planted trees that are less than four feet high should be identified as not meeting the vigor standard, tagged, and subject to remedial maintenance. GE does not agree with this recommendation. As previously discussed, the Work Plan expressly states that the evaluation of vigor will be made by a certified arborist and will not be used as a criterion to replant trees and shrubs, but only as a way to determine the need for certain supplemental measures such as watering, fertilizing or other "reasonable measures." The Work Plan does not include any height requirement in the evaluation of vigor. Hence, trees that are less than four feet tall do not necessarily require tagging and remedial maintenance. Rather, in accordance with the Work Plan, GE proposes to let the certified arborist determine the apparent vigor of the planted trees, and if the apparent vigor is judged to be less than adequate, to propose appropriate corrective measures.

Similarly, since there is no Performance Standard for the height of the planted trees, the Trustees' tree counts that exclude trees less than four feet tall are not related in any way to the achievement of the Performance Standards in the Work Plan.

GE Response to Plan Attachment A Bullet #7:

The reference to sugar maple in the third paragraph should have been to silver maple.

GE Response to Plan Attachment A Bullet #8:

Since the Trustees' August 13 letter, the Trustees have recommended chokecherry (*Prunus virginiana*) as a replacement for the serviceberry and GE has evaluated the availability of that species for the fall 2001 planting. GE plans to plant chokecherry instead of serviceberry this fall.

GE Response to Plan Attachment A Bullet #9:

The Performance Standard that GE agreed to meet in the Work Plan was for 100% herbaceous cover outside the foliar area with up to 5% invasives present. The Trustees assert that certain species that are not listed as invasives in the Work Plan but were not in the native seed mix sown should be considered to be invasive species. GE does not agree with this interpretation. The invasive species of concern are listed in Section 11.6.2 of the Work Plan and referenced in the November invasive control plan. GE believes that all other herbaceous plants present should count towards fulfilling the Performance Standard requirements for herbaceous cover. Thus, if additional non-invasive herbaceous plants appear in the restored areas beyond those included in the seed mixture, they will be included in the evaluation of the percent ground cover Performance Standard.

GE Response to Plan Attachment A Bullet #10:

GE and the Trustees had extensive negotiations over the makeup of the invasive species list included in the Work Plan. We believe that list is complete and inclusive as it relates to the Performance Standards in

the Work Plan. Nevertheless, as an accommodation to the Trustees, GE agrees to remove the Norway maple and burning bush specimens listed in the Trustees' letter, even though it is not required to do so.

GE Response to Plan Attachment A Bullet #11:

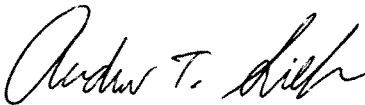
The incorrect performance standards are identified in Tables 1-4. They have been appropriately adjusted for the summer 2001 inspection results.

GE Response to Plan Attachment A Bullet #12:

GE agrees that the plant mortality due to overspray of herbicide will affect achievement of Performance Standards. As discussed during weekly status meetings, it was necessary to perform foliar applications (consistent with the invasive control plan) since the root systems in some cases were too well established for topical applications to be effective. Replanting, as required, will be proposed following completion of the summer 2001 planting inspection. GE believes that implementation of invasive control methods prior to planting an area (as recommended by the Trustees) should limit the need to perform foliar applications to gain control of the invasives. This should also reduce the potential for inadvertent loss of planted material or desirable native material due to herbicide application. GE has implemented this control method. In addition, GE has instructed its Contractor to perform invasive control activities ahead of bank clearing activities, which we believe should further assist in the control of invasive species.

Please call me if you would like to discuss this matter.

Sincerely,



Andrew T. Silfer, P.E.
Project Coordinator

ATS/dmn

cc: Dean Tagliaferro, EPA
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