# Exhibit 14

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**New England Region**
**Five Post Office Square -- Suite 100**
**Boston, Massachusetts 02109-3912**

November 18, 2022

Cristóbal Bonifaz, Esq.
Attorney for the Town of Lee Board of Health
Law Office of Cristóbal Bonifaz
180 Maple Street
Conway, Massachusetts 01341

Re: GE-Pittsfield/Housatonic River Site/Rest of River
Adjudicatory Hearing of the Town of Lee Board of Health

Dear Attorney Bonifaz:

This letter responds to the letter dated November 9, 2022 (the "Letter") that the Town of Lee Agricultural Commission (the "Commission") sent to the Town of Lee Board of Health ("BOH") regarding the Upland Disposal Facility ("UDF") to be constructed near Woods Pond to facilitate the cleanup of the Housatonic River. At the Commission's request, EPA gave the Commission a tour of the UDF on October 4. The Letter states that the Commission asked certain questions of EPA that were not answered. Even though EPA has already responded to these questions, a response to these questions is noted below.

1. Details regarding of Dewatering

The sediment and floodplain soil that will be disposed of at the UDF will need to be dewatered. This may be at the point of generation, adjacent to the UDF, or within the UDF itself. The method for the treatment/disposition of the collected water may vary and has not yet been determined. Specifics regarding dewatering is a design detail that it not yet final. GE will be providing details on dewatering in subsequent design documents, such as design documents for each area of remediation and the final design for the UDF.

2. Need for Wetland Permits

The Commission wondered how EPA could obtain a wetland permit without providing certain information. Under the Superfund law, EPA is not required to apply for or obtain

permits but complies with the substance of environmental regulations. For more information see the attached letter to the Town of Lee Conservation Commission, dated May 9, 2022.

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The Commission asked why EPA changed its mind on the suitability of the UDF when it previously determined that the UDF area was not suitable in 2016. As described in our prior letters to the BOH, EPA refers the BOH to the Administrative Record for the 2020 Cleanup Permit, in particular EPA's 2020 Response to Comments, and Section III.B of EPA's Response Brief that it filed with EPA's Environmental Appeals Board in 2021.

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The Commission asked about the elevation of the water table. Preliminary groundwater elevation data can be found in Table 15-8 of GE's recent October 2022 Monthly Report available on the EPA web site and at following October 2022 Monthly Report or at https://semspub.epa.gov/work/01/668972.pdf. This data has not been fully evaluated and is preliminary.

Although we do not address the Commission's characterization of the tour of the UDF, we strongly disagree with it.

We remain committed to coordinating with all of the municipalities during the planning and implementation of the River cleanup. Please let me know if you have any further questions.

Sincerely,

JOHN KILBORN Digitally signed by JOHN KILBORN
Date: 2022.11.18 11:00:48 -05'00'

John Kilborn
Senior Enforcement Counsel
Office of Regional Counsel

Cc: Bryan Olson, EPA
Dean Tagliaferro, EPA
Rich Fisher, EPA
Chris Ferry, Superfund Records Center

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
REGION 1
FIVE POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

Via Email: concom@town.lee.ma.us

May 9, 2022

Kathy Arment, Chair
Town of Lee Conservation Commission
32 Main Street
Lee, Massachusetts 02138

Re: GE-Pittsfield/Housatonic River Site/Request for Determination of Applicability
Land by Woodlawn and Willow Hill Roads

Dear Ms. Arment:

We are writing to you as Chair of the Conservation Commission of the Town of Lee. It has come to our attention that the Commission has received a Request for Determination of Applicability for a parcel of land located by Woodlawn and Willow Hill Roads, shown as Lot 4D on Assessor's Map 2. A copy of this request is attached. The General Electric Company owns this property, which is the location of an Upland Disposal Facility ("UDF") to be constructed as part of the Rest of River cleanup for GE-Pittsfield/Housatonic River Site (the "Site"). The UDF will receive and safely store sediments and soils from the cleanup of the Housatonic River.

Please be aware that the remediation of the Site is being conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as the federal Superfund law. Pursuant to CERCLA and its implementing regulations (the National Contingency Plan), no federal, state, or local permit is required for any portion of a response action conducted entirely on-site, where such response action is selected and carried out in accordance with CERCLA. See Section 121(e) of CERCLA and 40 C.F.R. Section 300.400(e). The Rest of River cleanup, including the Upland Disposal Facility, is being conducted entirely on-site as defined under CERCLA and the NCP. Thus, neither GE nor EPA are required to apply for or obtain approval from the Conservation Commission or obtain a permit or Order of Conditions under the Massachusetts Wetlands Protection Act.

Although EPA is not required to obtain permits for on-site response actions, under CERCLA EPA is required to meet the substantive provisions of permitting regulations that EPA determines are applicable or relevant and appropriate requirements, known as ARARs. EPA has determined that the Massachusetts Wetlands Protection Act ("WPA") and its regulations are an "ARAR" for the Rest of River. Accordingly, any part of the cleanup that removes, dredges, fills, or alters

banks, riverfront areas, wetlands, and other areas must be conducted in accordance with the substantive requirements of the WPA and its regulations. See Attachment C, Page C-9, to GE's December 2020 Cleanup Permit. Likewise, the Rest of River cleanup must also comply with the substantive provisions of the Massachusetts Clean Water Act Water Quality Certification Regulations. See Attachment C, Page C-7, to GE's December 2020 Cleanup Permit. The 2020 Cleanup Permit can be found at semspub.epa.gov/src/collection/01/SC39714. (Search for Document ID 593921.)

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EPA has closely consulted with the Town Administrator of the Town of Lee and with MassDEP, who reviews and comments on GE's submissions, and will continue to do so.

Please let me know if you would like to discuss this matter or if you have any further questions.

Sincerely,

RICHARD FISHER

Digitally signed by RICHARD FISHER
Date: 2022.05.09 16:02:23 -04'00'

Richard Fisher
Remedial Project Manager
EPA New England

Enclosure

Cc: Patricia Carlino, Chair, Town of Lee Selectboard
R. Christopher Brittain, Town Administrator, Town of Lee
Dean Tagliaferro, EPA
John Kilborn, EPA
Matt Calacone, GE

**10 Citizens of Lee Request a**
**Request of Determination**
**For General Electric Company Land Fill**

**4-27-2022**
**Map 2 Lot 4D**
**Woodland & Willow Hill Rd**

We the undersigned are submitting a Request for Determination Application for the above referenced site. We are requesting the Lee Conservation Commission to hold a Public Hearing at within 21 days of receipt of this request. We ask that the Commission require General Electric Company to identify resources Protected under the Massachusetts Wetland Protection Act under 310 CMR 10.00. Please include wetland resources and habitat that have been recently impacted or altered. Refer to Mass Mapper Aerial Photographs.

We request the Lee Conservation Commission require GE to provide a plan clearly showing resource boundaries, with benchmarks and survey points. and to require GE to a Notice of Intent should the Landfill proposed be near or in these resources.

1. Plans clearly showing jurisdictional resources and buffer zones regulated under 310 CMR 10.00 and their boundaries (including but not limited to), and how the regulations performance standards will be met for the Land Fill Project Proposed by EPA & GE:
    a. 10: 54 Bank.
    b. 10:55 Bordering Vegetated Wetlands (BVW).
    c. 10.56: Land under Water Bodies and Waterways, (LUW), (under any Creek, River, Stream, Pond or Lake).
    d. 10: 57 Land Subject to Flooding, {Isolated, and Bordering.(Flood plain)}.
    e. 10:58 Riverfront (RF).
    f. 10.59: Estimated Habitats of Rare Wildlife (for Inland Wetlands).
    g. 10:60 Wildlife Habitat Evaluation.

| | Signature | Address or email | Date |
|---|---|---|---|
| 1 | Gail E Ceresia | GECERESIA@gmail.com | 4-27-2022 |
| 2 | Jon-Al Brown | 5brown2 roadrunner.com | 4-27-2022 |
| 3 | [illegible] | Smiley.1313@Hotmail.com | 4-27-2022 |
| 4 | [illegible] | 111 Woodland Rd | 4/27/22 |
| 5 | [illegible] | 153 Washington Mtn Rd | 4/27/22 |
| 6 | Nicole Krasnoff | 183 Washington Mtn. Rd. | 4/27/22 |
| 7 | David Cannington | 190 East St | 4/27/22 |
| 8 | James M Leahey DVM | 189 Reservoir Rd Lee MA | 4/27/22 |
| 9 | Shirley A Bruno | 181 Bradley St | 4/27/22 |
| 10 | Ellen F. Krupka | 220 East St, Lee, MA | 4/27/22 |
| 11 | | | |
| 12 | | | |

Attachments : Maps & Photographs
CC. Hand Delivered to Lee Conservation Commission. Certified Mail to Owner.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## A. General Information

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

1. Applicant:

Gail Ceresia 1 of ( 10 Citizens of Lee)
Name

geceresia@gmail.com
E-Mail Address

161 West Park St
Mailing Address

Lee
City/Town

MA
State

01238
Zip Code

413-237-Led5577
Phone Number

Fax Number (if applicable)

2. Representative (if any):

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

## B. Determinations

1. I request the Lee Conservation Commission make the following determination(s). Check any that apply:

☒ a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.

☐ b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.

☐ c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.

☐ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:

Name of Municipality

☐ e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1 - Request for Determination of Applicability

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## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

West of Woodland Rd & area north of Willow Hill Rd
Street Address

Lee
City/Town

Map 2
Assessors Map/Plat Number

4D
Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

Area west of Woodland Road and north of Lot 5 consists of a Massachusetts Bordering Vegetated Wetland. The 10 Citizens would like the area to be delineated by GE personal and Habitat to be evaluated. Applicant would like records of Environmental Consultants who review this portion of the property.

c. Plan and/or Map Reference(s):

| Title | Date |
|---|---|
| USGS Topographical Map | 4-20-2022 |
| DEP Juridictional Resources and ACEC | 4-20-2022 |
| Map and Lot Parcel | 4-20-2022 |

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Proposed PCB Dump and Dewatering area is up-gradient of Massachusetts Jurisdictional Wetland in an area plus near an area that was recently shown as Open Water on MassMapper. Site is in an ACEC. Natural Open Water Bodies that could have been vernal pools were filled. We request a Habitat Review.

Lee
City/Town

## C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
- ☐ Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- ☐ Residential subdivision; institutional, industrial, or commercial project
- ☐ Municipal project
- ☒ District, county, state, or federal government project
- ☒ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

See MassMapper Maps provided and photographs. Additional Material may be provided at Public Hearing.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
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## D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

General Electric Company /Also Mailed to: C/O Mathew Calacone Global Operations Health & Safety
Name

5 Necco St
Mailing Address

1 Plastics Ave.

Boston
City/Town

Pittsfield, MA 01201

MA
State

02201
Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Gail E Cerasia
Signature of Applicant

4-27-2022
Date

Signature of Representative (if any)

Date

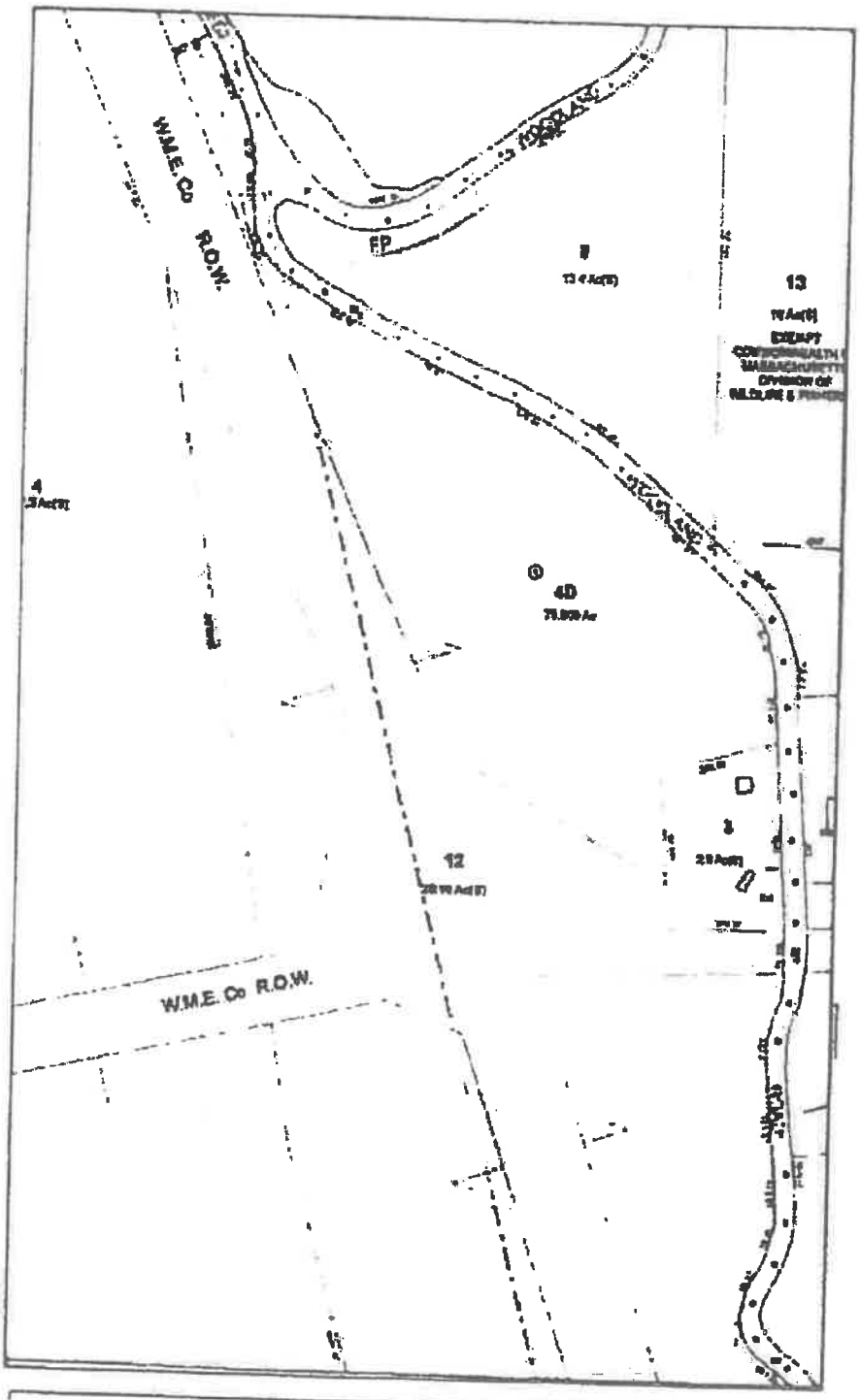



Figure 1. Map 2 & Lot 4D

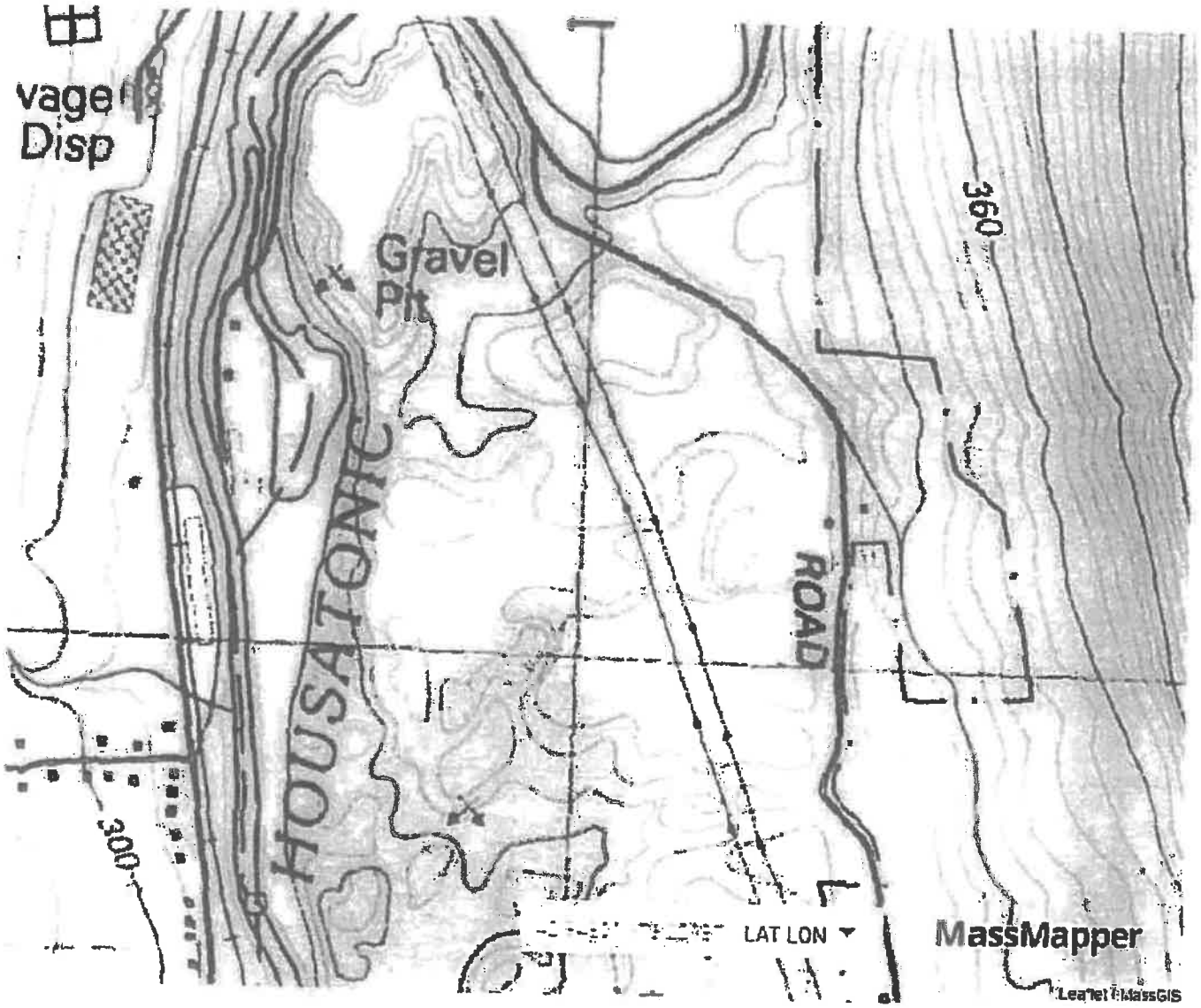



Figure 2. USGS Topographical Map.

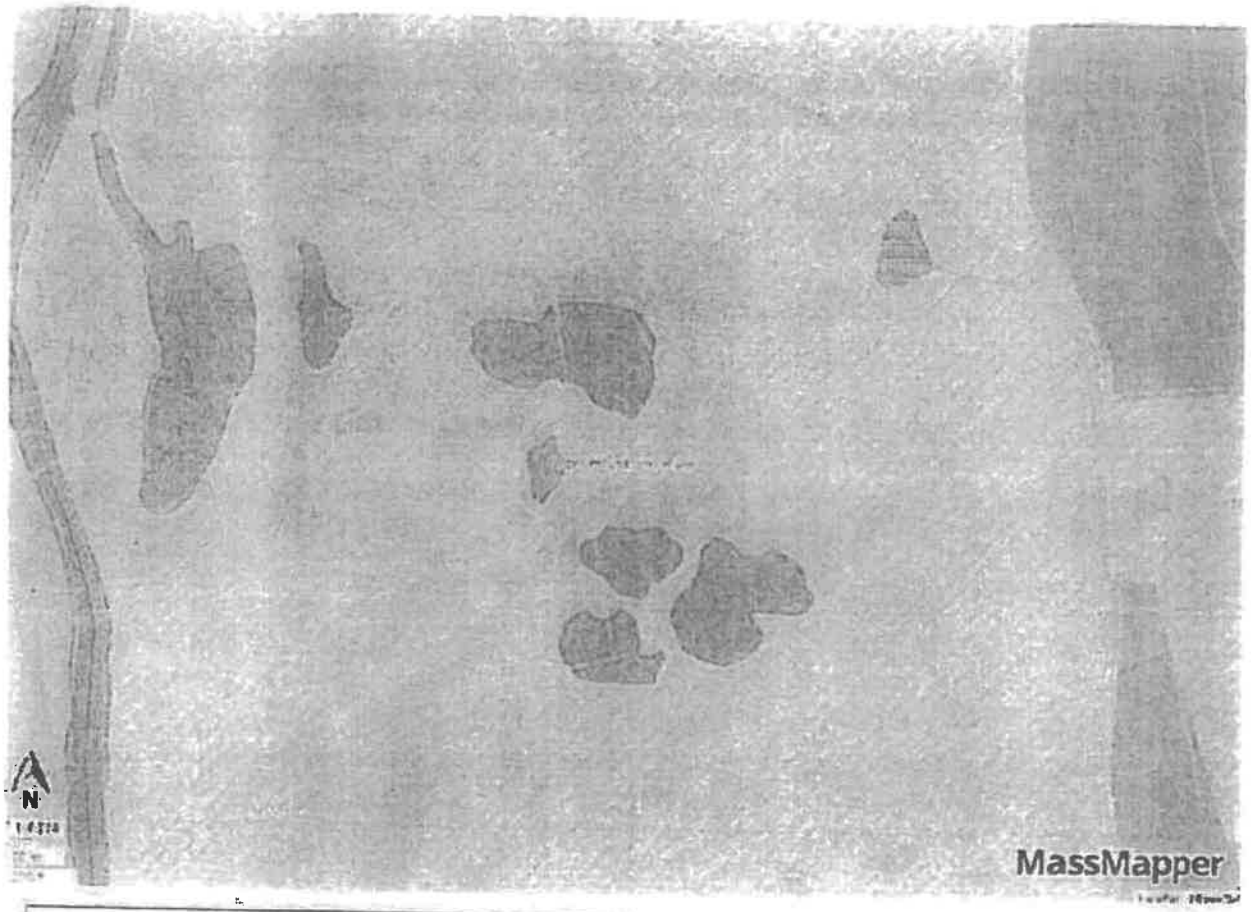



Figure 3. ACEC & Wetlands

DEP Wetlands Detailed With Outlines

- Shallow Marsh Meadow or Fen
- Shrub Swamp
- Tidal Flat
- Wooded Swamp Coniferous
- Wooded Swamp Deciduous
- Wooded Swamp Mixed Trees

Areas of Critical Environmental Concern ACECs Transparent Green

DEP Wetlands Hydrologic Connections

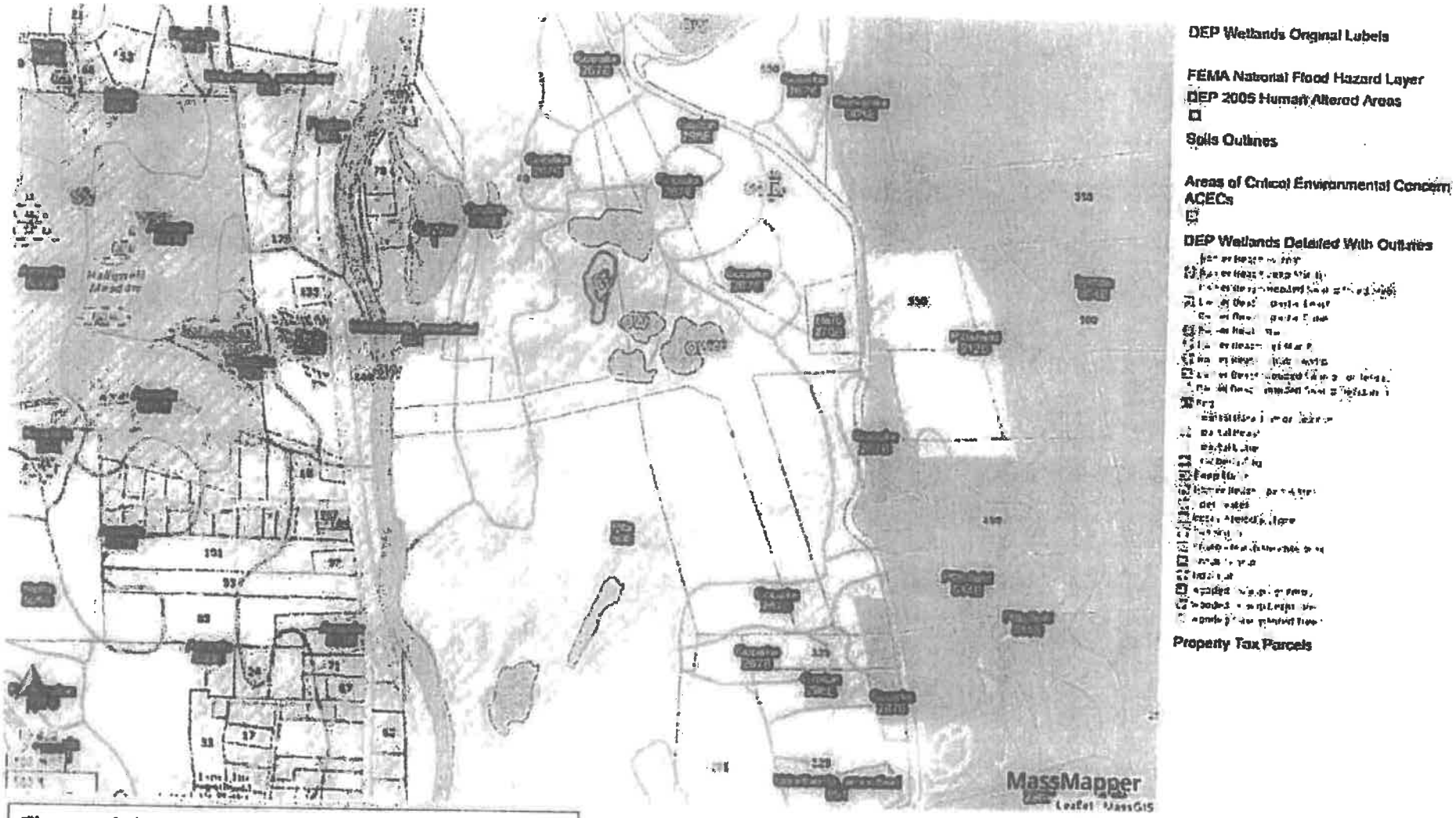
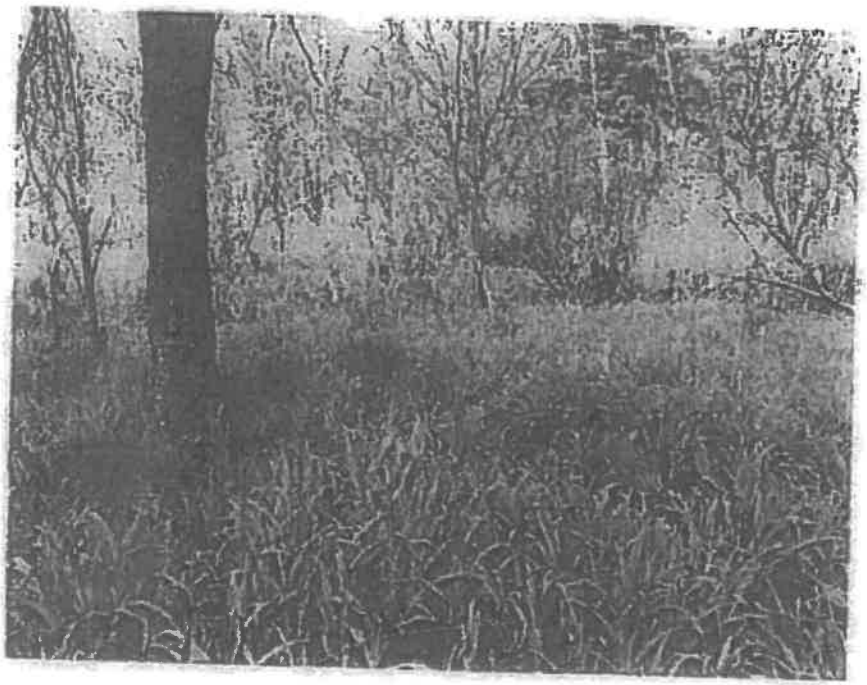


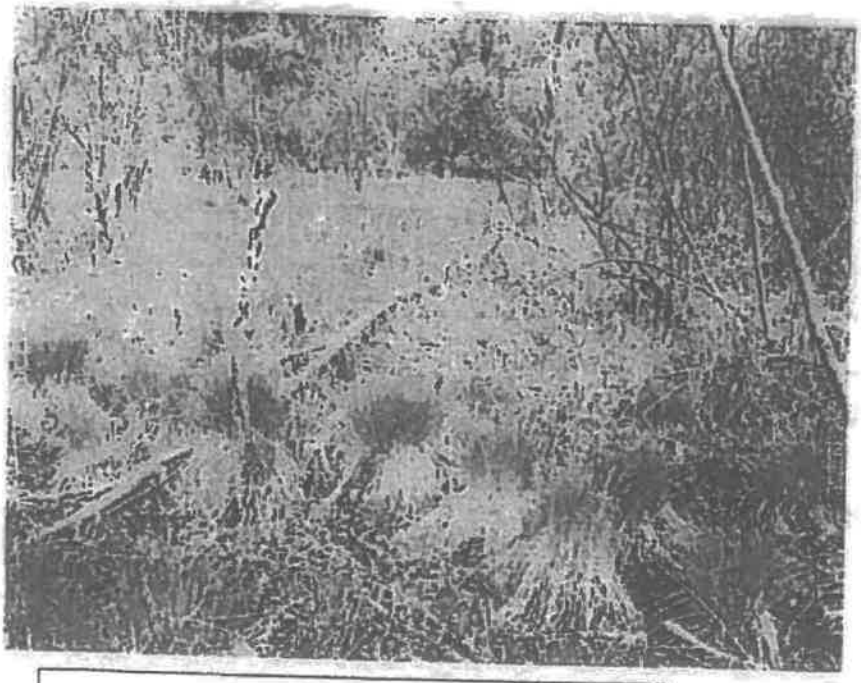

Figure 4. Soils, BVW, Open Water, ACEC.

Photograph 3. BVW view to south and west of Woodland Rd.

Photograph 4. BVW water flows into depression then disappears into subterrain (karst bedrock crack or cave).



Photograph 1. West of Woodland Rd.



Photograph 2. View to east towards Woodland Rd.

# Exhibit 14

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**New England Region**
**Five Post Office Square -- Suite 100**
**Boston, Massachusetts 02109-3912**

November 18, 2022

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| | Signature | Address or email | Date |
|---|---|---|---|
| 1 | Gail E Ceresia | GECERESIA@gmail.com | 4-27-2022 |
| 2 | Jon-el Brom | 5brom2 rocketmail.com | 4-27-2022 |
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Lee
City/Town

# WPA Form 1- Request for Determination of Applicability

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Gail Ceresia 1 of ( 10 Citizens of Lee)
Name

geceresia@gmail.com
E-Mail Address

161 West Park St
Mailing Address

Lee
City/Town

MA
State

01238
Zip Code

413-237-Led5577
Phone Number

Fax Number (if applicable)

2. Representative (if any):

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

## B. Determinations

1. I request the Lee Conservation Commission make the following determination(s). Check any that apply:

☒ a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.

☐ b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.

☐ c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.

☐ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:

Name of Municipality

☐ e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1 - Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

West of Woodland Rd & area north of Willow Hill Rd
Street Address

Lee
City/Town

Map 2
Assessors Map/Plat Number

4D
Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

Area west of Woodland Road and north of Lot 5 consists of a Massachusetts Bordering Vegetated Wetland. The 10 Citizens would like the area to be delineated by GE personal and Habitat to be evaluated. Applicant would like records of Environmental Consultants who review this portion of the property.

c. Plan and/or Map Reference(s):

| Title | Date |
|---|---|
| USGS Topographical Map | 4-20-2022 |
| DEP Jurisdictional Resources and ACEC | 4-20-2022 |
| Map and Lot Parcel | 4-20-2022 |

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Proposed PCB Dump and Dewatering area is up-gradient of Massachusetts Jurisdictional Wetland in an area plus near an area that was recently shown as Open Water on MassMapper. Site is in an ACEC. Natural Open Water Bodies that could have been vernal pools were filled. We request a Habitat Review.

Lee
City/Town

## C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
- ☐ Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- ☐ Residential subdivision; institutional, industrial, or commercial project
- ☐ Municipal project
- ☒ District, county, state, or federal government project
- ☒ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

See MassMapper Maps provided and photographs. Additional Material may be provided at Public Hearing.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1 - Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

General Electric Company /Also Mailed to: C/O Mathew Calacone Global Operations Health & Safety
Name

5 Necco St
Mailing Address

1 Plastics Ave.

Boston
City/Town

Pittsfield, MA 01201

MA
State

02201
Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Heid E Cerasia
Signature of Applicant

4-27-2022
Date

Signature of Representative (if any)

Date

Request for Determination
Map 2 Lot 4D Woodland RD

Citizens of Lee
4/27/2022

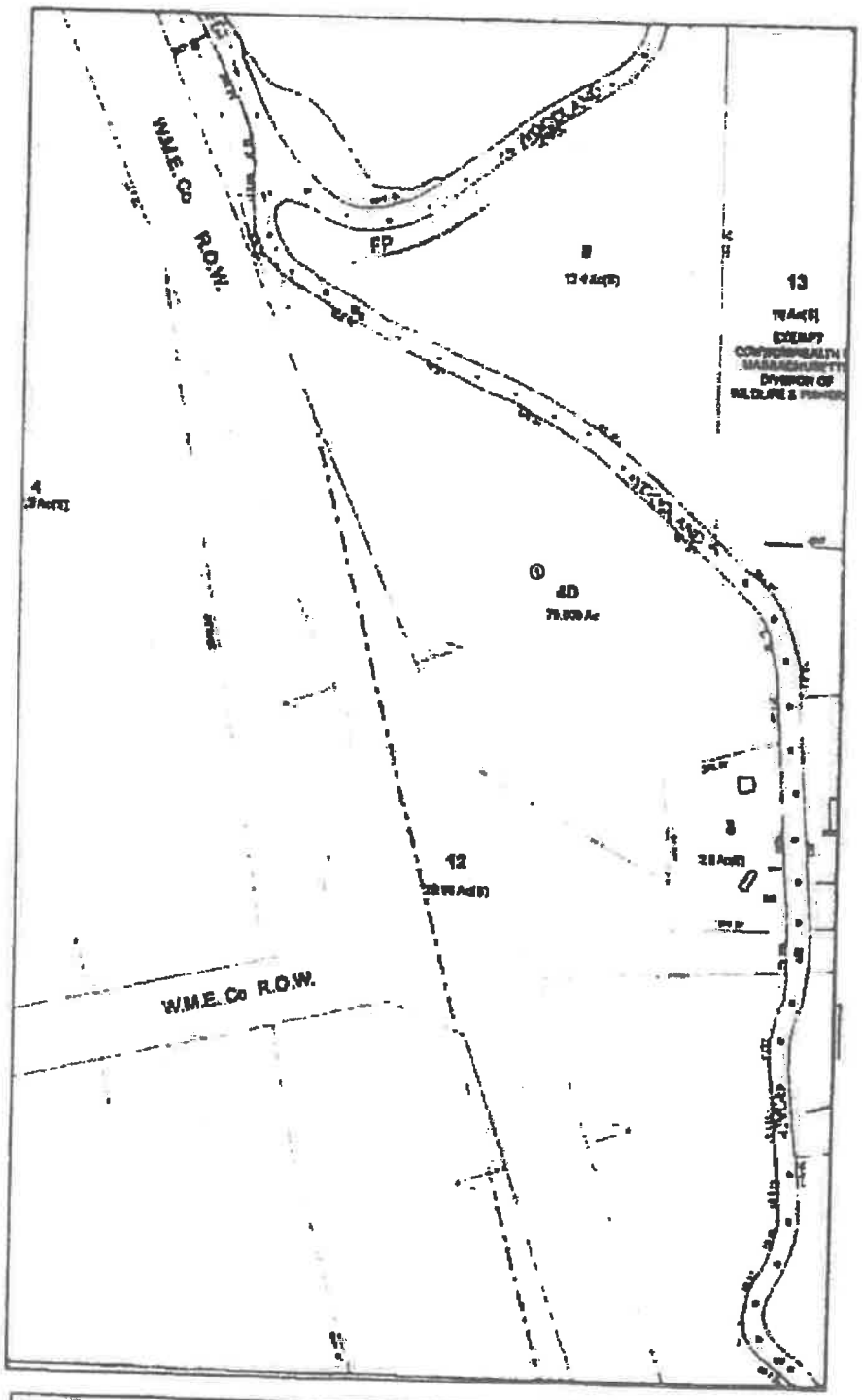



Figure 1. Map 2 & Lot 4D

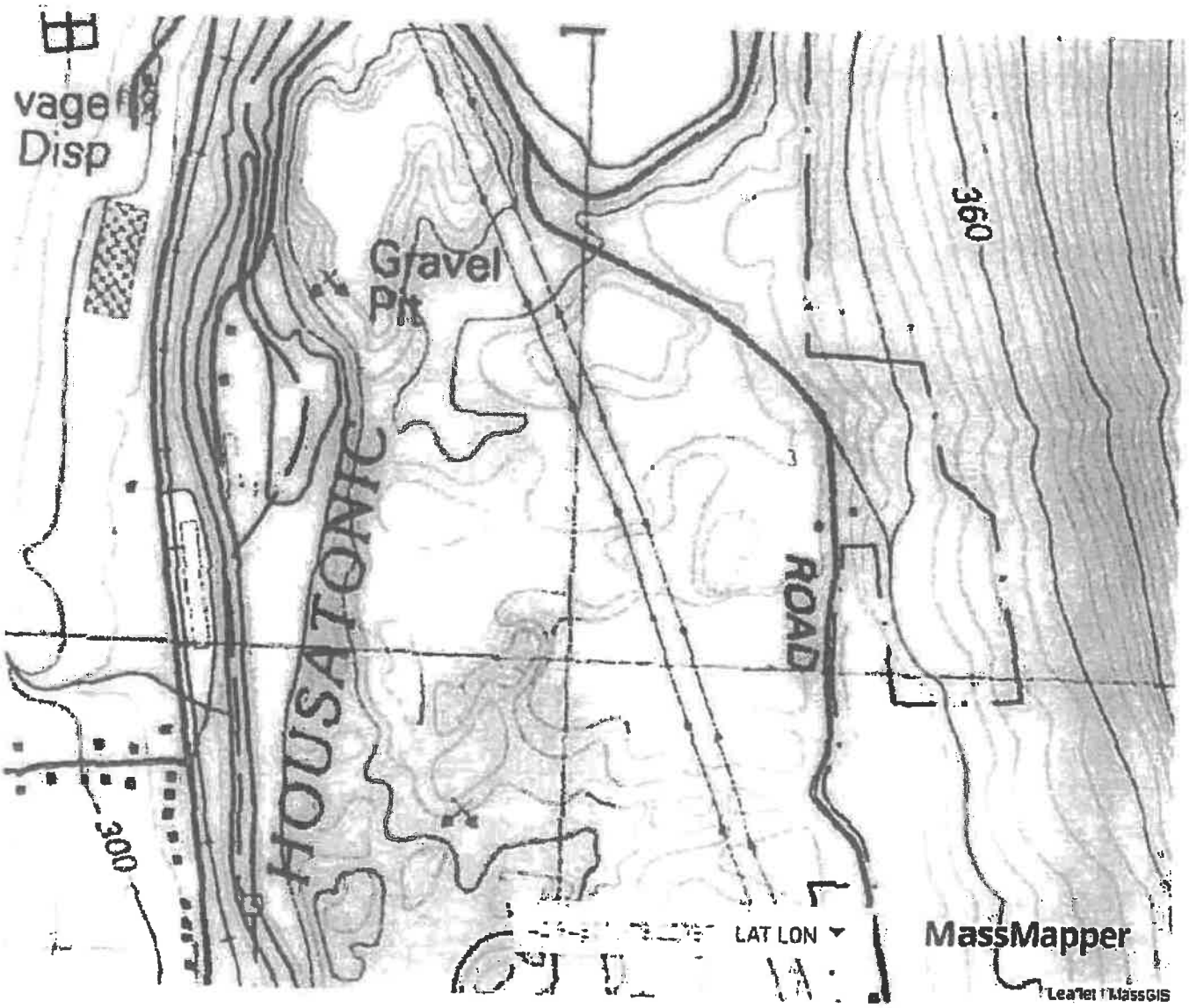



Figure 2. USGS Topographical Map.

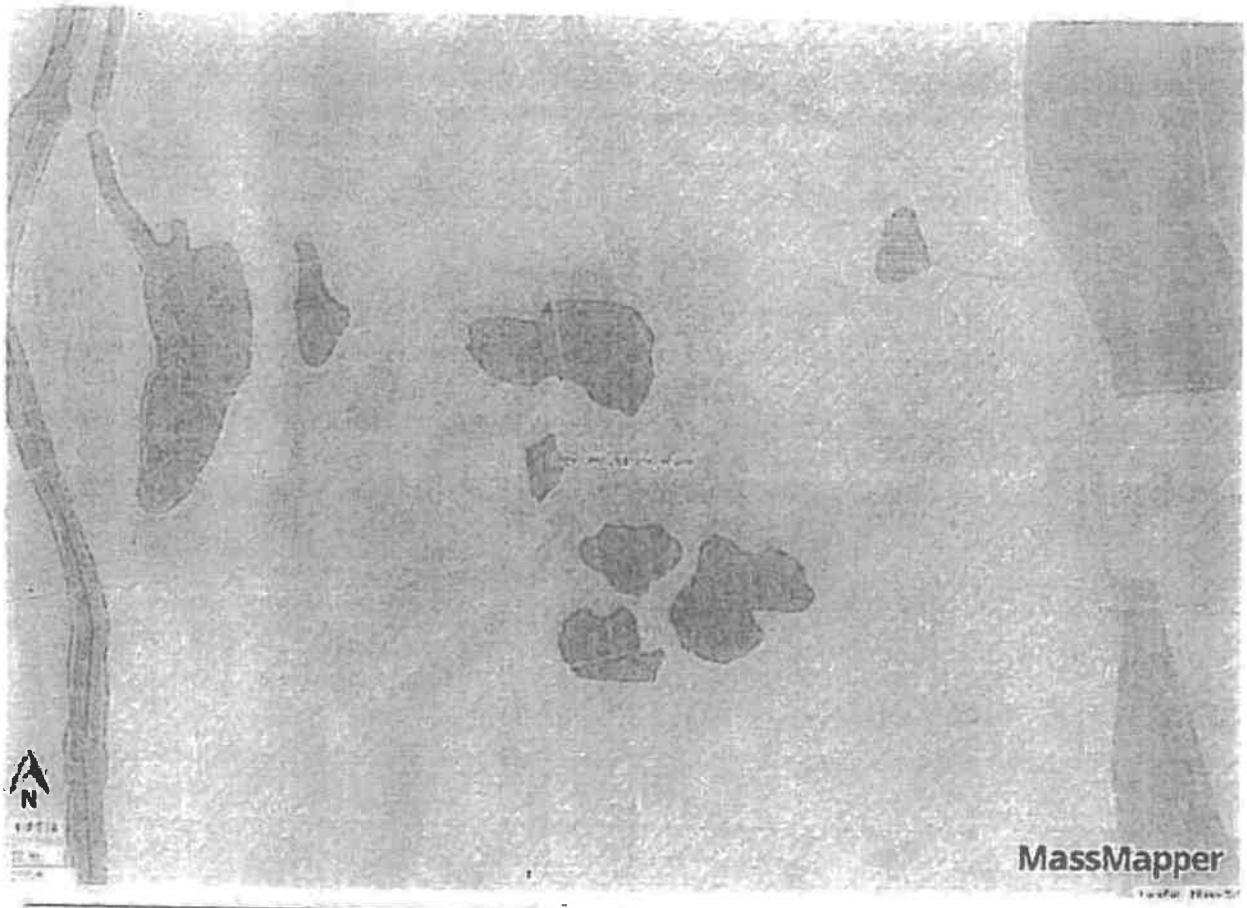



Figure 3. ACEC & Wetlands

DEP Wetlands Detailed With Outlines

- Shallow Marsh Meadow or Fen
- Shrub Swamp
- Tidal Flat
- Wooded Swamp Coniferous
- Wooded Swamp Deciduous
- Wooded Swamp Mixed Trees

Areas of Critical Environmental Concern ACECs Transparent Green

DEP Wetlands Hydrologic Connections

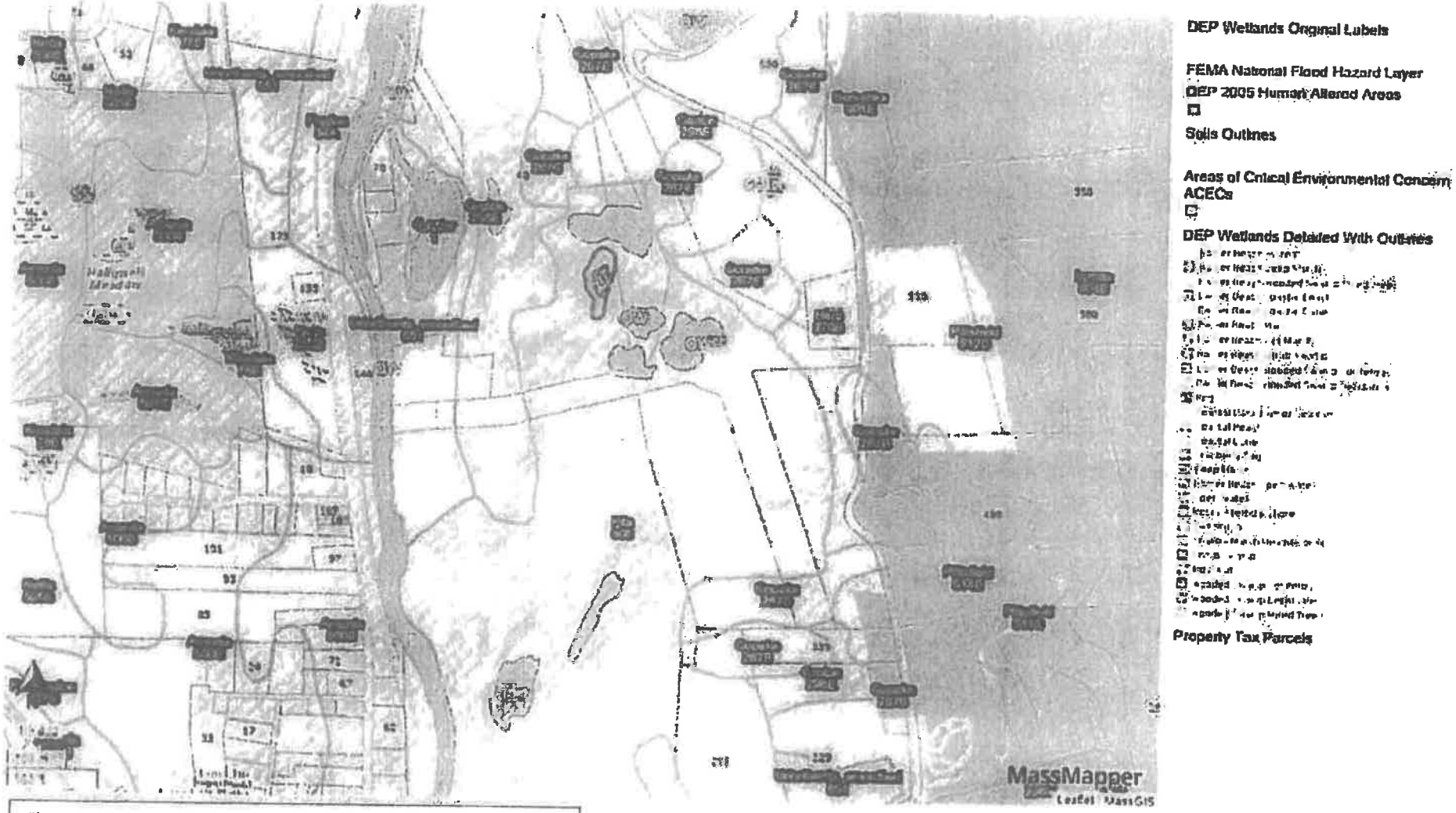
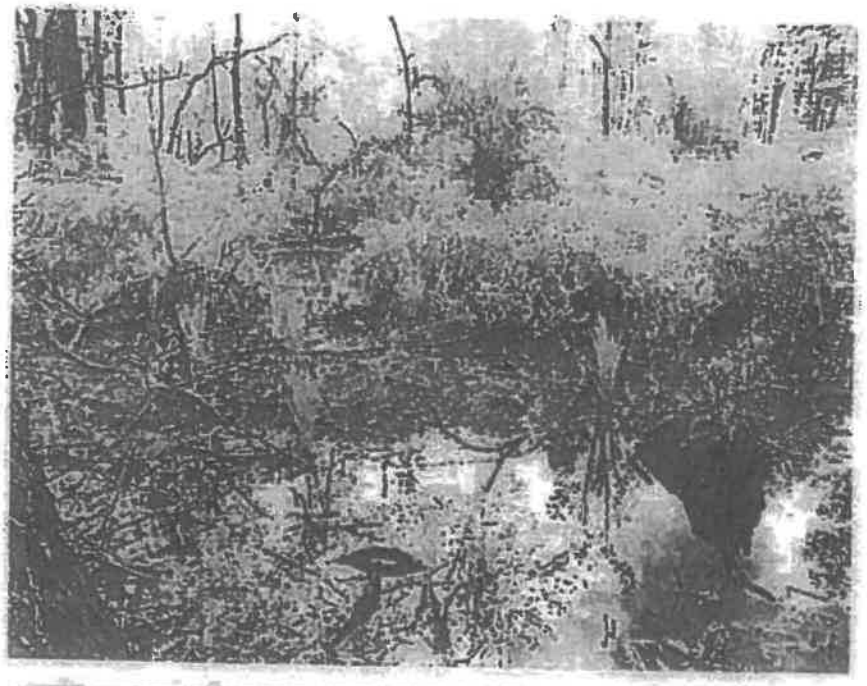


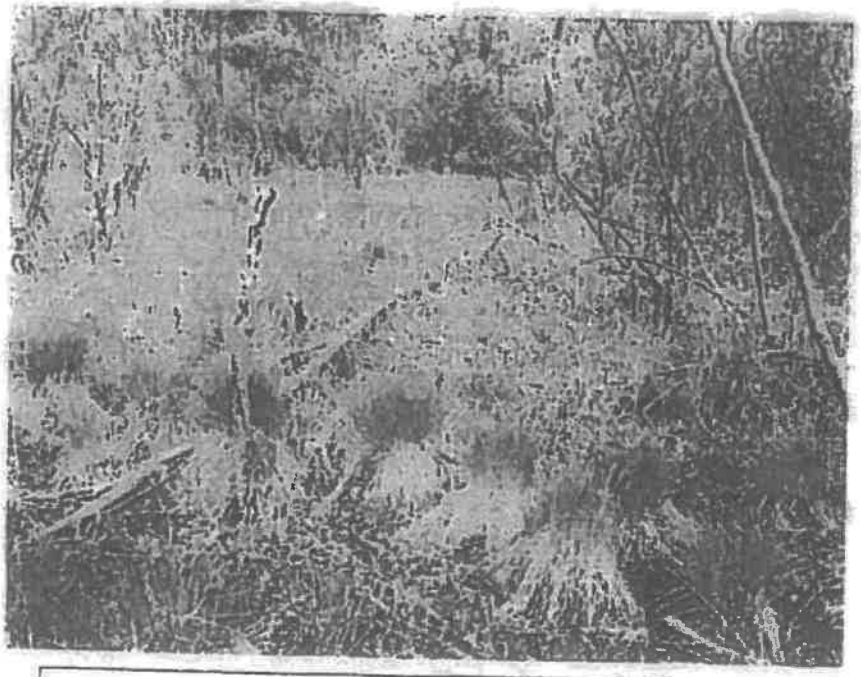

Figure 4. Soils, BVW, Open Water, ACEC.



Photograph 3. BVW view to south and west of Woodland Rd.

Photograph 4. BVW water flows into depression then disappears into subterrain (karst bedrock crack or cave).

Photograph 1. West of Woodland Rd.



Photograph 2. View to east towards Woodland Rd.

# Exhibit 14

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**New England Region**
**Five Post Office Square -- Suite 100**
**Boston, Massachusetts 02109-3912**

November 18, 2022

Cristóbal Bonifaz, Esq.
Attorney for the Town of Lee Board of Health
Law Office of Cristóbal Bonifaz
180 Maple Street
Conway, Massachusetts 01341

Re: GE-Pittsfield/Housatonic River Site/Rest of River
Adjudicatory Hearing of the Town of Lee Board of Health

Dear Attorney Bonifaz:

This letter responds to the letter dated November 9, 2022 (the "Letter") that the Town of Lee Agricultural Commission (the "Commission") sent to the Town of Lee Board of Health ("BOH") regarding the Upland Disposal Facility ("UDF") to be constructed near Woods Pond to facilitate the cleanup of the Housatonic River. At the Commission's request, EPA gave the Commission a tour of the UDF on October 4. The Letter states that the Commission asked certain questions of EPA that were not answered. Even though EPA has already responded to these questions, a response to these questions is noted below.

1. Details regarding of Dewatering

The sediment and floodplain soil that will be disposed of at the UDF will need to be dewatered. This may be at the point of generation, adjacent to the UDF, or within the UDF itself. The method for the treatment/disposition of the collected water may vary and has not yet been determined. Specifics regarding dewatering is a design detail that it not yet final. GE will be providing details on dewatering in subsequent design documents, such as design documents for each area of remediation and the final design for the UDF.

2. Need for Wetland Permits

The Commission wondered how EPA could obtain a wetland permit without providing certain information. Under the Superfund law, EPA is not required to apply for or obtain

permits but complies with the substance of environmental regulations. For more information see the attached letter to the Town of Lee Conservation Commission, dated May 9, 2022.

3. An Alleged Change in EPA's Position on the Suitability of the UDF

The Commission asked why EPA changed its mind on the suitability of the UDF when it previously determined that the UDF area was not suitable in 2016. As described in our prior letters to the BOH, EPA refers the BOH to the Administrative Record for the 2020 Cleanup Permit, in particular EPA's 2020 Response to Comments, and Section III.B of EPA's Response Brief that it filed with EPA's Environmental Appeals Board in 2021.

4. Water Table Elevations

The Commission asked about the elevation of the water table. Preliminary groundwater elevation data can be found in Table 15-8 of GE's recent October 2022 Monthly Report available on the EPA web site and at following October 2022 Monthly Report or at https://semspub.epa.gov/work/01/668972.pdf. This data has not been fully evaluated and is preliminary.

Although we do not address the Commission's characterization of the tour of the UDF, we strongly disagree with it.

We remain committed to coordinating with all of the municipalities during the planning and implementation of the River cleanup. Please let me know if you have any further questions.

Sincerely,

JOHN KILBORN Digitally signed by JOHN KILBORN Date: 2022.11.18 11:00:48 -05'00'

John Kilborn
Senior Enforcement Counsel
Office of Regional Counsel

Cc: Bryan Olson, EPA
Dean Tagliaferro, EPA
Rich Fisher, EPA
Chris Ferry, Superfund Records Center

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
REGION 1
FIVE POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

Via Email: concom@town.lee.ma.us

May 9, 2022

Kathy Arment, Chair
Town of Lee Conservation Commission
32 Main Street
Lee, Massachusetts 02138

Re: GE-Pittsfield/Housatonic River Site/Request for Determination of Applicability
Land by Woodlawn and Willow Hill Roads

Dear Ms. Arment:

We are writing to you as Chair of the Conservation Commission of the Town of Lee. It has come to our attention that the Commission has received a Request for Determination of Applicability for a parcel of land located by Woodlawn and Willow Hill Roads, shown as Lot 4D on Assessor's Map 2. A copy of this request is attached. The General Electric Company owns this property, which is the location of an Upland Disposal Facility ("UDF") to be constructed as part of the Rest of River cleanup for GE-Pittsfield/Housatonic River Site (the "Site"). The UDF will receive and safely store sediments and soils from the cleanup of the Housatonic River.

Please be aware that the remediation of the Site is being conducted pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as the federal Superfund law. Pursuant to CERCLA and its implementing regulations (the National Contingency Plan), no federal, state, or local permit is required for any portion of a response action conducted entirely on-site, where such response action is selected and carried out in accordance with CERCLA. See Section 121(e) of CERCLA and 40 C.F.R. Section 300.400(e). The Rest of River cleanup, including the Upland Disposal Facility, is being conducted entirely on-site as defined under CERCLA and the NCP. Thus, neither GE nor EPA are required to apply for or obtain approval from the Conservation Commission or obtain a permit or Order of Conditions under the Massachusetts Wetlands Protection Act.

Although EPA is not required to obtain permits for on-site response actions, under CERCLA EPA is required to meet the substantive provisions of permitting regulations that EPA determines are applicable or relevant and appropriate requirements, known as ARARs. EPA has determined that the Massachusetts Wetlands Protection Act ("WPA") and its regulations are an "ARAR" for the Rest of River. Accordingly, any part of the cleanup that removes, dredges, fills, or alters

banks, riverfront areas, wetlands, and other areas must be conducted in accordance with the substantive requirements of the WPA and its regulations. See Attachment C, Page C-9, to GE's December 2020 Cleanup Permit. Likewise, the Rest of River cleanup must also comply with the substantive provisions of the Massachusetts Clean Water Act Water Quality Certification Regulations. See Attachment C, Page C-7, to GE's December 2020 Cleanup Permit. The 2020 Cleanup Permit can be found at semspub.epa.gov/src/collection/01/SC39714. (Search for Document ID 593921.)

Under the December 2020 Cleanup Permit that EPA issued to GE, GE is required to perform investigations necessary for designing the UDF, including a baseline habitat assessment. GE submitted a Work Plan for these investigations and assessments that EPA approved with certain conditions. See GE's *Pre-Design Investigation Work Plan for Upland Disposal Facility*, dated November 2021 (Section 5.2.1 in particular), as conditionally approved by an EPA letter dated February 25, 2022. Thus, for Lot D, GE is required to delineate areas subject to jurisdiction under the WPA, such as wetlands (including vernal pools) and flooded areas. EPA has confirmed with GE that GE is conducting field surveys to assess the presence, limits, and characteristics of all potential WPA jurisdictional resource areas at the UDF. GE is also required to perform habitat, threatened or endangered species, and invasive species evaluations, including document reviews and field surveys. GE has already begun to perform such delineations and evaluations and will be submitting a report by in approximately seven months. Please be aware that EPA and its contractor are actively overseeing GE's work in this regard, including being present during GE's field surveys.

EPA has closely consulted with the Town Administrator of the Town of Lee and with MassDEP, who reviews and comments on GE's submissions, and will continue to do so.

Please let me know if you would like to discuss this matter or if you have any further questions.

Sincerely,

RICHARD FISHER

Digitally signed by RICHARD FISHER
Date: 2022.05.09 16:02:23 -04'00'

Richard Fisher
Remedial Project Manager
EPA New England

Enclosure

Cc: Patricia Carlino, Chair, Town of Lee Selectboard
R. Christopher Brittain, Town Administrator, Town of Lee
Dean Tagliaferro, EPA
John Kilborn, EPA
Matt Calacone, GE

**10 Citizens of Lee Request a**
**Request of Determination**
**For General Electric Company Land Fill**

**4-27-2022**
**Map 2 Lot 4D**
**Woodland & Willow Hill Rd**

We the undersigned are submitting a Request for Determination Application for the above referenced site. We are requesting the Lee Conservation Commission to hold a Public Hearing at within 21 days of receipt of this request. We ask that the Commission require General Electric Company to identify resources Protected under the Massachusetts Wetland Protection Act under 310 CMR 10.00. Please include wetland resources and habitat that have been recently impacted or altered. Refer to Mass Mapper Aerial Photographs.

We request the Lee Conservation Commission require GE to provide a plan clearly showing resource boundaries, with benchmarks and survey points. and to require GE to a Notice of Intent should the Landfill proposed be near or in these resources.

1. Plans clearly showing jurisdictional resources and buffer zones regulated under 310 CMR 10.00 and their boundaries (including but not limited to), and how the regulations performance standards will be met for the Land Fill Project Proposed by EPA & GE:
    a. 10: 54 Bank.
    b. 10:55 Bordering Vegetated Wetlands (BVW).
    c. 10.56: Land under Water Bodies and Waterways, (LUW), (under any Creek, River, Stream, Pond or Lake).
    d. 10: 57 Land Subject to Flooding, {Isolated, and Bordering.(Flood plain)}.
    e. 10:58 Riverfront (RF).
    f. 10.59: Estimated Habitats of Rare Wildlife (for Inland Wetlands).
    g. 10:60 Wildlife Habitat Evaluation.

| | Signature | Address or email | Date |
|---|---|---|---|
| 1 | Gail E Ceresia | GECERESIA@gmail.com | 4-27-2022 |
| 2 | Janet Bacon | 5bram2 rocbrower.com | 4-27-2022 |
| 3 | Jean Gibson | Smiley.1313@hotmail.com | 4-27-2022 |
| 4 | Jim Gibson | 111 Woodland Rd | 4/27/2022 |
| 5 | Mary Ann | 153 Washington Mtn Rd | 4/27/22 |
| 6 | Nicole Kosuoed | 183 Washington Mtn. Rd. | 4/27/22 |
| 7 | David Cannington | 190 East St | 4/27/22 |
| 8 | James M Leahey DVM | 189 Reservoir Rd Lee MA | 4/27/22 |
| 9 | Shirley A Brown | 181 Beckley St | 4/27/22 |
| 10 | Ellen F. Krupka | 220 East St, Lee, MA | 4/27/22 |
| 11 | | | |
| 12 | | | |

Attachments : Maps & Photographs
CC. Hand Delivered to Lee Conservation Commission. Certified Mail to Owner.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## A. General Information

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

1. Applicant:

Gail Ceresia 1 of ( 10 Citizens of Lee)
Name

geceresia@gmail.com
E-Mail Address

161 West Park St
Mailing Address

Lee
City/Town

MA
State

01238
Zip Code

413-237-Led5577
Phone Number

Fax Number (if applicable)

2. Representative (if any):

Firm

Contact Name

E-Mail Address

Mailing Address

City/Town

State

Zip Code

Phone Number

Fax Number (if applicable)

## B. Determinations

1. I request the Lee Conservation Commission make the following determination(s). Check any that apply:

☒ a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.

☐ b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.

☐ c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.

☐ d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:

Name of Municipality

☐ e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

West of Woodland Rd & area north of Willow Hill Rd
Street Address

Lee
City/Town

Map 2
Assessors Map/Plat Number

4D
Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

Area west of Woodland Road and north of Lot 5 consists of a Massachusetts Bordering Vegetated Wetland. The 10 Citizens would like the area to be delineated by GE personal and Habitat to be evaluated. Applicant would like records of Environmental Consultants who review this portion of the property.

c. Plan and/or Map Reference(s):

| Title | Date |
|---|---|
| USGS Topographical Map | 4-20-2022 |
| DEP Juridictional Resources and ACEC | 4-20-2022 |
| Map and Lot Parcel | 4-20-2022 |

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

Proposed PCB Dump and Dewatering area is up-gradient of Massachusetts Jurisdictional Wetland in an area plus near an area that was recently shown as Open Water on MassMapper. Site is in an ACEC. Natural Open Water Bodies that could have been vernal pools were filled. We request a Habitat Review.

## C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- ☐ Single family house on a lot recorded on or before 8/1/96
- ☐ Single family house on a lot recorded after 8/1/96
- ☐ Expansion of an existing structure on a lot recorded after 8/1/96
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- ☐ New agriculture or aquaculture project
- ☐ Public project where funds were appropriated prior to 8/7/96
- ☐ Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
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- ☒ Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

See MassMapper Maps provided and photographs. Additional Material may be provided at Public Hearing.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Lee
City/Town

# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

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Name and address of the property owner:

General Electric Company /Also Mailed to: C/O Mathew Calacone Global Operations Health & Safety
Name

5 Necco St — 1 Plastics Ave.
Mailing Address

Boston — Pittsfield, MA 01201
City/Town

MA — 02201
State — Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

David E Cerasia — 4-27-2022
Signature of Applicant — Date

Signature of Representative (if any) — Date

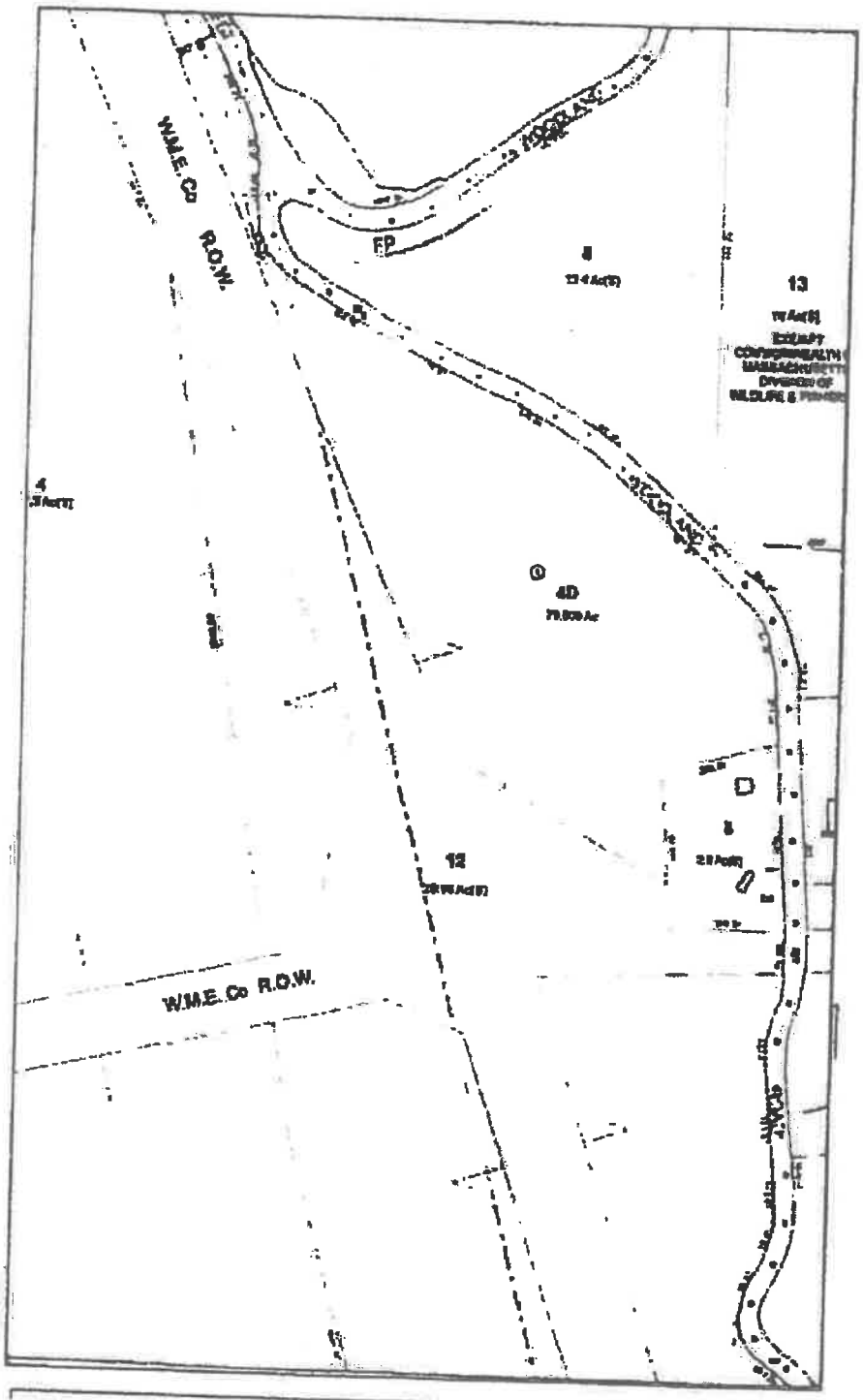



Figure 1. Map 2 & Lot 4D

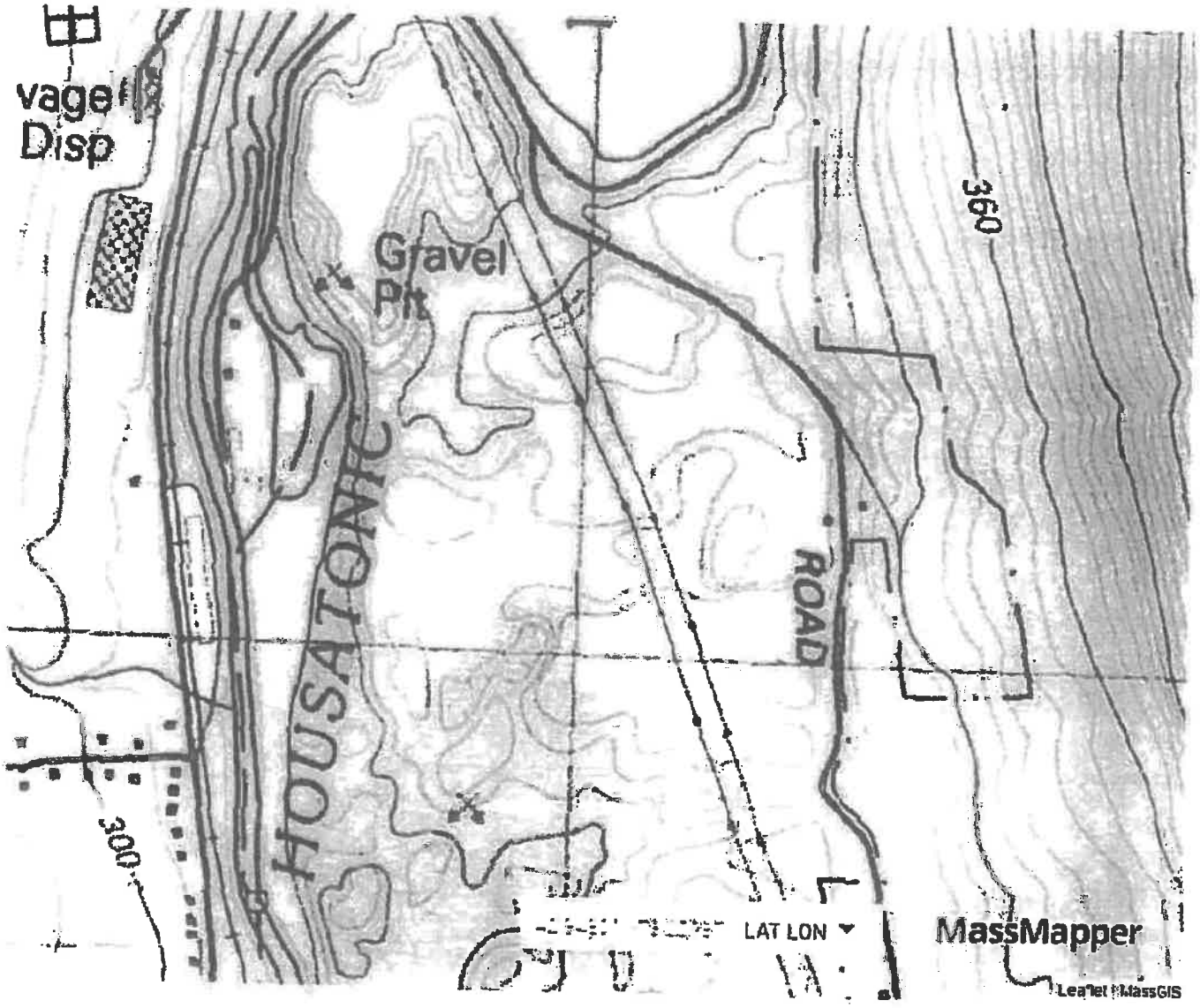



Figure 2. USGS Topographical Map.

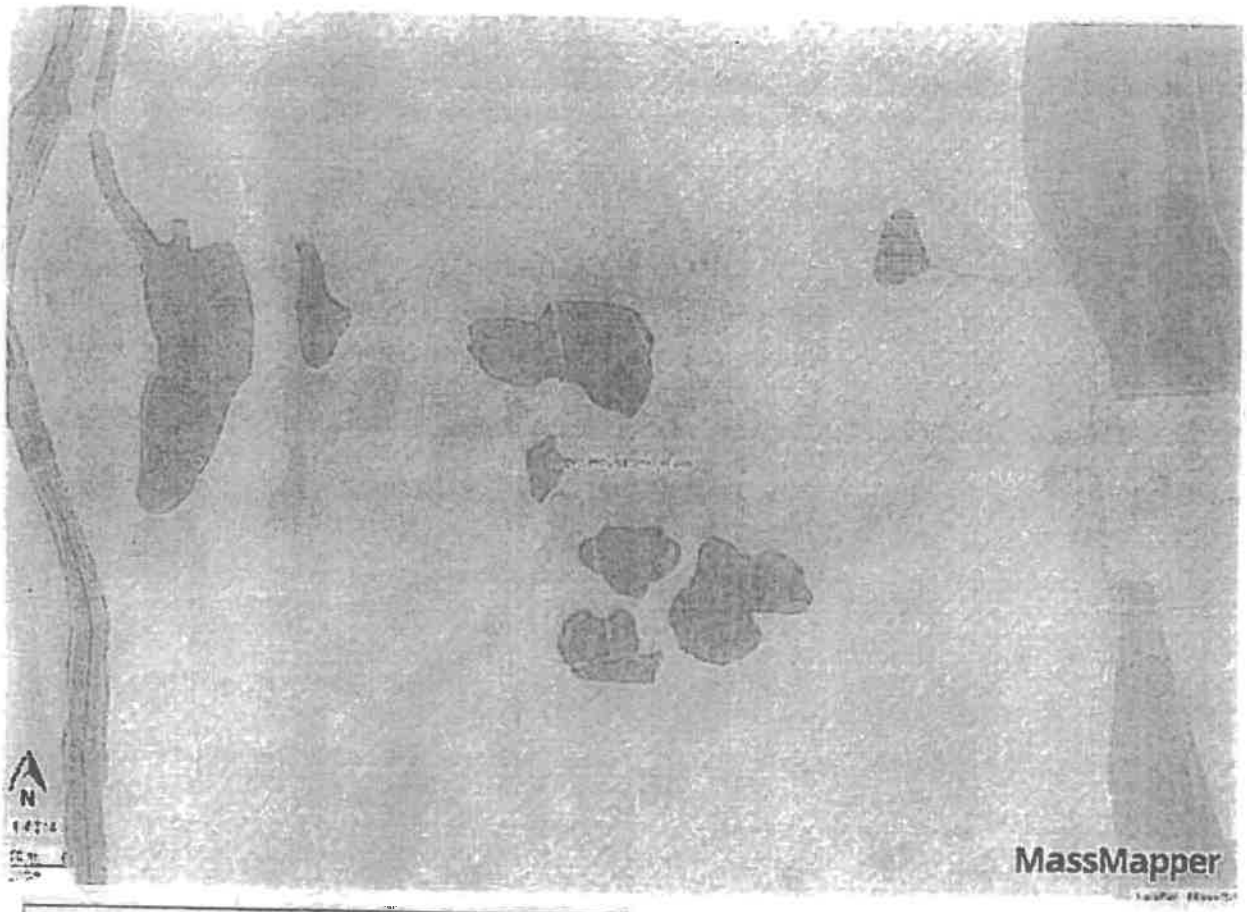


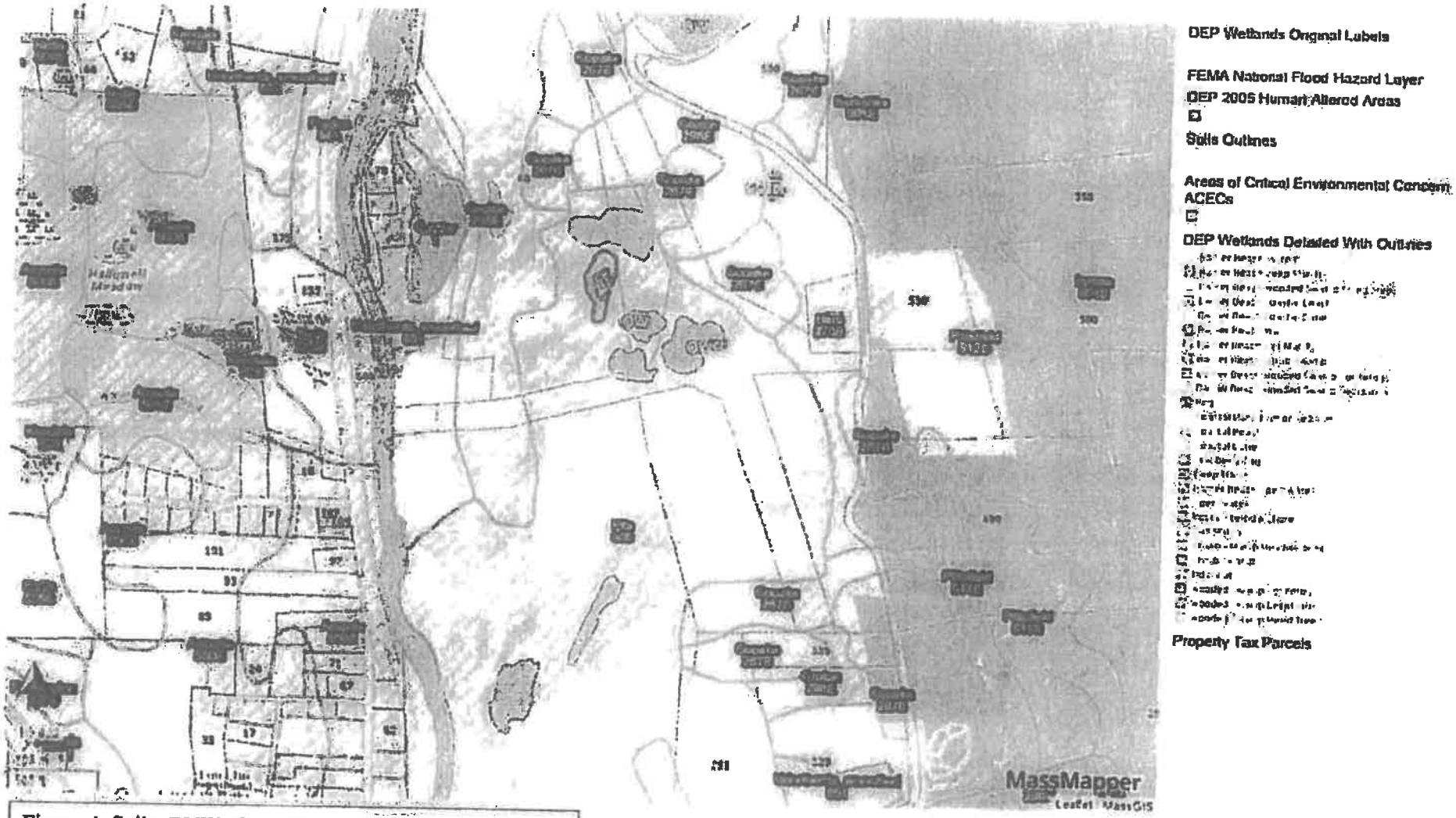

Figure 3. ACEC & Wetlands

DEP Wetlands Detailed With Outlines

Shallow Marsh Meadow or Fen
Shrub Swamp
Tidal Flat
Wooded Swamp Coniferous
Wooded Swamp Deciduous
Wooded Swamp Mixed Trees

Areas of Critical Environmental Concern ACECs Transparent Green

DEP Wetlands Hydrologic Connections

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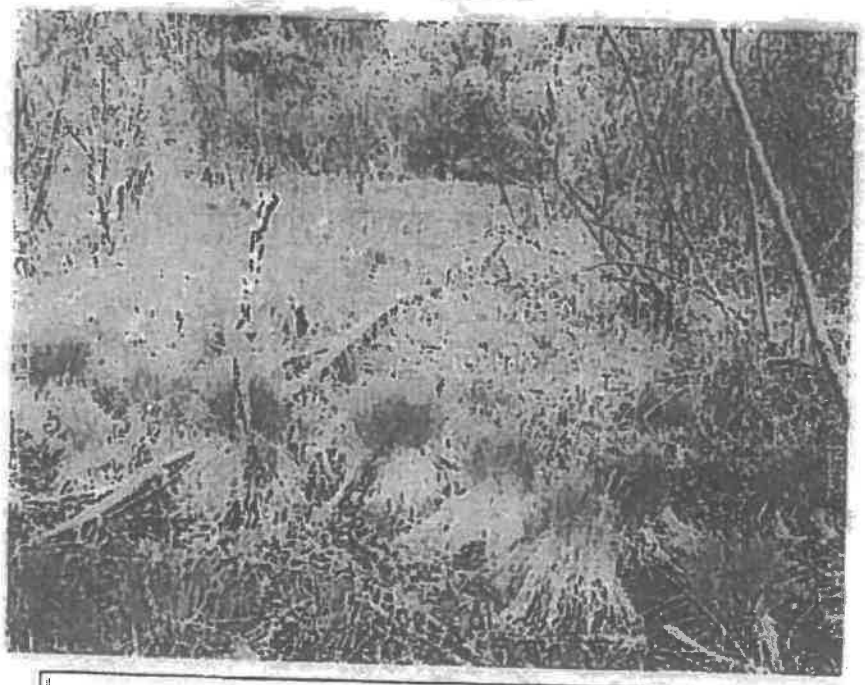
Photograph 3. BVW view to south and west of Woodland Rd.

Photograph 4. BVW water flows into depression then disappears into subterrain (karst bedrock crack or cave).

Photograph 1. West of Woodland Rd.



Photograph 2. View to east towards Woodland Rd.

## Jim Wilusz

**From:** Kilborn, John <Kilborn.John@epa.gov>
**Sent:** Thursday, November 17, 2022 8:52 AM
**To:** Cristobal Bonifaz; Jim Wilusz; Robert Wespiser
**Subject:** RE: Attachment

Cristobal:

EPA is preparing a response. Thanks for letting us know about the letter.

John

*John W. Kilborn*
*Senior Enforcement Counsel*
*U.S. Environmental Protection Agency*
*Five Post Office Square, Suite 100 (Mail Code: 04-3)*
*Boston, MA 02109-3912*

*Tel: 617-918-1893*

*E-Mail: kilborn.john@epa.gov*

---

**From:** Cristobal Bonifaz <ccrbonifaz@icloud.com>
**Sent:** Tuesday, November 15, 2022 8:37 AM
**To:** Kilborn, John <Kilborn.John@epa.gov>; Jim Wilusz <Jim@tritownhealth.org>; Robert Wespiser <rwespiser@gmail.com>
**Subject:** Attachment

John: The Lee Board of Health received the attached communication this morning. Would EPA like to comment.
? Cristobal

Sent from my iPhone

## Jim Wilusz

**From:** Cristobal Bonifaz <ccrbonifaz@icloud.com>
**Sent:** Thursday, November 17, 2022 7:32 PM
**To:** Jim Wilusz; Robert Wespiser
**Subject:** Possible Wetlands
**Attachments:** SKM_C22722111507560.pdf

The Conservation Commission has jurisdiction over wetlands. If they want to allow or not allow the UDF on the basis of existence of wetlands they should do whatever they need to do. They should have raised their concerns with GE and EPA not the LBOH. I sent the letter to Kilborn. I did not think he would bother with it but he sent a response saying that EPA will respond. We can file it an Exhibit 14 but we cannot accept wetland experts to this hearing. It will only look to anyone that we are not serious just searching for straws. On another matter in case Caroenter testifies I will have a series of questions. Cristobal

Sent from my iPhone

Town of Lee
Agricultural Commission
32 Main St.
Lee, MA 01238

Mary Brittain, Chair
David Carrington
Gail Ceresia
Peter Naventi
Caroline Young, Secretary

Town off Lee
Board of Health
32 Main St.
Lee, MA 01238

November 9, 2022
Dear Board of Health Members:

The Agricultural Commission was given a tour of the proposed PCB dump site on October 4, 2022. The following is a report of that tour:

When the EPA asked us what we were interested in, we told them the quality and condition of water in the area. The best farmland follows the river lowlands from Adams to Connecticut. This is the Ag Com's concern.

Peter Naventi pointed out that the paper mills had very large capacity wells (maybe 3 of them) in the zone. It may be water that is polluted with PCBs. Mary Brittain says that there is public information available about the location of public water supply wells on-line on MassGIS.

After a tour of the site of the proposed dump location, we insisted on touring areas to the north of the site, which Gail Ceresia in her wetland capacity, maintains is wetlands. After this walk, over the objections of the EPA people, only the trainee would walk the area with us, it is clear that this area is wetlands, small streams and wetland vegetation. The land is draining to the west, toward open water bodies that may be natural or that possibly were historically quarried, and all of this water drains back into the Housatonic River.

The EPA showed us the uplands area, but really tried to not show us the wetlands. We insisted, they just had to spend the time on it. They wanted to go home.

We asked EPA about the following;
—Where is dewatering water going? EPA didn't know.
—Gail asked how GE could get a permit without the wetland information when no one else can get a building permit without that information. EPA didn't know.
—After the EPA said the area was not suitable in the 2016 agreement, what has changed so that the EPA is now saying it is suitable? EPA didn't know.

EPA could not tell us where the water table is, though we saw test wells in several places on the property. EPA did not have information about the water table elevations. Overall, the EPA was unable to answer our questions during the tour.

Yours truly:
CMYoung
Caroline Young
Secretary
Lee Agricultural Commission

cc: Lee Select Board

**Figure 1.** This photograph shows a portion of the open water bodies (OWB)located north and down slope from the proposed GE dump site. The OWB water source comes from ground water and October Mountain streams and watershed sheet flow. Intermittent streams and sheet flow are directed through culverts under Woodland Road into an Alder Shrub and Tussock Sedge dominated Shrub Swamp (SS) located west of, and parallel to Woodland Rd. Water drains west through GE property SS and through a Wet Meadow located in the Eversource right away, then through several open water bodies and intermittent streams located on Eurovia Land until it reaches the Housatonic River. Several springs were observed within the SS west of Woodland Rd. One intermittent stream flowed out of the back portion of LB Corporation Land. When the SS is at capacity, the water also flows into a swale located northwest of the swamp until it reaches a point where it disappears into the ground. The disappearance of water is indicative of a crack or fissure in the Carbonate Bedrock documented on this site.

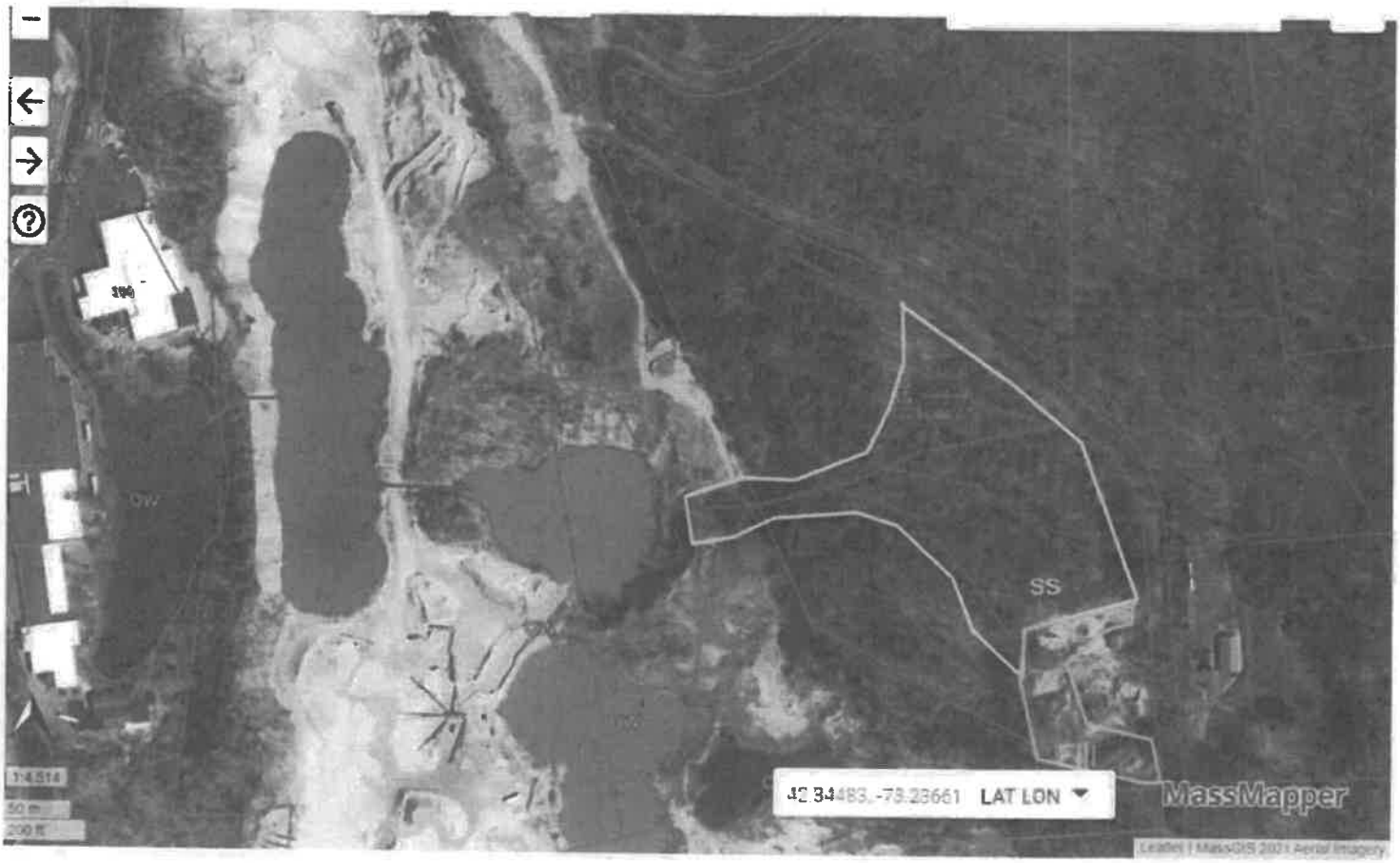



**Figure 2.** Blue lines represent the approximate location of intermittent streams flowing west from October Mountain through SS and open water bodies until it reaches the Housatonic River. The intermittent stream located northwest of the SS disappears into the ground.

Wetland Report prepared by,

Gail E Ceresia

Gail E. Ceresia,Professional Wetland Scientist
Member of Lee Agricultural Conservation Commission