

**TOWN OF LEE, BOARD OF HEALTH
ADJUDICATORY HEARING
November 19, 2022**

GE-Pittsfield/Housatonic River Site/Rest of River Portion
Petition to Town of Lee Board of Health by HRI,
Letter from LBOH's Counsel to EPA's Counsel Dated October 31,
2022

EXHIBIT-7

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VIA CERTIFIED MAIL/RETURN RECEIPT AND ELECTRONIC MAIL

October 31, 2022

John W. Kilborn
Senior Enforcement Counsel
Office of Regional Counsel
US EPA, Region 1
Five Post Office Square -- Suite 100
Boston, Massachusetts 02109-3912

*In Re: GE-Pittsfield/Housatonic River Site/Rest of River Portion
Transportation of PCBs Containing Mud from the
River and Floodplain to the UDF*

Dear John W. Kilborn:

Thank you for sending the links to the record.

LBOH is very concerned about the health impact of leaks from thousands of truckloads containing PCB contaminated mud passing through the streets of Lee en route to the UDF.

The key issue for the Board is the number of truckloads, and the frequency at which trucks will pass through the streets of Lee.

I am aware you do not have those numbers, but certainly GE has estimates of the numbers.

EPA has estimated amounts of PCBs in the river and floodplain to range between one hundred thousand to six hundred thousand pounds. The tonnage range is therefore 50 to 300 tons. *(100,000 and 600,00 divided by 2,000 the number of pounds in one ton.)*

EPA has asserted that mud containing 25 ppm PCBs will be transported to the UDF. That means that the weight of PCB mud to be transported to the UDF can range between 2 million tons to 12 million tons of mud containing 25ppm of PCBs. *(25ppm[25 parts per million] means 25 tons of PCBs in one million tons of mud, 50 tons of PCB in 2 million tons of mud and 300 tons of PCBs in 12 million tons of mud.)*

The number of truckloads to be transported, in fourteen-ton trucks, ranges therefore between 143,000 to 858,000 trips for trucks traveling between the river to the UDF. *(2 million to 12 million divided by 14.)*

The trucks after unloading at the UDF will be returning to the river, thus the total number of trucks that will have to pass through Lee to complete the project is 286,000 to 1,716,000. *(143,000 and 858,000 multiplied by 2.)*

The calculation of how many trucks will pass per day requires knowledge of how long will it take for the project to be completed.

There is nothing on the record whether GE plans to complete the work in one year, two years, or five years. Even in the most beneficial number for GE of five-year completion, the number of truckloads per year will be 57,200 to 343,200 truck passes every year for five years. *(286,000 to 1,716,000 divided by the five-year completion projection.)*

The number of truck passes on a single working day will then be 227 to 1,362. *(57,200 to 343,200 divided by the number of working days per year which is 252).*

The number of truck passes **per hour** will be 28 to 170. *(227 and 1,362 passes divided by 8 hours, the working number of hours in one day).*

That is one truck pass will occur **every 2.1 minutes to 0.35 minutes**. *(60 minutes per hour divided by 28 to 170 passes per hour).*

That is in seconds, one truck will pass every 126 seconds to 21 seconds. *(2.1 minutes and 0.35 minutes multiplied by 60 seconds per minute).*

GE has not released estimates on the impact of truck traffic transporting PCB mud through towns in Western Massachusetts towns including Lee, but has been aware of

the problem as evident from the fact that it negotiated with wealthy home owners in Pittsfield to divert PCB containing dump truck trips to poorer neighborhoods.

Even if GE were to transport the PCB mud in sealed containers without a possibility of PCB muds spilling all over town, the impact of this kind of traffic will have health impacts on town residents due to diesel fumes and constant noise making their lives intolerable and unhealthy.

I have mentioned in previous correspondence with your office that LBOH has no quarrel with EPA because of the legal standard EPA has to follow of balancing risks with benefits. The residents of the town will however have individual claims against the United States in Federal District Court under the Federal Torts Claims Act if EPA knew, or should have known, about the impacts to be caused by the thousands of trucks passing in front of their houses. They will also have individual claims against the United States in the United States Court of Federal Claims under the Fifth Amendment for the taking of their properties, even if LBOH rules that the transport of PCB containing mud to the UDF does not pose a risk of health to the residents of Lee, or in the alternative, if GE prevails in Massachusetts Court in case your logic prevails that *Arthur D. Little's* lack of preemption applies only to the Defense Department.

GE on its part will face massive class action nuisance litigation while this project is in process.

Lack of participation of GE at the forthcoming adjudicatory hearing will be taken by the Lee Board of Health as inference that construction of the UDF presents a risk of health to the residents of Lee.

The response, or lack of response of EPA to this letter, will become part of the record of the adjudicatory hearing.

Sincerely,

By Attorney for the Lee Board of Health of Massachusetts.

s/Cristóbal Bonifaz, Esq.

Cristóbal Bonifaz

CB/mj

