



**Kevin Mooney**  
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Corporate Holdings  
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October 24, 2024

51 Pembroke, LLC  
51 Pembroke St.  
Pittsfield, MA 01201

***Re: Your Property at 139 Deming Street in Pittsfield, MA (Tax Parcel No. 17-21-103) and Adjacent Tax Parcel No. 17-21-2***

Dear Sir or Madam:

The General Electric Company (GE) has recently learned that you purchased the above-referenced property (which comprises the lot at 139 Deming Street, which is Tax Parcel 17-21-103, and adjacent Parcel 17-21-2) (jointly the Property) from Woodland Excavation Corp, by deed dated July 23, 2024, recorded in the Berkshire Middle District Registry of Deeds on July 26, 2024 in Book 7661, Page 335. I am writing because the riverbank portion of this Property adjacent to the Housatonic River is subject to what is called a Conditional Solution under a Consent Decree executed by GE, the U.S. Environmental Protection Agency (EPA), the Massachusetts Department of Environmental Protection (MassDEP), and other governmental entities and approved by a federal district court in 2000.

Under the Consent Decree, the riverbank portion of the Property was sampled and remediated by EPA as part of EPA's cleanup of the Housatonic River and its banks in this area, known as the 1½ Mile Reach Removal Action. The riverbank cleanup addressed the presence of polychlorinated biphenyls (PCBs) and other chemicals in the soil in the top three feet so as to meet the recreational riverbank cleanup standards for this stretch of the river. However, due to the concentrations of PCBs and the potential presence of other chemicals remaining in the soil below three feet, and due to limited sampling that was performed in the upper portion of the riverbank, the riverbank portion of the Property would not meet the standards that would apply if it was ever used for residential or other unrestricted purposes. As a result, the Consent Decree required that certain measures be implemented to address future uses and activities at that portion of the Property.

Specifically, the Consent Decree provided two options to address future use of the subject area of the Property. The first option involved the owner's execution of a legal deed restriction that would restrict future activities and uses of the Property. If the owner did not elect to execute such a deed restriction for the property, GE was required to implement what is called a "Conditional Solution." In this case, the then-owner of the Property (139 Deming Street Nominee Trust, through its trustees, Charlotte Cote and Dan Morris) did not elect to execute a deed restriction on the Property, and therefore GE implemented a Conditional Solution at the portion of the Property subject to the Consent Decree. GE provided a letter to Ms. Cote and Mr. Morris dated December 18, 2008, describing the Conditional Solution. A copy of that letter is attached. The figure in that letter shows the riverbank portion of the Property subject to the Conditional Solution. Following the 2016 sale of the Property to Woodland Excavation Corp, GE provided a similar letter to Woodland Excavation Corp, a copy of which is also attached.

Since you are now the owner of this Property, the terms of the Conditional Solution apply to you. The applicable conditions and requirements for a Conditional Solution are set forth in the attached letters. In summary, if you should decide to change the current use of the riverbank portion of the Property subject to the Conditional Solution to residential or similar use or to perform construction or excavation activities in that portion of the Property, and if you meet certain conditions (specified in the attached letters), you should notify EPA or GE and provide supporting documentation. If EPA determines that you have satisfied the necessary criteria, EPA will notify GE. GE will then conduct additional actions at the subject portion of the Property, if necessary, to be protective of such future use or activities. Such actions may include further sampling and/or cleanup (if necessary) to meet the Consent Decree's cleanup standards for the new use, or may include, for activities that involve excavation or off-property disposition of soils, actions to ensure the proper excavation, management, and disposition of such soils. While GE is required to conduct such additional actions in the event that the applicable conditions are met, GE also retains any rights it may have under the law to seek contribution from others for costs incurred by GE to clean up contaminants not related to GE. I urge you to carefully review the more complete description of the Conditional Solution in the attached letters.

In addition, the section titled "Residual Contamination" in the attached letter to Ms. Cote and Mr. Morris discusses and summarizes the concentrations of PCBs remaining in soils in the subject area at the Property. That letter also attaches a Fact Sheet, prepared by EPA, relating to future uses and activities at the Property. That information and Fact Sheet remain applicable, and you should take them into account in conducting any future uses or other activities such as excavation or digging within the portion of the Property subject to the Conditional Solution.

Finally, GE is required by the Consent Decree to conduct annual inspections of the riverbank portion of this Property (normally in the fall) to determine whether there have been any significant changes in activities and uses that would be inconsistent with current uses or would involve certain soil disturbances. Given the change in ownership, we need your permission to obtain access to the property in order to conduct these activities. I am enclosing a Consent for Access Form (in the form required by the Consent Decree) that would allow GE such access. That form also grants access to the regulatory oversight agencies. We would appreciate it if you could sign the enclosed Consent for Access form and return it to me in the enclosed self-addressed envelope. We will contact you before GE or any of its representatives accesses your property.

I am the current contact person for GE, and the current contacts for EPA and MassDEP are:

For EPA:            Alexander Carli-Dorsey  
                         Project Manager  
                         U.S. Environmental Protection Agency  
                         EPA New England  
                         5 Post Office Square – Suite 100  
                         Boston, MA 02109  
                         (617) 918-1049

For MassDEP: Ben Guidi  
Bureau of Waste Site Cleanup  
Massachusetts Department of Environmental Protection  
436 Dwight Street  
Springfield, Massachusetts 01103  
(857) 383-7476

Please contact me at 413-553-6610 or [kevin.mooney@ge.com](mailto:kevin.mooney@ge.com) if you have any questions about the information in this letter or the attached letters.

Very truly yours,



Kevin G. Mooney  
Senior Project Manager

Attachments and enclosures

cc: Dean Tagliaferro, EPA\*  
John Kilborn, EPA\*  
Richard Fisher, EPA\*  
Christopher Ferry, ASRC Federal\*  
Michael Gorski, MassDEP\*  
Ben Guidi, MassDEP\*  
Lance Hauer, GE\*  
Andrew Thomas, GE\*  
James Bieke, Counsel for GE\*

\* electronic copy (w/o enclosures)



GE  
159 Plastics Avenue  
Pittsfield, MA 01201  
USA

December 18, 2008

139 Deming Street Nominee Trust  
c/o Charlotte Cote  
20 Upland Street  
Auburn, MA 01501

139 Deming Street Nominee Trust  
c/o Dan Morris  
President, Wahconah Welding  
PO Box 1968  
Pittsfield, MA 01201

**Re: Your Property on Deming Street in Pittsfield, MA - Tax Parcel Numbers I7-21-2  
and I7-21-103**

Dear Ms. Cote and Mr. Morris:

This letter is a follow-up to the letter that I sent to you on behalf of the General Electric Company (GE) on June 25, 2008, regarding the riverbank portion of the above-referenced parcels (referred to jointly herein as "your property"). As explained in that letter, as well as a prior letter sent to the Trust by the U.S. Environmental Protection Agency (EPA) on April 18, 2008, the riverbank portion of your property was remediated by EPA, under the Consent Decree executed by GE, EPA, the Massachusetts Department of Environmental Protection (MassDEP), and other governmental entities, as part of EPA's cleanup of the Housatonic River and its banks in this area, known as the 1½ Mile Reach Removal Action. Those letters also explained that, due to the nature of the riverbank cleanup, additional steps are necessary to address future use of the riverbank portion of your property. Specifically, the Consent Decree provides two options for properties like yours. The first would involve the owner's execution of a legal deed restriction, known as a "Grant of Environmental Restriction and Easement" (or "ERE"), which would place restrictions on future uses of the riverbank portion of the property (e.g., no residential use) and on future excavations in that portion. The other alternative, which GE is required to implement if the owner does not elect to execute an ERE, is called a Conditional Solution and requires GE to conduct additional cleanup in the future if the owner meets certain conditions demonstrating a commitment to implement a future use for which additional cleanup is necessary.

Our June 25, 2008 letter described these options in more detail, offered you the compensation required by the Consent Decree for an ERE on the riverbank portion of your property, and asked whether you wished to execute an ERE on that portion of your property. That letter stated that if GE did not hear from you by July 21, 2008, we would assume that you are not interested in executing an ERE on your property. GE did not receive a response from you by that date.

Accordingly, GE will implement a Conditional Solution at the riverbank portion of your property, effective immediately. Under the Consent Decree, GE is required to provide you with a letter explaining the terms of the Conditional Solution, including the requirements applicable to GE and you regarding future cleanup activities, and describing the residual contamination at the riverbank portion of your property. This letter provides that information.

#### Background

As you know from previous correspondence from EPA and GE, EPA conducted soil sampling and cleanup activities at the riverbank portion of your property as part of EPA's performance of the 1½ Mile Reach Removal Action under the Consent Decree. The cleanup involved the removal of a portion of riverbank soil from your property to address the presence of polychlorinated biphenyls (PCBs) and other chemicals in the soil so as to meet the recreational riverbank cleanup standards for this stretch of the river. The cleanup standard for PCBs in recreational riverbanks is 10 parts per million (ppm) in the top three feet of soil. No excavation was performed on the upper portion of your riverbank because this area already met the recreational cleanup standard. On the lower portion of the riverbank, through a combination of excavation and backfilling, EPA's cleanup actions resulted in a restored riverbank with a minimum of three feet of clean soil and riprap. However, there are elevated levels of PCBs, as well as potentially elevated levels of other contaminants, at depths below three feet on the riverbank.

Due to the presence of elevated levels of PCBs and the potential presence of other contaminants below three feet, and due to the limited sampling in the upper portion of your riverbank, the riverbank portion of your property is not considered suitable for unrestricted future use. As a result, in lieu of an ERE, the Consent Decree requires that a Conditional Solution be implemented for the riverbank portion to address future uses and activities. The riverbank portion of your property is identified on the attached figure.

#### Requirements for Implementing Future Cleanup

Under the Consent Decree, the applicable conditions and requirements for a Conditional Solution are as follows:

If, in the future, you should decide to change the current use of your property (including the riverbank) to residential or similar use or to perform construction or excavation activities on the riverbank, and if that new or changed use is legally permissible, GE will conduct additional cleanup actions at the riverbank portion, if necessary, to be protective for such future use, provided that certain conditions specified in the Consent Decree are met. Specifically, those conditions require that you satisfy the following criteria:

- First, you must show that you have submitted a plan to the appropriate governmental authorities to authorize the future use (if such a plan or authorization is necessary for the use) and that such plan (if required) has been approved by the governmental authorities.

Such governmental approvals may include zoning approval, Conservation Commission approval, building permits, and any other necessary approvals.

- In addition, you must provide to EPA and to GE (directly or through EPA) “other documented evidence of a commitment to such use,” such as, for example, evidence of financing or other financial assurance for the project, other plans for implementing the project (such as architectural plans, contracts for performance of the project, or other similar plans), or an affidavit that you intend to go forward with the project or other change in use if the necessary cleanup actions are taken.

If you provide this required documentation and EPA determines that you have satisfied the above criteria and that riverbank cleanup is necessary to allow such use, EPA will notify GE. GE will then be required to submit work plans for any necessary additional sampling and/or cleanup actions to allow such use and, upon EPA approval, to implement those plans. Such cleanup may include additional riverbank soil removal or other remediation as necessary to meet the applicable cleanup standards under the Consent Decree for the new use, or may include, for activities that involve excavation or off-property disposition of riverbank soils, actions to ensure the proper excavation, management, and disposition of such soils. While GE is required to conduct such additional cleanup actions in the event that the above conditions are met, GE also retains any rights it may have under the law to seek contribution from others for costs incurred by GE to clean up contaminants not related to GE.

In the event that you sell this property, these same requirements will continue to apply, provided that the successor owner meets the criteria specified above.

You should also be aware that the Consent Decree requires GE to conduct annual inspections of the riverbank portion of your property to determine whether there has been any changes in activities and uses that would be inconsistent with current uses or would involve certain soil disturbance activities. These inspections are in addition to the periodic inspections described in GE’s letter to you of May 20, 2008, requesting access for inspection and maintenance of EPA’s riverbank cleanup and restoration measures, but would be covered by the same consent form.

For purposes of providing the documentation described above or if you have any questions about this matter, the following are the relevant contact persons:

For GE:           Richard W. Gates  
                      Remediation Manager  
                      General Electric Company  
                      159 Plastics Avenue  
                      Pittsfield, MA 01201  
                      (413) 448-5909

For EPA: Dean Tagliaferro  
GE-Pittsfield Team Leader  
U.S. Environmental Protection Agency  
EPA New England  
One Congress Street, Suite 1100 (Mail Code: HBO)  
Boston, MA 02114  
Boston – (617) 918-1282  
Pittsfield – (413) 236-0969

For MassDEP: Michael J. Gorski  
Project Coordinator, GE-Pittsfield/Housatonic River Site  
Massachusetts Department of Environmental Protection  
436 Dwight Street  
Springfield, Massachusetts 01103  
(413) 784-1100

#### Residual Contamination

GE is required to notify the owner of the remaining PCBs and other chemicals on a property where a Conditional Solution is implemented. For the lower portion of your riverbank, as noted above, EPA's cleanup actions resulted in a restored riverbank with a minimum of three feet of clean soil and riprap. Therefore, the top three feet of your lower riverbank consists of clean material. For your upper riverbank, based on limited sampling, the average PCB concentration in soil in the top three feet is 0.1 ppm, with a maximum concentration of 0.2 ppm. There was one sample collected below three feet on your riverbank and the PCB concentration in that sample was 70.2 ppm. There were no samples collected below three feet for analysis of non-PCB contaminants, and therefore elevated levels of such contaminants may be present at depths below three feet.

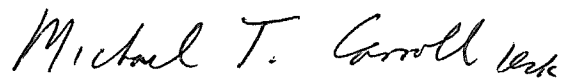
You and any successor owners should take these factors into account in conducting any activities such as excavation or digging on the riverbank portion of your property in the future. In this connection, EPA has prepared a Fact Sheet relating to future uses and activities at the riverbank portion of your property. A copy of that Fact Sheet is also attached to this letter.

Finally, you should be aware that GE is also required to notify any other entity with an interest in your property that affects the riverbank, such as the holder of an easement on the riverbank portion, of the Conditional Solution implemented at the property. GE will provide such notification in the near future, with a copy to you.

Please call Dick Gates in my office at 413-448-5909 if you have any questions about the information in this letter.

139 Deming Street Nominee Trust  
December 18, 2008  
Page 5

Very truly yours,

A handwritten signature in black ink that reads "Michael T. Carroll". The signature is written in a cursive style with a small flourish at the end.

Michael T. Carroll  
Manager, Pittsfield Remediation Programs

Attachments

cc: Dean Tagliaferro, EPA  
Timothy Conway, EPA  
John Kilborn, EPA  
Holly Inglis, EPA  
Michael Gorski, MassDEP  
Jane Rothchild, MassDEP  
Richard Gates, GE  
Rod McLaren, GE  
Kevin Mooney, GE  
James Bieke, Goodwin Procter



## **FACT SHEET RELATING TO FUTURE PROPERTY USES AND ACTIVITIES**

**Prepared by the United States Environmental Protection Agency  
December 2008**

Dear Ms. Cote and Mr. Morris (on behalf of 139 Deming Street Nominee Trust):

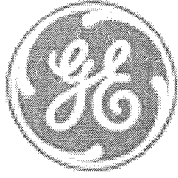
This Fact Sheet is an attachment to a letter that General Electric Company (“GE”) is sending you as a follow-up to the soil cleanup activities that the federal Environmental Protection Agency (“EPA”) performed on the riverbank portion of your property at 139 Deming Street in Pittsfield, which consist of Tax Parcels I7-21-2 and I7-21-103. EPA has prepared this Fact Sheet to inform you and successor owners of future uses and activities that you should not conduct on the riverbank portion of your property because of remaining levels of contamination.

This Fact Sheet, and the letter to which it is attached, relate specifically to the riverbank portion of your above-referenced tax parcels (collectively, “Riverbank Portion”), which is shown on a figure attached to GE’s letter. With respect to the substances that remain on the Riverbank Portion and have been evaluated, the Riverbank Portion currently satisfies the Consent Decree standards for properties in commercial or recreational use. Because the evaluation and cleanup of the Riverbank Portion currently do not allow for unlimited uses, however, you and any successor owners should observe the following regarding the Riverbank Portion:

- The Riverbank Portion should not be used for residential uses.
  
- Except for emergency excavations, you should not excavate or dig below three feet of the surface of the ground. You may perform limited excavation and work in the top three feet of the surface of the ground; provided however, that you restore the riverbank to its current condition, including replacing the riprap, if necessary. Please contact EPA and the Massachusetts Department of Environmental Protection (“MassDEP”) before excavating or moving any amount of soil below three feet and/or before excavating or moving more than ten (10) cubic yards of soil in the top three feet of the surface of the ground and/or before any subsurface excavations for any new or existing utilities. Ten (10) cubic yards is approximately one-half of a standard dump truck of soil. Also, please contact EPA and MassDEP within two business days after any emergency excavations.
  
- Please contact GE, EPA, and the MassDEP before disposing of any soil off of the Riverbank Portion. Governmental regulations may restrict the off-site disposal of soil from the Riverbank Portion.

As required by the Consent Decree, if, in the future, you decide to change the current use of the Riverbank Portion to residential use or to perform construction or excavation activities, and if that new or changed use is legally permissible, GE will conduct additional cleanup actions at the Riverbank Portion, if necessary, to be protective of such future use, provided that certain conditions specified in the Consent Decree are met. Please refer to the letter from GE for more information.

If you have any questions about this Fact Sheet, please call Dean Tagliaferro of EPA, at 413-236-0969, or Michael Gorski of MassDEP, at 413-784-1100.



May 31, 2016

Woodland Excavation Corp.  
P.O. Box 1618  
Lanesboro, MA 01237

**Re: Your Property at 139 Deming Street in Pittsfield, MA (Tax Parcel I7-21-103) and Adjacent Tax Parcel I7-21-2**

Dear Sir or Madam:

The General Electric Company (GE) has recently learned you purchased the above-referenced property from Charlotte H. Cote, as Trustee of 139 Deming Street Nominee Trust, by deed dated January 7, 2016, recorded in the Berkshire Middle District Registry of Deeds on January 8, 2016 in Book 5683, Page 323. (This property comprises the lot at 139 Deming Street, which is Tax Parcel I7-21-103, and adjacent Parcel I7-21-2.) I am writing because a portion of this property, located along the banks of the Housatonic River, is subject to what is called a Conditional Solution under a Consent Decree executed by GE, the U.S. Environmental Protection Agency (EPA), the Massachusetts Department of Environmental Protection (MassDEP), and other governmental entities and approved by the federal district court in 2000.

Under the Consent Decree, as part of EPA's cleanup of the Housatonic River and its banks in this area in the mid-2000s, EPA removed and replaced a portion of the soil in the riverbank portion of the property to address the presence of polychlorinated biphenyls (PCBs) and other chemicals in the soil so as to meet the recreational riverbank cleanup standards for this stretch of the river. No excavation was performed on the upper portion of the riverbank on this property because that area already met the recreational cleanup standard. On the lower portion of the riverbank, through a combination of excavation and backfilling, EPA's cleanup actions resulted in a restored riverbank with a minimum of three feet of clean soil and riprap. However, there are elevated levels of PCBs, as well as potentially elevated levels of other contaminants, at depths below three feet on the riverbank. As a result, and due to the limited sampling in the upper portion of the riverbank, the riverbank portion of this property is not considered suitable for unrestricted future use.

In these circumstances, the Consent Decree provided two options to address future use of the riverbank portion of the property. The first involved the owner's execution of a legal deed restriction that would restrict future uses and excavations in the riverbank portion of the property. The second, which GE was required to implement if the owner did not elect to execute such a deed restriction, is called a Conditional Solution and requires GE to conduct additional cleanup in the future if the owner meets certain conditions demonstrating a commitment to

Woodland Excavation Corp.

May 31, 2016

Page 2

implement a future use for which additional cleanup is necessary. Since the owner of the property did not elect to execute a deed restriction, GE implemented a Conditional Solution at the riverbank portion of the property in 2008. The Conditional Solution was described in a letter to the owner of the property (139 Deming Street Nominee Trust) dated December 18, 2008. A copy of that letter is attached. Note that a figure attached to that letter shows the riverbank portion of the property that is subject to the Conditional Solution.

Since you are now the owner of this property, the terms of the Conditional Solution apply to you. The applicable conditions and requirements for a Conditional Solution are set forth on pages 2-3 of the attached letter. In summary, if you should decide to change the current use of your property (including the riverbank) to residential or similar use or to perform construction or excavation activities on the riverbank, and if you meet certain conditions (specified in the attached letter), GE will conduct additional actions at the riverbank portion, if necessary, to be protective for such future use or activities. Such actions may include further sampling and/or cleanup (if necessary) to meet the Consent Decree's cleanup standards for the new use, or may include, for activities that involve excavation or off-property disposition of riverbank soils, actions to ensure the proper excavation, management, and disposition of such soils. While GE is required to conduct such additional actions in the event that the applicable conditions are met, GE also retains any rights it may have under the law to seek contribution from others for costs incurred by GE to clean up contaminants not related to GE. I urge you to carefully review the more complete description of the Conditional Solution in the attached letter.

In addition, the attached letter describes, on page 4, the residual levels of contamination in the riverbank portion of the property; and it attaches a Fact Sheet, prepared by EPA, relating to future uses and activities at the riverbank portion. That description and Fact Sheet remain applicable, and you should take them into account in conducting any future uses or other activities such as excavation or digging on the riverbank portion of the property.

Finally, GE is required by the Consent Decree to conduct annual inspections of the riverbank portion of this property (normally in the fall) to determine whether there have been any significant changes in activities and uses or certain soil disturbances. GE might also have to perform periodic inspections of the restored riverbank (and maintenance if necessary) to ensure that EPA's remediation remains intact. Given the change in ownership, we need your permission to obtain access to the property in order to conduct these activities. I am enclosing a Consent for Access Form (in the form required by the Consent Decree) that would allow GE such access. That form also grants access to the regulatory oversight agencies. We would appreciate it if you could sign the enclosed Consent for Access form and return it to me in the enclosed self-addressed envelope. We will contact you before GE or any of its representatives accesses your property.

I am the current contact person for GE, and the current contacts for EPA and MassDEP are:

Woodland Excavation Corp.  
May 31, 2016  
Page 3

For EPA: Dean Tagliaferro  
GE-Pittsfield Team Leader  
U.S. Environmental Protection Agency  
EPA New England  
5 Post Office Square – Suite 100  
Boston, MA 02109  
Boston – (617) 918-1282  
Pittsfield – (413) 236-0969

For MassDEP: John Ziegler  
Bureau of Waste Site Cleanup  
Massachusetts Department of Environmental Protection  
436 Dwight Street  
Springfield, Massachusetts 01103  
(413) 755-2228

Please call me at 413-448-5910 if you have any questions about the information in this letter or the attached letter.

Very truly yours,



Kevin G. Mooney  
Project Manager, Environmental Remediation

Attachment and enclosures

cc: Dean Tagliaferro, EPA\*  
John Kilborn, EPA\*  
Michael Gorski, MassDEP\*  
Eva Tor, MassDEP\*  
John Ziegler, MassDEP\*  
Jane Rothchild, MassDEP\*  
Richard Gates, GE\*  
Rod McLaren, GE\*  
James Bieke, Sidley Austin

\* electronic copy with attached letter but without enclosures