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HEADLINE: GE SEEKING INVALIDATION OF CHEMICAL CLEANUP LAW

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BYLINE: H. JOSEF HEBERT, The Associated Press

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BODY:

The General Electric Co., confronting hundreds of millions of dollars in cleanup costs for hazardous chemical spills, asked a federal court Tuesday to declare the Superfund toxic waste cleanup law unconstitutional.

In a lawsuit filed in U.S. District Court, the company argued that the law gives federal regulators "uncontrolled authority" to order "intrusive" cleanup remedies "of unlimited scope."

This, along with a failure to provide timely judicial review, amounts to an unconstitutional violation of due process, the lawsuit contends. The law is "flatly unconstitutional on its face," said Laurence Tribe, the Harvard University constitutional law expert, who is among the lawyers representing General Electric in the suit, which was filed against the Environmental Protection Agency.

Although the suit does not seek redress on specific Superfund claims, it was filed only weeks before the EPA is expected to announce a preliminary proposal to clean up PCB-laced sediment in the Hudson River.

The PCBs, or polychlorinated biphenyls, were released into the river between 1946 and 1977 by two General Electric plants on the upper Hudson River and now are buried in sediment. As a result, a 197-mile section of the river has been declared a Superfund site.

The EPA is widely expected to order General Electric to dredge about 35 miles of the river just north of Albany, N.Y., where most of the PCBs have settled.

General Electric, which already has spent \$ 160 million on studies and shore cleanup, has argued for years that the sediment poses no health threat because the PCBs are buried. But environmentalists contend that the PCBs contaminate fish and pose a health threat to those who eat the fish.

A large-scale dredging project could cost as much as \$ 1 billion, according to some estimates.

Noting the pending action on the Hudson River case, EPA spokesman David Cohen called the timing of the lawsuit "exceedingly curious."

Mark Behan, a spokesman for General Electric, said the suit "is not about any individual matter," but he acknowledged that General Electric is involved in a number of potentially expensive Superfund cases.

In addition to the Hudson River cleanup, General Electric also is involved in Superfund projects at former factories in Hoboken and in Milford, N.H. All three sites are cited in the lawsuit.

The 1980 Superfund law has come under broad attack over the years as critics charge that its provisions have spawned more litigation than cleanup.