



TOWN OF LENOX
6 Walker Street, Lenox, MA 01240
www.townoflenox.com

Christopher J. Ketchen, ICMA-CM
Town Manager

March 29, 2024

Mr. Dean Tagliaferro
EPA New England
10 Lyman Street, Suite 2
Pittsfield, MA 01201

[VIA EMAIL: R1Housatonic@epa.gov]

RE: Town of Lenox Comments – General Electric Quality of Life (QOL) Compliance Plan

Dear Mr. Tagliaferro:

The purpose of this letter is to convey comments and concerns of the Town of Lenox regarding the remediation of polychlorinated biphenyls (PCBs) in the Housatonic River. Lenox recognizes that, while the remedy selection process is over, implementing the Rest of River permit is ongoing. As such, it has the full focus and attention of the Town and we are eager to work with EPA Region 1 to maximize the safety, efficiency, and effectiveness of the cleanup throughout implementation.

Part of implementation is the approval of a quality of life compliance (QOL) plan, a proposal for which General Electric (GE) has submitted through their subcontractors (Anchor QEA, Arcadis) on December 20, 2023. Lenox has reviewed the GE proposal and accompanying data submitted. This letter constitutes the Town's response to the Environmental Protection Agency (EPA) as approved by the Lenox Select Board on March 27, 2024 in advance of the formal comment deadline on March 29, 2024.

GENERAL COMMENTS ON PRE-MATURITY OF THE COMPLIANCE PLAN

The most significant comment from Lenox regarding the QOL proposal is that it is substantially pre-mature due to EPA's rejection earlier this year of the GE/Arcadis Transportation and Disposal (T&D) Plan. Obviously, much of the QOL Plan is predicated on life as it will exist under an, as yet, unrevised T&D regime. Lenox has advocated in the strongest of terms for a departure from GE's truck-dependent proposal in favor of a plan that relies almost entirely on hydraulic and rail conveyance. Assuming EPA endorses the Lenox plan, revisions to QOL will be needed. Therefore, all comments below should be viewed through this expectant lens and, indeed, may be irrelevant in light of forthcoming changes.

Furthermore, Section II.L of the 2020 Settlement Agreement specifically requires the limitation of truck traffic in residential areas – a requirement that Lenox previously contends was not properly addressed in the GE/Arcadis T&D plan. It does not follow that these two plans (T&D and QOL) should be decoupled on this point. Lenox demands a subsequent comment period to address the substance of this QOL's next iteration, at which point adherence to the terms of the Settlement Agreement will be rigorously scrutinized by the Town.

Beyond the disjointed consideration of the QOL and T&D plans, there remain multiple instances where substantive details of plan execution are dependent on future information/decisions. In light of these information gaps, combined with the lack of specific language regarding various standards, Lenox has cause to be concerned. Whether it is the aforementioned T&D plan, the final Remedial Design/Remedial Action plan, or other relevant work plans, Lenox requests that the final QOL plan consider all such details and that development be in conjunction with – rather than separate from – these other plans.

COMMUNICATION UPDATES

Lenox has previously submitted comments regarding public communication. We are pleased to see some of our comments addressed in the Community Coordination and Health and Safety section of the QOL plan. Moving forward, Lenox's citizens want to be continuously informed and updated on the activities related to this clean-up effort. Region 1 has committed to establishing a website to provide daily updates on clean-up activities. We expect this website to be timely and adequately maintained. Lenox further requests that signage directing the public to the website be displayed prominently at areas of work.

For Lenox's part, we have directed our information professionals at the Lenox Library to develop a web-based information page to keep the public updated on the history and current events surrounding this project (link: <https://lenoxlib.org/local-history-resources/rest-of-river-cleanup/>). We hope the establishment of this resource page is viewed as a good-faith demonstration of Lenox's long-term commitment to sound problem-solving and communication. We will further expand this resource as the clean-up moves forward to address relevant work schedules and procedures to address those issues (foreseeable or otherwise) that inevitably occur. Lenox will also establish a single point of contact for clean-up-related activities. As the Town will have a single point of contact, we would request that EPA establish either a daily recorded message or hotline, available as a "1-800" phone number, for citizens to call for updates.

We ask that both EPA and GE draw upon their resources and knowledge of best practices to develop the most modern and informative communication plan available, including the incorporation of third-party monitoring/verification of key environmental indicators. This will necessarily include a mechanism for residents to report problems as they arise in real-time. Moreover, in other parts of the country, we observe greater real-time, online displays of statistical measures (dust, noise, other contaminants) via dedicated project websites (e.g. East Palestine, Ohio Train Derailment – Air Sampling Data dashboard). We request a reporting system that is just as robust – and preferably better – as part of this cleanup project.

OTHER NOTED DEFICIENCIES AND RELEVANT QOL PLAN COMMENTS

Beyond the broader discussion of conveyance and communication above, Lenox requests consideration of the following in the next iteration of the QOL plan:

- The QOL plan lacks specificity on the requirements for restoring municipal infrastructure damaged as a result of remediation work. Lenox expects that the QOL plan will be revised to conform to Section VI.A(3) of the Settlement Agreement, which specifies the

technological methods that are to be deployed in determining damage attributable to the work.

- Documentation of the pre-existing condition of municipal infrastructure – specifically the condition of roads, culverts, and bridges in the surrounding area – as well as documentation of the means and methods of repair are required to be part of the QOL plan. GE has not included said documentation in its December 2023 submittal. Rather, it has indicated in several statements throughout the submittal that documentation will be provided before work commences in a given area. This approach is not in keeping with the plain language set forth in the Settlement Agreement. As stated elsewhere in this letter, here again is an example of where the QOL plan should be developed in conjunction with other project plans – not developed separately.
- The work hours contemplated under Section 4.4 (Noise QOL Standards) do not conform to Lenox Town bylaws which prohibit work-related noise in residential zones between 8 p.m. – 7 a.m., Monday - Saturday. Furthermore, the inclusion of noise standards for work in the evening and overnight hours came as a surprise given the provisions of GE's T&D submission, which assumed a typical 8-hour workday with no work at all on weekends and holidays. This contradiction makes an additional case for considering other work plans in conjunction with the QOL plan.
- The ambient air standards proposed by GE appear to be Occupational Safety and Health Administration (OSHA) standards for workplace compliance. Lenox requests confirmation of this understanding and, if accurate, strongly advises a lower standard be established that is more appropriate for residential settings.
- To the greatest extent possible, Lenox requests that EPA require as much impartial, third-party data monitoring as possible to ensure the accuracy of reported quality-of-life indicators.
- In the future, to the extent that Lenox seeks to undertake its own data-monitoring plan for any aspect of the project, we expect that EPA will require GE to allow data-monitoring equipment and access on, along, or near the project site. Furthermore, under no circumstances should permission to install such equipment on GE property be unreasonably withheld.
- To the extent that Lenox requires detailed, proprietary information on equipment or improvements to real property for taxation purposes, GE must not withhold such information from the Lenox Board of Assessors.
- Given the importance of environmental stewardship as well as future recreational use of the river, the QOL plan must include greater emphasis on the elimination and prevention of invasive species introduction/proliferation along the project corridor.

- As pointed out by other commenters, light and noise considerations should be evaluated for their impact on traffic safety. The current QOL plan considers the impact to residents without considering roadway distractions and other potential safety impacts.

CONCLUSION

GE's QOL plan needs to be rewritten and improved to address the realities of a revised T&D Plan (which we have not seen yet). Furthermore, there are many enhancements and a higher standard for public communication currently lacking in the proposed plan, some of which are outlined above. We expect a revised plan that makes all the appropriate changes to ensure a successful project while reducing community impacts.

Thank you in advance for your consideration and we look forward to your favorable response.

Sincerely,



Christopher J. Ketchen, ICMA-CM
Town Manager

cc: The Honorable Edward Markey, U.S. Senate
The Honorable Elizabeth Warren, U.S. Senate
The Honorable Richard Neal, U.S. House of Representatives
Her Excellency Maura Healey, Governor of Massachusetts
The Honorable Paul Mark, State Senator
The Honorable Smitty Pignatelli, State Representative, 3rd Berkshire
Select Board members, Town of Lenox