

PCB cleanup gets green light

Judge OK's settlement reached two years ago by GE, government

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SPRINGFIELD — The mammoth PCB cleanup agreement between the government and General Electric was approved yesterday by a federal judge, paving the way for removal of the toxin from Pittsfield and stretches of the Housatonic River and for an intense investigation into the scope and impact of the contamination on the ecosystem.

The terms of the settlement were reached in 1998 by GE, the U.S. Environmental Protection Agency, the city of Pittsfield and eight additional state and federal agencies. Under the agreement, signed last year, GE will be required to pay the bulk of the cost of removing PCBs left by years of transformer manufacturing at its Pittsfield plant.

In its filings with the court, the government estimated the cost of the cleanup at between \$300 and \$700 million. GE has said it can be accomplished for about \$150 million.

Payments triggered

U.S. District Court Judge Michael A. Ponsor approved the terms of the settlement after a hearing in the federal courthouse here. His approval allows the document to become binding on all parties and triggers a series of payments from GE to the EPA, money that will be used to fund more investigation of contamination in Pittsfield and a number of removal actions in the Housatonic and properties in the river's floodplain.

The ruling came after four groups granted permission to argue against the settlement were heard. All four opposed the agreement as too flimsy a tool by which

to remedy the damage done by GE. Each offered more focused arguments, claiming in turn that the settlement would allow for an improper seizure of property or would fail to protect the health of residents both in Massachusetts and Connecticut, where the river flow has deposited PCB contamination over the years.

A group of Newell Street business owners had objected to the settlement on the grounds that the cleanup standards it will employ for their properties are insufficient. They wanted every trace of PCBs removed.

"The problem with this settlement is that [the EPA has] decided what is necessary and appropriate. Nowhere else in the state have they decided what is necessary and appropriate," said Cristobal Bonifaz, the attorney hired to represent the Newell Street businesses objecting to the agreement.

Bonifaz said it was a "sweetheart deal" for GE and said the settlement had been struck too quickly, before the extent of the contamination was truly understood.

The arguments were made with a great deal at stake. Had the intervenors convinced Ponsor that the settlement was either not in the public interest or legally flawed, the entire document, reached after months of intense negotiations, would have been thrown out and the parties forced to return to the negotiating table or pursue their claims in court.

Ponsor said the fate of the case, should it ever reach trial, was uncertain, made murky by a three-year statute of limitations that began ticking when the con-

PCBS, continued on A4



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The old power plant is part of the GE manufacturing facility in Pittsfield that is due for demolition under the cleanup agreement.

PCBs from A1

tamination was first discovered. "It's easy to be on the outside of the process and say they could just sit down again and negotiate. Is it really so simple?" Ponsor said. He later added, "I'm concerned a little bit that if this case were to go to litigation, the result would be an award far less than what is being created here."

GE used polychlorinated biphenyls, or PCBs, until 1977 as an insulator in transformers. During decades of manufacture at its Pittsfield plant, the PCBs, in oil form, spilled, leaked or were dumped into the ground. Carried by ground water, they migrated to the Housatonic, where the river's current moved them downstream. Tests on fish taken from the Housatonic revealed the highest concentration of PCBs of any river in the country. Traces of the pollution have been detected as far away as Connecticut.

The use of PCBs stopped when the government banned them in 1977. Scientists now believe PCBs are a probable carcinogen in humans and have gathered voluminous evidence that they have a devastating impact on animals.

With the settlement now final, GE and the EPA will begin further investigation in GE's 245-acre plant and will move ahead with the cleanup of two miles of the Housatonic.

As well, GE will pay the EPA about \$15 million in the next 30 days, compensation for the agency's past investigation into the pollution. Part of that money will be used to advance an intense investigation into contamination of the lower reaches of the river, where the EPA has been gathering data it hopes will reveal the impact of the toxin on the ecosystem there. The study is among the most in-depth ever conducted on a river.

The settlement also allows the Pittsfield Economic Development Authority to begin work on developing portions of the GE plant for economic reuse. As part of the \$45 million package, GE will turn over 52 acres of the site to PEDAA, which will develop and market the property to potential tenants.

GE's agreed-upon payment of \$15 million in compensatory money for damages done to natural resources must also be made within the next 30 days. Those funds will be administered by a board of trustees.

Ponsor, who heard arguments for more than two hours, rendered his decision on the consent decree from the bench. He characterized the settlement as a sound and beneficial agreement that will allow immediate action to ease the damage done by the toxic pollution.

"I believe it is time to get on with it," Ponsor said. "This consent decree does guarantee a dawning. To some estimates, the dawn may not be as clear and blue as everyone wants it to be, but it is the end of a nightmare."