

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SARATOGA COUNTY WATER AUTHORITY,

Plaintiff,

COMPLAINT

- vs. -

1 : 11 - CV - 006 (LEK / RFT)

GENERAL ELECTRIC COMPANY,

Defendant.

Plaintiff, by and through its undersigned attorneys, as and for its complaint against defendant, alleges as follows:

INTRODUCTION

1. This action is brought pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et. seq., and New York State common law claims, by the Saratoga County Water Authority (hereinafter "Plaintiff", "SCWA" or "Authority") against General Electric Company (hereinafter "GE") to recover costs and damages associated with its water supply system incurred in response to the contamination of the Hudson River by Polychlorinated Biphenyls (PCBs).

PARTIES

2. Plaintiff Saratoga County Water Authority is a public benefit corporation duly organized under the laws of New York State (Public Authorities Law §§ 1199-aaa et.seq.) with a principal place of business in the Town of Moreau, State of New York.

3. Defendant General Electric Company is a company organized under the laws of the State of New York with a principal place of business in Schenectady, New York.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. §§ 9601 et. seq., because this action arises under the laws of the United States, specifically the above cited Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”).

5. The Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

6. Venue is properly laid in this District pursuant to 28 U.S.C. §§ 1391(b) & (e) and 42 U.S.C. § 9613(b).

GE’S PCB CONTAMINATION OF THE HUDSON RIVER

7. At all relevant times, defendant General Electric Company (“GE”) owned and operated two capacitor manufacturing plants located, respectively, at 5 John Street in the Village of Hudson Falls, State of New York and 381 Upper Broadway, in the Town of Fort Edward, State of New York.

8. The GE Hudson Falls and GE Fort Edward plants were located adjacent to and/or near the Hudson River.

9. Polychlorinated Biphenyls (PCBs) were used by General Electric in the manufacturing of industrial capacitors at the Hudson Falls and Fort Edward plants.

10. PCBs are hazardous substances within the meaning of CERCLA § 101(14); 42 U.S.C. § 9601(14).

11. PCBs are ranked 5th on the CERLCA Priority List of Hazardous Substances maintained by the U.S. Department of Health and Human Services, Agency for Toxic Substances and Disease Registry (ATSDR). *See* CERLCA § 104(i)(2); 42 U.S.C. § 9604(i)(2).

12. In 1976, Congress enacted the Toxic Substances Control Act (TSCA) that included, among other things, prohibitions on the commercial manufacture, processing, and distribution of PCBs.

13. Over approximately a 30-year period between 1947 and 1977, General Electric used, stored and disposed of PCBs, PCB oils and/or electrical capacitors containing PCBs at the Hudson Falls and Fort Edward capacitor plants.

14. General Electric's use, storage and disposal of PCBs and PCB containing materials at the aforementioned sites resulted in the release of PCBs into the environment, including groundwater, surface water, air, soil, and sediments at, in, and adjacent to the Hudson River.

15. The PCBs disposed of by GE and discharged into the Hudson River contaminated the downriver water and sediments of the Hudson River (i.e., from the GE plants in Hudson Falls and Fort Edward downriver to the Federal Dam near the City of Troy).

16. Upon information and belief, significant amounts of PCBs have contaminated soils and groundwater at the Hudson Falls facility as the result of spills, leaks, cleaning, storage and disposal procedures.

17. Upon information and belief, the Hudson Falls facility released PCBs that flowed directly and indirectly from the site into the Hudson River, including discharges from the former 002 wastewater outfall pipe at the facility.

18. Upon information and belief, PCBs continue to leach from the Hudson Falls site into the Hudson River.

19. Upon information and belief, significant amounts of PCBs have contaminated soils and groundwater at the Fort Edward facility, as the result of spills, leaks and cleaning,

storage and disposal procedures.

20. Upon information and belief, the Fort Edward facility released PCBs that flowed directly and indirectly from the site to the Hudson River, including discharges from the former 004 wastewater outfall pipe at the facility.

21. Upon information and belief, the Fort Edward facility was used as a landfill for the disposal of wastes containing PCBs, and the site contains a reservoir of PCB contaminated oil.

22. Upon information and belief, PCBs continue to leach from the Fort Edward site into the Hudson River.

23. Upon information and belief, the United State Environmental Protection Agency has estimated, based in part upon information provided by defendant, that the total quantity of PCB's directly discharged by General Electric from the two plants into the river from the 1940s to 1977 are as high as 1,300,000 pounds.

24. Upon information and belief, the predominant sources of PCB contamination in the Hudson River (from the GE plants in Hudson Falls and Fort Edward downriver to the Federal Dam near the City of Troy) were the two capacitor manufacturing plants owned and operated by General Electric.

25. PCBs have been found in water, sediments, plant life, animal life and the soils at the Hudson Falls and Fort Edward sites.

26. Upon information and belief, once discharged from the GE plants, PCBs adhere to river sediments, are carried in the water column, and disseminate and accumulate downriver as they settle in impounded pools and other depositional areas.

27. River scouring/erosion and other mechanisms, both naturally occurring and

manmade, have mobilized PCB-contaminated sediments from the extensive deposits, redepositing them farther downriver, all the way to the Battery at New York Harbor.

28. Upon information and belief, sediments contaminated by GE's discharge of PCBs into the river continue to serve as the major source of PCBs within the Hudson River (from the GE plants in Hudson Falls and Fort Edward downriver to the Federal Dam near the City of Troy).

29. GE's use, storage and disposal of PCBs that migrated into the Hudson River constitutes a release of hazardous waste in violation of federal and state law.

30. As a direct and proximate result of GE's acts and omissions, particularly the release of PCBs, PCB oils and/or electrical capacitors containing PCBs, the Hudson River has been contaminated by PCBs.

31. As a direct and proximate result of GE's acts and omissions, particularly the release of PCBs, PCB oils and/or electrical capacitors containing PCBs, the Hudson River is at risk of continuing and future contamination by PCBs.

32. Upon information and belief, the dredging of the Hudson River in 2009 resulted in the resuspension, release and/or threatened release of PCBs into the water column.

33. Upon information and belief, the planned future dredging of the Hudson River will result in the resuspension, release and/or threatened release of PCBs in the water column.

34. As a direct and proximate result of the release and/or threatened release of PCBs into the Hudson River, plaintiff has been required to take responsive action and incur costs to secure an alternative source of drinking water from the Hudson River.

ADVERSE HEALTH EFFECTS ASSOCIATED WITH PCBs

35. PCBs are classified by United States Environmental Protection Agency and the

International Agency for Research on Cancer as probable human carcinogens.

36. Upon information and belief, this classification means that there is sufficient evidence to show that PCBs cause cancer in animals, and that there is evidence that PCBs cause cancer in humans.

37. Upon information and belief, PCBs are also linked to other serious non-cancer adverse health effects based on observations in animals, including effects on the immune system, reproductive system, nervous system, endocrine system and other health effects.

38. Upon information and belief, emerging studies in humans provide evidence for potential carcinogenic and non-carcinogenic effects of PCBs.

39. Upon information and belief, human health studies indicate that PCBs adversely affect reproductive function.

40. Upon information and belief, PCBs affect a variety of liver enzymes which are capable of altering the female hormone estrogen and other estrogenic chemicals.

41. Upon information and belief, maternal exposure to PCBs can result in decreased gestational age and reduced birth weight of offspring.

42. Upon information and belief, PCBs adversely affect neurobehavioral and cognitive development.

43. Upon information and belief, infants exposed to PCBs in utero or via breast milk may experience neurobehavioral deficits including, among other things, depressed responsiveness, impaired visual recognition, poor short-term memory, deficiencies in psychomotor development, and reduced performance on visual recognition-memory tests.

44. Upon information and belief, exposure to PCBs during fetal development and early childhood can result in neurologic injury resulting in, among other things, an irreversible

reduction in intelligence and alteration of behavior.

45. Upon information and belief, PCBs are also associated with adverse effects on thyroid function in adults and children and on immunological function.

46. Upon information and belief, PCB-induced immunosuppression is associated with increased rates of infections, and respiratory disease.

47. Upon information and belief, children are particularly sensitive to the effects of PCBs on neurological development, immune system function, and thyroid function.

48. Upon information and belief, thyroid hormones are essential for normal brain development, and PCBs have been shown to alter thyroid function during critical periods of brain development.

49. Upon information and belief, exposure to PCBs is associated with adverse effects on human metabolism.

50. Upon information and belief, PCBs cause hormonal effects that affect both insulin secretion and thyroid gland function, resulting in alterations of serum lipids, increased incidence of hypertension, and diabetes.

51. Upon information and belief, at high doses, PCBs can cause liver enlargement, fatty degeneration, hepatocellular necrosis (cell death), and changes in the bile duct.

52. Upon information and belief PCBs are “persistent” pollutants that are cleared very slowly from the body, and once ingested or absorbed by a person, they become stored in fat and fatty tissues. This stored material is referred to as the “body burden” of PCBs.

53. Upon information and belief, a comprehensive determination of body burden is critical to exposure and health risk assessment for PCBs.

54. Upon information and belief, PCB body burden is defined as the level of each

congener in fatty tissue, and PCB body burden increases whenever the intake exceeds the clearance.

55. Upon information and belief, the concept of “exposure” for persistent pollutants such as PCBs is very different from that for non-persistent chemicals and drugs such as benzene or Tylenol. For the latter compounds, which are rapidly cleared from the body and therefore do not result in long-term storage in the body, the likelihood of adverse health effects is determined by the amount of each individual dose. In contrast, for PCBs, a virtually identical body burden can be achieved either by ingesting one large dose or several smaller ones.

SARATOGA COUNTY WATER AUTHORITY

56. Plaintiff Saratoga County Water Authority operates a water system (“Water System”) in Saratoga County, New York.

57. The source of the plaintiff Authority’s water supply is the Hudson River. Specifically, a raw water intake is located in the Town of Moreau, New York approximately 6,000 feet upstream from the Sherman Island Dam.

58. Plaintiff Saratoga County Water Authority serves long established public purposes and the Authority performs an essential governmental function in the exercise of its powers.

59. The carrying out of the plaintiff Authority’s powers, purposes and duties, including the operation of the Water System, are in all respects for the benefit of the people of the county, for the improvement of their health, welfare and prosperity.

60. Plaintiff’s operation of the Water System is consistent with and pursuant to its riparian and non-riparian rights to utilize the waters of the Hudson River.

61. In or about September 2008, plaintiff entered into a Service Agreement with

Saratoga County whereby plaintiff agreed to continue to build, operate and maintain the Water System.

62. In or about September 2008, plaintiff secured financing to commence and complete construction of the Water System.

63. Upon information and belief, the Water System was operational and servicing customers in or about February 2010.

64. The Water System, with the exception of finished water transmission mains, includes the aforementioned raw water intake, pumping station and raw water transmission main that conveys water from the intake to plaintiff's water treatment plant ("WTP") for treatment. All of these facilities are located in the Town of Moreau, New York.

65. The Water System includes a finished water transmission main that starts at the WTP and continue approximately thirty (30) miles south to the Luther Forest Technology Campus ("Water Transmission Main") located in the towns of Malta and Stillwater, New York.

66. It was necessary to locate the plaintiff Authority's raw water intake in the Town of Moreau in response to the downriver release and/or threatened release of PCBs into the Hudson River.

67. Upon information and belief, plaintiff's Hudson River water intake located in the Town of Moreau is a stable, good quality source of potable water suitable for drinking and domestic uses.

68. Upon information and belief, plaintiff's water intake located in the Town of Moreau is upriver of areas of the Hudson River that are known to have been substantially impacted by PCBs.

69. Specifically, plaintiff's Hudson River water intake located in the Town of

Moreau is approximately six (6) miles north of GE's Hudson Falls plant and seven (7) miles north of GE's Fort Edward plant.

70. Upon information and belief, plans for the dredging of PCBs from the Hudson River are not anticipated to impact the water intake located in the Town of Moreau.

71. Upon information and belief, during Phase 1 of the Hudson River PCB dredging project, increased PCB levels were recorded in the water column downriver from GE's Hudson Falls and Fort Edward plants.

72. Upon information and belief, Phase 2 of the Hudson River PCB dredging project is anticipated to increase the levels of PCBs in the water column downriver from GE's Hudson Falls and Fort Edward plants.

73. Upon information and belief, unreasonably dangerous levels of PCBs have been released and/or are threatened to be released into the Hudson River water column as a result of the dredging project, including but not limited to the release of PCB dense non-aqueous phase liquid (DNAPL) observed during Phase 1 of the dredging project.

74. While the location of the plaintiff Authority' water intake in the Town of Moreau provides a potable water source above the downriver PCB contamination in the Hudson River, the necessary cost of transmitting water from said location to the county's population center and intended water users is significantly greater.

75. Upon information and belief, plaintiff expended in excess of \$35 million dollars, for the construction of the thirty (30) mile Water Transmission Main.

76. Upon information and belief, the cost the Water Transmission Main would have been significantly less if plaintiff's water intake was located further downriver and closer to the county's population center and intended users.

77. Absent the release and/or threatened release of PCBs downriver, plaintiff would have located the water intake along the Hudson River closer to the county's population center and intended users.

78. Upon information and belief, the additional capital and other necessary response costs incurred to locate the plaintiff Authority's water intake in the Town of Moreau above the threat of downriver PCB contamination was in excess of \$27 million dollars.

79. Upon information and belief, the aforesaid additional capital and other necessary response costs incurred by the plaintiff Authority are the direct and proximate result of defendant GE's release and/or threatened releases of PCBs into the Hudson River from its Hudson Falls and Fort Edward plants.

80. As a direct and proximate result of defendant GE's release and/or threatened release of PCBs into the Hudson River from its Hudson Falls and Fort Edward plants, the plaintiff Authority has suffered and will continue to suffer damages associated with past, present and future construction, operation and maintenance of its Water System.

81. As a direct and proximate result of defendant GE's release and/or threatened release of PCBs into the Hudson River from its Hudson Falls and Fort Edward plants, the plaintiff Authority's ability to carry out its public purposes and essential governmental functions has been impaired, including injury to its riparian and other rights to use the Hudson River as a water supply source.

82. Plaintiff Saratoga County Water Authority is entitled to recover necessary response costs as well as direct and indirect damages, including but not limited to increased capital costs, construction costs, operation costs, maintenance costs and/or other costs associated with obtaining an alternative water supply intake source and providing potable water to its water

users.

**FIRST CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
COST RECOVERY UNDER CERCLA § 107**

83. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

84. Plaintiff is a “person” as that term is defined within the meaning of CERCLA §§ 101(21) and 107(a)(4)(B), 42 U.S.C. §§ 9601(21) and 9607(a)(4)(B).

85. Each of the General Electric Hudson Falls and Fort Edward capacitor manufacturing plants constitutes a “facility” within the meaning of CERCLA § 101(9), 42 U.S.C. § 9601(9).

86. Defendant General Electric is the current and/or former owner and operator of the Hudson Falls and Fort Edward facilities, within the meaning of CERCLA § 107(a) and 101(20)(A), 42 U.S.C. §§ 9607(a) and 9601(20)(A).

87. Defendant has released PCBs into the environment, within the meaning of the terms “release” and “environment” as those terms are defined in CERCLA §§ 101(8) and 101(22), 42 U.S.C. §§ 9601(8) and 9601(22), and/or “threatened release” of hazardous substances.

88. Such releases include, but are not limited to, PCBs discharged into the Hudson River from the Hudson Falls and Fort Edward facilities.

89. The PCBs released, and threatened to be released, by defendant are hazardous substances as that term is defined by CERCLA § 101(14), 42 U.S.C. § 9601(14).

90. Upon information and belief, General Electric’s release of PCBs into the Hudson River has contaminated, and shall continue to contaminate, the Hudson River during and indefinitely after dredging.

91. The release or threatened release of PCBs into the Hudson River from General

Electric's Hudson Falls and Fort Edward facilities entitles plaintiff to recover necessary response costs, within the meaning of CERCLA §§ 101(25) and 107, 42 U.S.C. §§ 9601(25) and 9607.

92. As a direct and proximate result of defendant's release and/or threatened release of PCBs into the Hudson River, plaintiff has been required to take responsive action and incur costs to secure an alternative intake source of drinking water from the Hudson River.

93. The actions required to be taken by plaintiff in responding to the release or threatened release of hazardous substances constitute response costs under CERCLA § 107(a)(4)(B), 42 U.S.C. § 9607(a)(4)(B).

94. CERCLA expressly defines response actions as including the "provision of alternative water supplies," *id.* §§ 101(23)(24), 42 U.S.C. §§ 9601(23)(24), including but not limited to drinking water and household water supplies." *Id.* § 101(34), 42 U.S.C. § 9601(34).

95. CERCLA expressly defines drinking water supply as "any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act [42 U.S.C.A. § 300f et seq.]) or as drinking water by one or more individuals." *Id.* at § 101(7), 42 U.S.C. § 9601(7).

96. The necessary costs suffered by plaintiff in response to the release or threatened release of hazardous substances are necessary response costs consistent with the requirements of the National Contingency Plan.

97. Defendant General Electric is strictly liable for the past, present and future response costs incurred by plaintiff in responding to the release and/or threatened release of PCBs.

**SECOND CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
STRICT LIABILITY**

98. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated

herein.

99. Defendant General Electric's use, handling, storage, disposal and discharge of PCBs, PCB oils and/or electrical capacitors containing PCBs at the Hudson Falls and Fort Edward capacitor plants constitutes an abnormally dangerous, ultra hazardous and/or inherently or intrinsically dangerous activity for which defendant are strictly liable to plaintiff under common law.

100. As a direct and proximate result of the acts of said defendant, plaintiff was required to locate its water intake upriver of the PCB contamination, thereby incurring substantial past damages and future anticipated damages.

101. Defendant GE is liable to plaintiff for all damages, costs and other losses, resulting directly and indirectly from the conduct complained of herein.

**THIRD CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
NEW YORK STATE NAVIGATION LAW**

102. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

103. Defendant General Electric is a person who, through acts or omissions, has caused or contributed to the discharge of petroleum at the Hudson Falls and Fort Edward sites into the Hudson River, within the meaning of New York State Navigation Law §§ 172(8), 172(14) and 172(15).

104. The petroleum discharged by said defendant was contaminated with PCBs.

105. As a direct and proximate result of General Electric's acts and omissions, plaintiff has incurred and shall continue to incur direct and indirect damages, including inter alia "cleanup and removal costs," as those terms are defined by New York State Navigation Law § 172(5).

106. Defendant GE is strictly liable, pursuant to Navigation Law §§ 181(1) and 181(5),

for all direct and indirect damages sustained by plaintiff as a result of defendant's discharge of PCB-contaminated petroleum, including the damages complained of herein.

**FOURTH CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
NEGLIGENCE (GROSS NEGLIGENCE)**

107. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

108. Defendant General Electric owed plaintiff a duty to use reasonable care in the use, handling, storage and disposal of hazardous substances, including PCBs, at the Hudson Falls and Fort Edward capacitor plants.

109. Defendant breached its duty of care in the use, handling, storage, disposal, discharge and release of PCBs into the environment and Hudson River.

110. As a direct and proximate result of defendant's acts and omissions, plaintiff has been injured, and such injury was foreseeable.

111. Defendant is liable to plaintiff for all direct and indirect damages, costs and other losses complained of herein.

112. Defendant GE knew or should have known, or consciously disregarded the hazards of PCBs, the hazards associated with improper disposal of PCBs, and the effect of such improper disposal of PCBs on plaintiff.

113. Defendant consciously, deliberately and recklessly released PCBs into the environment by improperly disposing of them.

114. Defendant consciously, deliberately and recklessly failed to monitor PCBs disposed of at their respective facilities.

115. Defendant consciously, deliberately and recklessly allowed PCBs to be released from their respective facilities with full understanding of the dangers and consequences thereof

to plaintiff.

116. In the alternative, defendant should have known of the damages and consequences of such disposal to plaintiff.

117. Upon information and belief, defendant individually and through its agents, servants and contractors concealed the dangers posed by their improper disposal of PCBs and the release of those PCBs into the environment from the public, including plaintiff. With its superior knowledge, defendant had a duty of disclosure which it violated.

118. The aforementioned conducts constitutes gross negligence, recklessness and/or wantonness which has been and continues to be a direct and proximate cause and/or contributing cause of the damages and injuries sustained by plaintiff.

119. The acts of acts of defendant have been intentional, willful, wanton, illegal, and done with conscious and deliberate disregard for the rights of plaintiff, the health and safety of its water users and customers, and, as a result of these acts of defendant, plaintiff is entitled to punitive damages.

**FIFTH CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
PUBLIC NUISANCE**

120. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

121. Defendant General Electric's discharge and release of PCBs into the Hudson River has substantially interfered with the public's right to use and enjoy the Hudson River as a drinking water supply.

122. The contamination of the Hudson River constitutes a public nuisance that is a continuing and substantial threat to public health and welfare.

123. Defendant General Electric through its acts and omissions created, participated in

and/or contributed to the public nuisance by discharging PCBs from its Hudson Falls and Fort Edward plants into the Hudson River.

124. Defendants' conduct as described above was intentional, unreasonable, negligent and/or abnormally dangerous in nature.

125. Defendant has failed to abate the public nuisance at their plants and in the Hudson River.

126. As a direct and proximate result of the public nuisance described herein, plaintiff has been injured.

127. Defendant is liable to plaintiff under the common law of public nuisance and pursuant to the New York Real Property Law and Proceedings § 841 for the creation and maintenance of a public nuisance at and around their facilities and within the Hudson River.

128. Plaintiff seeks all direct and indirect damages complained of herein, together with injunctive relief to abate such nuisance and/or for all costs of plaintiff in abating the same.

**SIXTH CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
PRIVATE NUISANCE**

129. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

130. Defendant's discharge and release of PCBs into the Hudson River has substantially interfered with the plaintiff's rights to use and enjoyment of said drinking water supply.

131. Defendant's conduct as described above was intentional, unreasonable, negligent and/or abnormally dangerous in nature.

132. As a direct and proximate result of the private nuisance described herein, plaintiff has been injured.

133. Defendant is liable to plaintiff under the common law of public nuisance and pursuant to the New York Real Property Actions and Proceedings § 841 for the creation and maintenance of a private nuisance at and around their facilities and the Hudson River.

134. Plaintiff seeks all direct and indirect damages complained of herein, together with injunctive relief to abate such nuisance and/or for all costs of plaintiff in abating the same.

**SEVENTH CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
TRESPASS**

135. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

136. Defendant General Electric's discharge and release of PCBs into the Hudson River has caused unauthorized and wrongful invasion and trespass of contamination of plaintiff's drinking water supply.

137. The invasion and trespass of PCBs has substantially and wrongfully interfered with the plaintiff's use and enjoyment of the Hudson River as a drinking water supply.

138. Upon information and belief, the unauthorized and wrongful invasion and trespass of PCB contamination of the Hudson River continues at this time and is anticipated to occur again in the future.

139. Defendant's complained of conduct was intentional, willful and otherwise negligent whereby defendant knew or should have known that the PCBs discharged at the Hudson Falls and Fort Edward facilities directly and/or indirectly into the Hudson River, would migrate and contaminate the river.

140. As a direct and proximate result of defendant's acts and omissions, plaintiff has been injured.

141. Defendant is liable to plaintiff for all direct and indirect damages, costs and other

losses complained of herein.

**EIGHTH CAUSE OF ACTION BY PLAINTIFF AGAINST GE –
EQUITABLE INDEMNITY/RESTITUTION**

142. Plaintiff incorporates by reference all of the paragraphs above, as if fully restated herein.

143. Defendant General Electric is liable to plaintiff for all damages, expenses and costs incurred by plaintiff as the direct and proximate result of the PCB contamination of the Hudson River and plaintiff's ability to use said water supply.

144. Wherefore, plaintiff seeks indemnification and restitution from defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands relief against defendant as follows:

1. Compensatory damages in an amount to be determined upon trial;
2. Punitive damages in an amount to be determined upon trial; and
3. Attorneys fees, disbursements and costs; and
4. Such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all issues so triable.

Dated: Albany, New York
December 30, 2010

DREYER BOYAJIAN LLP

s/

Donald W. Boyajian, Esq. (Bar Roll # 101196)
Craig M. Crist, Esq. (Bar Roll # 508143)
James R. Peluso, Esq. (Bar Roll # 105634)
Attorneys for Plaintiff Saratoga County Water Authority
75 Columbia Street
Albany, NY 12210
Telephone: (518) 463-7784