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Oct. 1989

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

GENERAL SWITCH CORPORATION,

Defendant.

CONSENT DECREE

87 Civ. 8789 (RJW)

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FEB 09 2007

Ramona L. Miller, C.  
Division of Environmental Remediation



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CONSENT DECREE

WHEREAS, the United States of America (the "United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a Complaint in this matter on December 11, 1987, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("CERCLA"), for the recovery of past response costs incurred by the United States and a declaration of liability with regard to future costs of response action in connection with the release or threatened release of hazardous substances into the soil and groundwater at or near the industrial plant owned and/or operated by the General Switch Corporation located at 20 Industrial Place, in Middletown, Orange County, New York (the "Site");

WHEREAS, the Site constitutes a "facility", as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

WHEREAS, the General Switch Corporation ("General Switch") is a corporation organized and existing under the laws of the State of New York;

WHEREAS, General Switch has owned and/or operated and continues to own and/or operate an industrial plant located at 20 Industrial Place, Middletown, Orange County, New York (the "Plant"), since at least 1978;

WHEREAS, General Switch has manufactured and continues to manufacture electrical switches, circuit breakers and panel boards



at the Plant;

WHEREAS, General Switch has used and continues to use, inter alia, tetra- or perchloroethylene ("PCE") in its manufacturing processes at the Plant and generated and generates a spent form of a solution containing PCE through its operations at the Plant;

WHEREAS, PCE is a hazardous substance, as that term is defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14);

WHEREAS, pursuant to the authority vested in the President of the United States by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), delegated to the Administrator of EPA by Executive Order 12316, 46 Fed. Reg. 42237 (August 20, 1981), and duly redelegated to the Regional Administrator, EPA Region II on March 17, 1983, in response to a release, as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), or substantial threat of release of hazardous substances into the environment at the Site, and in response to a request from the New York State Department of Environmental Conservation ("NYSDEC"), the United States initiated a response action, as that term is defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), on or about November 16, 1983 to respond to groundwater contamination at and near the Site, including but not limited to providing for an alternative source of water supply to persons who had been drawing contaminated drinking water from wells located at or near the Site (the "Removal Action");

WHEREAS, during the course of hydrogeologic investigations conducted pursuant to the Removal Action, EPA determined that



hazardous substances, including but not limited to PCE, were being released from the General Switch Plant into the groundwater at the Site;

WHEREAS, pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, EPA determined that General Switch is a potentially responsible party ("PRP") and so notified it on January 25, 1984;

WHEREAS, pursuant to a May 1, 1984 Administrative Order on Consent, Index No. II-CERCLA-40205, issued by EPA pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), General Switch provided alternative water to homes overlying the plume of groundwater contamination at the Site by construction of an underground water main;

WHEREAS, EPA incurred oversight costs in supervising General Switch's installation of the underground water main;

WHEREAS, EPA demanded reimbursement of its oversight costs on May 22, 1987.

WHEREAS, the response actions taken and/or funded by the United States in connection with the Site were not inconsistent with the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"), promulgated by EPA pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605;

WHEREAS, pursuant to Section 122 of CERCLA, 42 U.S.C. § 9622, the United States and General Switch have agreed that General Switch shall pay to EPA, in accordance with the procedures set forth in Section XX hereof, \$55,000 in settlement of EPA's past response costs incurred through the date of lodging of this



Consent Decree;

WHEREAS, EPA has determined that further actions are necessary to respond, as that term is defined in Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), to the soil and groundwater contamination at the Site;

WHEREAS, the parties agree that General Switch's implementation of the work set forth in Sections VI-X of this Consent Decree ("the Work"), including treatment of the contaminated soil and groundwater in accordance with the requirements of this Consent Decree, will significantly reduce any present or foreseeable future risk to public health, welfare or the environment posed by the Site;

WHEREAS, the parties believe that the Work required in Sections VI-X hereof is consistent with the NCP;

WHEREAS, General Switch agrees to perform the Work, and EPA has determined that performance of the Work will be done properly by General Switch if done in compliance with this Consent Decree, and that General Switch is qualified to perform the Work if it provides adequate financial assurances to EPA pursuant to Section XXVII of this Consent Decree;

WHEREAS, General Switch does not dispute its status as a potentially responsible party, but has made no admission regarding its responsibility, in whole or in part, for the release of the PCE at or near the Site;

WHEREAS, NYSDEC was notified of negotiations between the United States and General Switch concerning General Switch's per-

formance of the Work at the Site and has not sought to be a party to this settlement;

WHEREAS, the United States and General Switch agree that settlement of this matter without further litigation is in the public interest and that entry of this Consent Decree is the most appropriate means of resolving this matter;

WHEREAS, the information currently available to EPA indicates that the contamination at the Site arises from releases of PCE directly into soil and/or groundwater, and not from buried drums or tanks at the Site;

THEREFORE, it is ORDERED, ADJUDGED, AND DECREED as follows:

I. JURISDICTION

The Court has jurisdiction over the subject matter of this action and the parties to this Consent Decree pursuant to Sections 106, 107, and 113 of CERCLA, 42 U.S.C. §§ 9606, 9607, and 9613, and 28 U.S.C. §§ 1331 and 1345. The complaint in this action states a claim upon which relief may be granted against General Switch pursuant to CERCLA, 42 U.S.C. §§ 9601 et seq. General Switch waives all objections to this Court's jurisdiction to enter and enforce this Consent Decree. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391.

II. PARTIES BOUND

This Consent Decree applies to and is binding upon the



United States and General Switch, including General Switch's officers, directors, employees, agents, contractors, receivers, trustees, successors and assigns. Each undersigned representative of a party to this Consent Decree certifies that he or she is authorized by the entity which he or she represents to enter into the terms and conditions of this Consent Decree and to execute and bind that entity to it. General Switch shall be responsible to the United States for ensuring that its contractors and subcontractors perform the Work set forth in Sections VI-X hereof in accordance with the terms and requirements of this Consent Decree. General Switch shall give written notice of this Consent Decree, and a copy thereof, to any successor in interest prior to any transfer of the Middletown plant and shall, at least 30 days prior to any such transfer, give written notice to the United States of the intended transfer in accordance with Section XXVIII hereof.

### III. DEFINITIONS

Whenever the following terms are used in this Consent Decree and any Appendices hereto, the following definitions shall apply:

A. "Groundwater Remedy" means the groundwater pumping and treatment system constructed and/or installed and operated and maintained pursuant to this Consent Decree.

B. "Interceptor Well" means a well determined by EPA to be satisfactory for interception of the contaminant plume

underlying or near the Site for purposes of pumping and treatment under this Consent Decree.

C. "Optimal Pumping Rate" means the maximum rate at which pumping can continue without loss of suction.

D. "Parella Well" means the private supply well located at 320 Highland Avenue in Wallkill, New York.

E. "Requirement(s)" means any provision, standard, notice, schedule, criterion, performance, specification, goal, compliance or approval required by this Consent Decree and/or the Work Plan.

F. "Soil Remedy" means the construction and/or installation and operation and maintenance of the system used for aeration of the excavated soil pursuant to this Consent Decree.

G. "Work" means all activities required by Sections VI-X of this Consent Decree as may be modified pursuant to the provisions of this Consent Decree, including but not limited to submission and implementation of any schedules, plans or reports required to be submitted pursuant thereto.

H. "Work Plan" means the plan or plans submitted pursuant to Sections VI-X of this Consent Decree and approved by EPA, and includes the EPA-approved Remedial Design Report (submitted in accordance with Section IX hereof) and the Operation and Maintenance Plan (submitted in accordance with Section X hereof). The Work Plan shall contain descriptions and schedules for imple-



mentation of the Work required by this Consent Decree. Upon approval by EPA, each approved plan, including the final approved Work Plan, shall be deemed incorporated into and made an enforceable part of this Consent Decree.

I. All terms not otherwise defined herein shall have their ordinary meanings except that those terms defined in Section 101 of CERCLA, 42 U.S.C. § 9601, shall have the meanings set forth therein.

#### IV. PURPOSE

The purpose of this Consent Decree is to serve the public interest by protecting the public health, welfare and the environment from releases and/or threatened releases of PCE at or near the Site by treatment of contaminated soil and groundwater, and to settle the claims for past response costs asserted by the United States against General Switch in the complaint.

#### V. GENERAL PROVISIONS

##### A. Commitment of General Switch

General Switch shall finance the Work and retain contractors to perform the Work in accordance with all Requirements of this Consent Decree, including the time periods set forth in Sections VI-X.

##### B. Permits and Approvals

1. All activities undertaken by General Switch pursuant to this Consent Decree shall be undertaken in accordance with the

requirements of all applicable laws and regulations. In the event that there is a conflict in the application of any law or regulation, the more stringent law or regulation shall apply. Notwithstanding any other provision in this Consent Decree, no federal, state or local permits are required for any response action conducted entirely on-site pursuant to this Consent Decree. General Switch shall apply for and use its best efforts to obtain all permits and approvals necessary for the off-site work under all applicable laws and shall submit timely applications and requests for all such permits and approvals.

2. General Switch is responsible for the timely application for and procurement of all such authorizations, if any, to ensure expeditious compliance with the Requirements of this Consent Decree and all EPA-approved plans. General Switch shall provide EPA with a copy of each such application upon preparation and submission thereof, and of each such authorization upon receipt.

3. This Consent Decree is not, nor shall it act as, nor is it intended by the parties to be, a permit issued pursuant to any federal or state statute or regulation.

C. Contractors and Subcontractors

1. General Switch shall provide a copy of this Consent Decree to each contractor and subcontractor retained to perform the Work required by this Consent Decree and shall condition all



contracts and subcontracts entered into for the performance of such Work upon compliance with all relevant terms and conditions of this Consent Decree and all applicable laws and regulations.

D. National Contingency Plan

General Switch shall design, implement, and complete the Work and Requirements of this Consent Decree in accordance with the NCP, 40 C.F.R. Part 300, and any amendments thereto, and in accordance with all standards, specifications, and schedules of completion set forth in or approved by EPA pursuant to Sections VI-X. The parties believe that if the Work is performed in accordance with the Work Plan approved by EPA, the Work will not be inconsistent with the NCP.

E. Disposal of Hazardous Substances

General Switch shall designate in the Work Plan any facilities it proposes to use for off-site transfer, storage, treatment, or disposal of hazardous substances. General Switch shall conduct all such transfer, storage, treatment and disposal activities in conformance with the NCP and any amendments thereto, "Revised Procedures for Planning and Implementing Off-Site Response Actions" (U.S. EPA Office of Solid Waste and Emergency Response, OSWER Dir. No. 9834.11, November 13, 1987), Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), the applicable requirements of RCRA, 42 U.S.C. § 6901, et seq., and TSCA, 15 U.S.C. § 2601 et seq., and their implementing regulations, as well as other applicable laws.

F. Advance Notice of Field Activities

General Switch shall give EPA fourteen (14) days advance notice of field activities to be performed pursuant to this Consent Decree, except where expressly stated otherwise.

G. Time Periods

All time periods referred to in this Decree shall be construed as calendar days, rather than business days, except where expressly stated otherwise.

VI. SUMMARY OF WORK TO BE PERFORMED

A. As described in greater detail in Sections VII-X, General Switch shall finance and perform the Work at the Site. The Work shall include, without limitation, the following elements:

1. Soil Excavation and Treatment

a. Excavation of soils on the General Switch property at locations containing greater than 50 parts per million ("ppm") of PCE (the "Hot Spots") to the extent approved by EPA in accordance with Section VIII.A.1. hereof;

b. Treatment by aeration of the excavated soil until PCE is reduced to 95 - 99.99% of its initial concentration;

c. Operation of the system used for aeration (the "Soil Remedy") in accordance with all laws and regulations applicable to air emissions;

d. Disposition of the treated excavated soil on the General Switch property;



2. Groundwater Restoration

a. Restoration of the aquifer underlying the Site to a stabilized concentration of less than 5 parts per billion ("ppb") of PCE by pumping groundwater from an Interceptor Well(s) at its/their Optimal Pumping Rate;

b. Treatment, utilizing an air stripper with an initial efficiency of 99.9% or greater (the "Groundwater Treatment System"), of the groundwater pumped from the Interceptor Well(s) until the treated water (the "effluent") contains less than 5 ppb of PCE;

c. Operation of the groundwater pumping and treatment system (the "Groundwater Remedy") in accordance with all laws and regulations applicable to air emissions;

d. Discharge of the effluent from the air stripper into the aquifer via one or more of the holes created by the soil excavations;

e. Operation of the the Groundwater Remedy until the influent into the Groundwater Treatment System (the "influent"), as a measure of the quality of the aquifer, meets the Requirements set forth in Section X.F.; and

3. Alternative Water Supply

a. Investigation, in accordance with a plan subject to EPA approval, of all wells which 1) are or may be affected by releases of PCE at or from the Site, and 2) have not been connected to any municipal water supply during or after the Removal Action, (the "Wells"), to determine the levels of PCE in the well water;

b. Connection to an alternative water supply of all Wells with well water containing 5 ppb or more of PCE, if the current property owner agrees to be connected. In addition, with respect to any properties where the property owner refuses to be connected, until such time as this Consent Decree is terminated in accordance with Section XXXIV herein, General Switch shall connect any future owner(s) of such property with an alternative water supply upon the request of such owner(s);

B. General Switch shall finance and perform the Work in accordance with the Requirements of this Consent Decree, including, without limitation, all tasks set forth in Sections VI-X and all terms, conditions, schedules and requirements set forth therein or all terms, conditions, schedules and requirements set forth therein or developed thereunder.

C. All Work to be performed by General Switch pursuant to this Consent Decree shall be under the direction and supervision of a qualified professional engineer or certified geologist. At least fourteen (14) days prior to the initiation of any Work at the Site, General Switch shall notify EPA, in writing, of the name, title, and qualifications of any such engineer or geologist proposed to be used in carrying out the Work to be performed pursuant to this Consent Decree. EPA shall have the right to disapprove the use of any such engineer or geologist.

D. All documents required to be submitted pursuant to



Sections VI-X, as approved by EPA or revised pursuant to Section XV, shall collectively constitute the Work Plan, pursuant to which all Work shall be implemented. General Switch shall proceed to implement each portion and any subportion of the Work Plan if and when the Work Plan and/or any portion or subportion thereof is approved.

E. Each document, or portion thereof, required to be submitted pursuant to Sections VI-X, once approved or revised by EPA, shall be deemed incorporated into and made an enforceable part of this Consent Decree.

#### VII. PUMP TEST

A. Within fourteen (14) days of the effective date of this Consent Decree, General Switch shall submit to EPA for review and approval a plan for performance of a pump test (the "Pump Test") on the Parella Well. General Switch shall include in the Plan for performance of the Pump Test a proposed schedule for the activities comprising the Pump Test. The Pump Test shall be performed for the purpose of demonstrating that the Parella Well is satisfactory for interception (through pumping/capture) of the contaminant plume underlying or near the Site. The Pump Test shall be designed to provide the following information:

1. The Parella Well's Optimal Pumping Rate;
  2. Measures necessary to maintain the Optimal Pumping Rate;
- and

3. Definition of the Parella Well's cone of influence and its hydrologic connection to other wells.

---

B. If General Switch proposes to submit results of earlier pump tests it or its contractors have already performed as a basis for the information required by EPA pursuant to this Section, General Switch shall submit a proposal, for EPA review and approval, for performance of additional pump tests to confirm the earlier findings.

C. EPA will either approve the plan for performance of the Pump Test, or will require or make modifications to it, in accordance with the procedures set forth in Section XV.

D. The approved plan for performance of the Pump Test, and any approved portion thereof, shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

E. Within twenty-one (21) days of General Switch's receipt of EPA approval of the plan for performance of the Pump Test, or any portion thereof, General Switch shall initiate performance of such Pump Test or portion thereof in accordance with the EPA-approved plan. General Switch shall implement and complete performance of the Pump Test in accordance with the Requirements and schedules in the plan.

F. Within twenty-one (21) days of completion of the Pump Test, General Switch shall submit a Pump Test Report to EPA for review and approval. The Pump Test Report shall include, without



limitation, the following:

1. ~~the results of the Pump Test and any other appropriate~~ information relating to use of the Parella Well as the interceptor well; and

2. an identification of the present ownership of the Parella Well and provisions made by General Switch to secure use of the Well and any nearby land necessary for the operation of the Groundwater Remedy until such time as EPA determines, in accordance with Section X.F.3., that groundwater treatment may terminate.

G. EPA will either approve the Pump Test Report, or will require or make modifications to it, in accordance with the procedures set forth in Section XV.

H. The approved Pump Test Report shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

I. If on the basis of the Pump Test Report EPA determines that the Parella Well will not satisfactorily serve as an interceptor well, General Switch shall, within 60 days of receipt of notification of such determination, submit to EPA for review and approval a plan for development and/or use of alternative interceptor well(s). EPA will review that Plan and General Switch shall proceed as further directed by EPA.

VIII. SAMPLING, ANALYSIS AND MONITORING PLAN AND INVESTIGATION

Within twenty-eight (28) days of the effective date of this Consent Decree, General Switch shall submit to EPA for review and approval a Sampling, Analysis and Monitoring Plan ("SAMP"). The SAMP shall include, without limitation:

A. Maps depicting locations for sampling, and plans for sampling and investigation, as set forth below:

1. Contaminated Soils

a. Identification. Figures 9-13 of the Shakti Report generally illustrate the location and the vertical and horizontal extent of contamination in the Hot Spots on General Switch's property. The SAMP shall include a plan for supplementing the information contained in the Shakti Report so as to more accurately define the locations of the Hot Spots and vertical and horizontal extent of contamination at all of the Hot Spots.

b. Extent of excavation. The SAMP shall include a plan specifying the vertical and horizontal extent of soil to be excavated at all Hot Spots on General Switch's property. General Switch shall (i) excavate to at least four (4) feet at all three Hot Spots, and (ii) excavate to at least seven (7) feet at the loading dock area unless EPA determines that excavation to four (4) feet combined with flushing will be an adequate alternative.

c. The SAMP shall include a plan for sampling and analysis of the soils which have been excavated pursuant to this Consent Decree, before and after treatment, to demonstrate to

Not to  
define  
Hot Spots  
see p. 11



EPA's satisfaction that PCE levels in the excavated soil have been reduced through treatment to 95-99.99% of the initial concentration. The plan shall include, without limitation, proposals as to the number of samples to be taken, the methods of sampling and analyses and the schedule for performance of such sampling and analysis. If General Switch proposes, for EPA approval, use of a GC with a photoionization detector for on-site soils analysis for PCE, the soil sampling plan shall also provide for confirmation of at least 10% of such on-site soil analysis by a laboratory approved by EPA. The plan shall include criteria by which those samples which shall be analyzed off-site shall be selected.

2. Contaminated Groundwater

a. Wells. The SAMP shall include a plan for identifying all Wells that were not connected to the alternative water supply system during the 1983-'84 Removal Action, which are or may be affected by releases of PCE at or from the Site and which contain or which may in the future contain PCE levels of at least 5 ppb. The plan shall include, without limitation, a map depicting the location of such wells, proposals as to the area of sampling and criteria for proposing such area, numbers of samples to be taken, the methods of sampling and analysis and the schedule for performance of such sampling and analysis.

b. Groundwater

i. The SAMP shall include a plan for performance

of sampling and analysis of influent to and effluent from the Groundwater Treatment System, which plan shall include, without limitation, the following:

- a. Proposed methods for sampling at the locations approved by EPA in accordance with Sections VIII.A.2.b.ii. and iii.,
  - b. Proposed methods for analysis by an EPA-approved laboratory for PCE and all volatile organic compounds ("VOCs") on the Target Compound List ("TCL") in accordance with EPA Contract Laboratory Program protocols;
  - c. Provision for analyzing influent samples for levels of PCE;
  - d. Provision for analyzing effluent samples for PCE and all VOCs on the TCL, and for demonstrating that the Groundwater Remedy reduces PCE in the effluent to less than 5 ppb of PCE, less than 5 ppb of trichloroethylene ("TCE"), less than 5 ppb of dichloroethylene, and less than 2 ppb of vinyl chloride;
  - e. Proposed schedule for analyzing at least one sample of the influent and one sample of the effluent on at least a monthly basis;
- ii. Proposed location(s) for sampling influent.  
General Switch may propose sampling of the influent at the interceptor well head as characteristic of the water quality in the aquifer for purposes of the cleanup.
  - iii. Proposed locations for sampling effluent.  
General Switch may propose that the treated effluent from the



air stripper be used to demonstrate to EPA's satisfaction that the Groundwater Treatment System reduces concentrations of PCE in the treated water to less than 5 ppb of PCE, less than 5 ppb of TCE, less than 5 ppb of dichloroethylene, and less than 2 ppb of vinyl chloride;

3. Air Emissions. The SAMP shall also include a proposal for performance of air monitoring, which shall include a proposal for locations of sampling, the numbers of samples to be taken, the methods for sampling and analysis and the schedule for performance of such sampling and analysis. The proposed air monitoring plan shall provide a detailed method for ensuring that General Switch's operation of the Soil and Groundwater Remedies will be in compliance with applicable air emissions laws and regulations.

B. The SAMP shall also include, without limitation:

1. An over-all Site Management Plan, which shall include identification of proposed contractors and subcontractors and their respective responsibilities for performance of sampling, analysis, and monitoring and investigation activities required by this Consent Decree and the curriculum vitae of each contractor or subcontractor expected to participate in the activities required pursuant to this Consent Decree. If performance of any subsequent phase of the Work required herein requires alteration of the Site Management Plan, or if General Switch retains different contractors or subcontractors for performance of later phases of the Work,



General Switch shall submit to EPA, for review and approval, proposed amendments to the Site Management Plan, which, upon approval by EPA, shall be deemed incorporated into and made an enforceable part of this Consent Decree. EPA shall not unreasonably withhold approval to hire such contractors and subcontractors.

2. A Quality Assurance/Quality Control ("QA/QC") Plan.

The QA/QC Plan shall address sampling at the Site and analyses at both on-site and off-site laboratories and:

a. shall include provisions for completing and submitting to EPA, within two weeks of completion of each laboratory analysis of each sample, the results of each such analysis, as well as a QA/QC evaluation of the laboratory data and sampling and analytical procedures used for each sample obtained;

b. shall be completed in accordance with Section 10 of the publication "Test Methods for Evaluating Solid Wastes (SW-846)" (July, 1982, or as updated), and the guidance entitled "Guidance for Preparation of Combined Work/Quality Assurance Project Plans for Environmental Monitoring" (USEPA, Office of Water Regulations and Standards, May, 1984) which publication updates shall be provided by EPA throughout the project;

c. shall provide for the use of QA/QC procedures in accordance with the QA/QC plans submitted by General Switch and as approved by EPA pursuant to this Consent Decree, and shall utilize standard EPA Chain of Custody procedures, as set forth in the National Enforcement Investigations Center Policies and Procedures Manual, as



revised in November, 1984, the National Enforcement Investigations Center Manual for the Evidence Audit, published in September, 1981, and Section 1.3 of SW-846, for all sample collection and analysis activities. In order to provide quality assurance and maintain quality control regarding all samples collected pursuant to this Consent Decree, General Switch shall:

i. require that all contracts with all laboratories utilized by General Switch for analysis of samples taken pursuant to this Consent Decree provide for access to such laboratories and laboratory data related to the Site by EPA personnel and its authorized representatives and contractors;

ii. require that all laboratories utilized by General Switch for analysis of samples taken pursuant to this Consent Decree perform all analyses according to accepted EPA methods, or methods approved in writing by EPA. Accepted EPA methods consist of those methods which are documented in the "Contract Lab Program Statement of Work for Inorganic Analysis" and the "Contract Lab Program Statement of Work for Organic Analysis," dated July, 1985, and any amendments made thereto during the course of this Consent Decree.

iii. require that all laboratories utilized by General Switch for analysis of samples taken pursuant to this Consent Decree participate in an EPA or EPA equivalent QA/QC program.

iv. if performance of any subsequent phase of the

Work required herein requires alteration of the QA/QC Plan, General Switch shall submit to EPA, for review and approval, proposed amendments to the QA/QC Plan. Upon approval by EPA, any such amendments shall be deemed incorporated into and made an enforceable part of this Consent Decree.

3. a Health and Safety Plan, which shall satisfy the requirements of 29 CFR §1910.120 and EPA's Standard Operating Safety Guides (OSWER, 1988). If performance of any subsequent phase of the Work required herein requires alteration of the Health and Safety Plan, General Switch shall submit to EPA, for review and approval, proposed amendments to the Health and Safety Plan. EPA shall not unreasonably withhold approval of these amendments. Upon approval by EPA any such amendments shall be deemed incorporated into and made an enforceable part of this Consent Decree.

C. EPA will either approve the SAMP, or will require or make modifications to it, in accordance with the procedures set forth in Section XV.

D. The approved SAMP, and any approved portion thereof, shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

E. Within twenty-one (21) days of General Switch's receipt of EPA approval of the SAMP or any portion thereof, General Switch shall initiate the sampling, analysis and monitoring and investigatory activities that have been approved by EPA. General Switch shall implement these activities in accordance with the



IX. REMEDIAL DESIGN

schedule and procedures set forth in the approved SAMP or any approved portion thereof.

A. Within one hundred and twenty (120) days of the effective date of this Consent Decree, and according to the schedule set forth below, General Switch shall submit to EPA for review and approval a detailed Remedial Design Plan (hereinafter, "RD Plan") for:

1. Excavation of Contaminated Soils. The RD Plan shall include a design plan for excavation of the soil "Hot Spots", in accordance with Sections VIII.A.1. and VI.A.1.a., and maintenance of the holes created by the excavation.

a. This portion of the RD Plan shall include:

i. A plan for construction and/or installation of the excavating mechanism;

ii. A plan for placement and/or storage of the treated soils on-site until disposal of such soil occurs. Such placement must meet all applicable laws and regulations;

iii. A plan for maintaining the area(s) created by excavation in a manner that is suitable for receipt of treated water to recharge the aquifer and flush the contaminated soils beneath the excavation area(s);

iv. A schedule for excavating the Hot Spots and maintaining the area(s) created by the excavation;

b. The approved plan for excavation and maintenance

of the holes created by the excavation, and any approved portion thereof, shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

c. Within twenty-one (21) days of General Switch's receipt of EPA approval of the plan for excavation and maintenance of the holes created by the excavation, or any portion thereof, General Switch shall initiate excavation activities in accordance with the EPA-approved plan. General Switch shall implement and complete excavation, and shall maintain the holes created by excavation, in accordance with the EPA-approved plan.

2. Treatment of the Excavated Soils. The RD Plan shall include a plan for treatment of the soils excavated and deposited on-site in accordance with Section IX.A.1., above. The portion of the RD Plan describing treatment and disposal of the excavated soils shall include:

a. A plan for construction and/or installation of the aeration mechanism. General Switch may propose, for EPA approval, use of a rototiller as the soil aeration mechanism, provided that the rototiller instrument reduces concentrations of PCE in the soils to 95 - 99.99% of their initial concentration and satisfies any applicable air emission standards.

b. A plan for disposition of the treated excavated soils. General Switch may propose, for EPA approval, a disposal plan which consists of replacement of the treated excavated soils into the excavation areas.



3. Connection of Wells to Alternative Water Supply. The RD Plan shall include a plan and schedule for connection to an alternative water supply of all Wells identified in accordance with Sections VI.A.3. and VIII.A.2.a.

4. Treatment of Contaminated Groundwater.

a. The RD Plan shall include a plan for construction and/or installation of a Groundwater Treatment System at or in the vicinity of the interceptor well(s). General Switch shall propose, for EPA approval, use of an air stripper with an initial efficiency of 99.9% or greater, which will achieve reduction of PCE and other volatiles in the treated water to the levels set forth in Section VIII.A.2.b.i.d. General Switch may construct and utilize a "merry go round" stripper, provided that (i) use of such a stripper does not impede pumping at the interceptor well's Optimal Pumping Rate, and, (ii) use of such a stripper is consistent with all Requirements of the operation of the Groundwater Remedy set forth in Sections VI-X. The plan for construction of the air stripper shall also include provisions for ensuring that air emissions meet all applicable laws and regulations, including 6 NYCRR Series 200.

b. The RD Plan shall include a plan for construction of pumping equipment and transmission pipes. "Transmission pipes" shall refer to the conduit(s) for conveying the influent to the Groundwater Treatment System

and for conveying the effluent to the recharge area(s).

This plan shall include a description of the location of the conduits and the materials with which they are to be constructed.

c. The RD Plan shall include a plan for construction of mechanisms for flushing with treated water the contaminated soils beneath the holes created by excavation. This plan shall include a description of the location of the mechanisms for flushing the deeper soils and the materials with which the flushing mechanisms are to be constructed.

5. Dismantling of Equipment Installed for Operation of Soil and Groundwater Remedy. The RD Plan shall include a plan for dismantling of the Groundwater Remedy (including the air stripper, pumping equipment, transmission pipes and recharge mechanisms) and the Soil Remedy (including any structures constructed for purposes of receiving the recharge water) and disposal thereof in accordance with all applicable laws and regulations;

6. Operation and Maintenance.

The RD Plan shall include a Preliminary Operation and Maintenance Plan ("Preliminary O & M Plan") which shall describe how the equipment necessary for the Soil and Groundwater Remedies shall be operated and maintained in order to ensure that the treatment systems are operating at their levels of peak efficiency. As provided in Section X.C., General



Switch shall revise the Preliminary O&M Plan after submission to EPA of laboratory data obtained during the Initial Testing Program conducted in accordance with Section X.B.

B. The RD Plan shall also include proposed time schedules for design, construction and/or installation of each of the tasks planned pursuant to Section IX.A.

C. EPA will either approve the RD Plan, or will require or make modifications to it, in accordance with the procedures set forth in Section XV.

D. The approved RD Plan and any approved portion thereof shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

E. Designs and Specifications.

1. Within twenty-one days (21) of General Switch's receipt of EPA approval of the RD Plan, or any portion thereof, General Switch shall submit to EPA Design Plans and Specifications detailing implementation of the Remedial Action or any approved portion thereof and shall include (i) engineering drawings of the soil and groundwater treatment systems and the alternative water supply connections, and (ii) construction cost estimates.

2. EPA will either approve the Design Plans and Specifications or will require or make modifications to them, in accordance with the procedures set forth in Section XV.

3. The approved Design Plans and Specifications, and any approved portion thereof, shall, upon approval by EPA, be

deemed incorporated into and made an enforceable part of this Consent Decree.

F. RD Report.

1. Within forty-two (42) days of General Switch's receipt of approval by EPA of the Design Plans and Specifications, General Switch shall submit a Remedial Design Report ("RD Report") to EPA for review and approval by EPA. The RD Report shall consist of the approved RD Plan, with time schedules; the approved Design Plans and Specifications; the final construction cost estimate; the approved Preliminary O & M Plan; and the proposed amendments to the final QA/QC Plan, Site Health and Safety Plan, and Site Management Plan.

2. EPA will either approve the RD Report, or will require or make modifications to it, in accordance with the procedures set forth in Section XV.

3. The approved RD Report shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

X. REMEDIAL ACTION

A. Construction. Within twenty-eight days (28) of General Switch's receipt of EPA's approval of the RD Report, or any portion thereof, General Switch shall commence construction and/or installation or connection of the approved portion(s) of the remedy in accordance therewith. General Switch shall complete such construction and/or installation or connection in accordance with



the relevant portion of the RD Report and the schedules contained within such relevant portion.

B. Initial Testing Program

1. Within twenty-one (21) days following completion of construction of the Soil and Groundwater Remedies, General Switch shall submit to EPA for review and approval a draft program, including time schedules, for initial testing of the Soil and Groundwater Remedies (the "Initial Testing Program") to determine their conformance with the RD Report. Testing of the treatment systems shall be performed to determine conformance with the Requirements of Sections VI-X regarding (a) reducing VOC concentrations in the soils and treated groundwater and (b) compliance with applicable air emission standards.

2. EPA will either approve the Initial Testing Program, or will require or make modifications to it, in accordance with the procedures set forth in Section XV.

3. The approved Initial Testing Program, or any portion thereof, shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

4. Within fourteen (14) days of General Switch's receipt of EPA's approval of the Initial Testing Program, General Switch shall commence implementation of the approved Program.

5. Within twenty-one (21) days following conclusion of the Initial Testing Program, General Switch shall submit to EPA for review and approval an Initial Testing Program Report ("ITP



of EPA approval of the ITP Report, General Switch shall revise the Preliminary O&M Plan in order to incorporate the results of the Initial Testing Program and any other relevant information and submit the revised plan to EPA. The revised Preliminary O&M Plan shall constitute the O&M Plan.

2. EPA will either approve the O&M Plan, or will require or make modifications to it, in accordance with Section XV.

3. The approved O&M Plan or any approved portion thereof, shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

D. Final Inspection. Within fourteen (14) days following approval by EPA of the O & M Plan, General Switch and its contractor, engineer or geologist shall be available for a Final Inspection in conjunction with EPA and/or its designated representatives and contractors. The Final Inspection shall include a walk-through of the entire project to determine project completeness and consistency with the RD Report and EPA-approved O&M Plan. During the Final Inspection, all equipment shall be operationally tested.

E. Start-Up and Operation

1. Following the Final Inspection, EPA shall determine whether the Soil and Groundwater Remedies meet the treatment and operational requirements set forth in Sections VI-X of this Consent Decree. If the Soil and Groundwater Remedies meet the Requirements of this Consent Decree, then EPA will give Start-Up approval. If they do not, General Switch shall modify the Remedies



Report"). The ITP Report shall include, without limitation: (a) the results of the Initial Testing Program laboratory data; (b) all QA/QC documentation and (c) the certification of a professional engineer that the Soil and Groundwater Remedies and connection to the alternative water supply conform to the RD Report. Such certification shall include, without limitation, a certification that the Remedies achieve the requirements set forth in Sections VI-X for (a) reduction of VOCs in soils and treated groundwater and (b) compliance with applicable air emission standards.

6. EPA will either approve the ITP Report, or will require or make modifications to it, in accordance with Section XV.

7. The approved ITP Report or any approved portion thereof, shall, upon approval by EPA, be deemed incorporated into and made an enforceable part of this Consent Decree.

8. If the Soil and Groundwater Remedies and connection to alternative water supply, when implemented, do not achieve the Requirements contained in the Work Plan, including the RD Report, and this Consent Decree, the ITP Report submitted by General Switch shall include all testing results and QA/QC documentation, accompanied by a detailed analysis of nonconforming elements, and a proposal and schedule for bringing those elements into conformance. EPA will review these submissions and General Switch shall proceed as further directed by EPA.

C. O&M Plan

1. Within fourteen (14) days of General Switch's receipt



as directed by EPA. Within fourteen (14) days of receipt of Start-up Approval, General Switch shall (a) commence treatment and on-site disposal of the soils required to be excavated and treated pursuant to Sections VI and VIII.A.I. of this Consent Decree and (b) commence pumping and treatment of groundwater from the Interceptor Well(s).

2. General Switch shall operate and maintain the equipment necessary to implement the Requirements contained in this Consent Decree and the approved RD Report in accordance with the approved O & M Plan.

3. General Switch shall continue sampling of excavated and treated soils and operation of the Soil Remedy until all soils required to be excavated pursuant to Sections VI and VIII.A.1. have been excavated, treated, and disposed of in conformance with this Consent Decree.

4. General Switch shall treat the pumped groundwater by air stripping until the effluent contains less than 5 ppb of PCE, less than 5 ppb of TCE, less than 5 ppb of dichloroethylene and less than 2 ppb of vinyl chloride before reinjection into the aquifer via the hole(s) created by the excavation of the soils.

F. Cessation of Groundwater Treatment.

General Switch shall continue to operate the Groundwater Remedy and to sample, analyze and monitor pursuant to the EPA-approved SAMP, until authorized by EPA in writing to cease such activities upon satisfaction of the provisions below. General



Switch may request such authorization after demonstrating to EPA that the following provisions have been satisfied:

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1. Upon EPA's receipt of results from 3 or more consecutive monthly groundwater influent sampling events demonstrating that the aquifer contains less than 5 ppb of PCE, General Switch may request, and EPA may authorize, temporary cessation of operation of the Groundwater Remedy;

2. General Switch shall then sample and analyze one influent sample from the Interceptor Well for at least eight consecutive quarters on at least a quarterly basis during such cessation of pumping. Such samples shall be analyzed by a laboratory approved by EPA. If during such monitoring the analysis measures a level of 5 ppb or more of PCE, General Switch shall recommence operation of the Groundwater Remedy until receipt of three (3) consecutive monthly groundwater influent samples indicate that the aquifer contains less than 5 ppb of PCE, at which time pumping shall again temporarily cease, but shall be subject to the provisions for sampling, analysis, and recommencement in this subsection.

3. If monitoring during such a temporary cessation indicates that the aquifer remains at a level of less than 5 ppb of PCE for eight (8) consecutive quarters without pumping and treating operations, General Switch may terminate groundwater pumping and treating. Thereafter, General Switch may petition EPA for issuance of Certification of Completion of the Work in accordance with the procedures set forth in Section XXXIV, provided that General Switch has completed the other portions of the Work.

G. In the event that any of the treatment standards and other cleanup standards established in or pursuant to this Consent Decree, including those referred to in Section VI.A., are not met, General Switch shall remain required under this Decree to: submit proposed plans and schedules to EPA, upon request, for modifying the Remedies or performing such additional work as is needed to meet the relevant standards; amend those proposals in accordance with Section XV herein; and implement the additional necessary Work approved or directed by EPA. Failure of the Work, as approved by EPA, to achieve the Requirements established in or pursuant to this Consent Decree shall not constitute a violation of this Consent Decree so long as General Switch complies with the preceding sentence.

#### XI. PROJECT COORDINATORS

A. Within ten (10) days of the effective date of this Consent Decree, EPA and General Switch shall each designate Project



Coordinators to monitor the progress of the Work and to facilitate communication between the parties. The EPA Project Coordinator shall have the authority vested in the On-Scene Coordinator by the NCP as well as the authority to ensure that the Work is performed in accordance with all applicable statutes, regulations, and requirements of this Consent Decree. The EPA Project Coordinator shall also have the authority to require a cessation of Work or any other activity at the Site that, in the opinion of the EPA Project Coordinator, may present or contribute to an endangerment to public health, welfare, or the environment or cause or threaten to cause the release of hazardous substances from the Site. In the event that the EPA Project Coordinator suspends the Work or any other activity at the Site, EPA may extend the compliance schedule of this Consent Decree as appropriate for a period of time equal to the time of the suspension of Work or other activities. EPA shall notify General Switch, in writing, of any such suspension or extension.

B. The EPA Project Coordinator may assign other representatives, including other EPA employees or contractors, to serve as Site representatives for oversight of performance of operations during remedial activities.

C. The parties shall have the right to change their respective Project Coordinators by notifying the other party in writing at least seven calendar days prior to the change. General Switch's selection of a Project Coordinator shall be subject to EPA approval, which approval shall not be unreasonably withheld.



Until further notice, General Switch's Project Coordinator is John Bee.

D. General Switch's Project Coordinator may assign John Burger or other representatives, including other contractors, to serve as Site representatives for oversight of performance of daily operations during remedial activities.

## XII. ACCESS, SAMPLING, DOCUMENT AVAILABILITY

A. During the effective period of this Consent Decree, the United States, EPA and their representatives, including contractors, shall have access at all times to the Site and any other property to which access is required for the implementation of this Consent Decree, to the extent access to the property is controlled by or available to General Switch. Such access shall be for the purposes of conducting any activity authorized by this Consent Decree, including but not limited to:

1. Monitoring the progress of the Work;
2. Verifying any data or information submitted by General Switch to EPA;
3. Conducting investigations relating to contamination at or near the Site;
4. Obtaining samples at the Site; and
5. Inspecting and copying records, operating logs, contracts, or other documents required to assess



General Switch's compliance with the Consent Decree.

B. To the extent that the Site or other areas where Work is to be performed pursuant to the Requirements of this Consent Decree are presently owned by parties other than General Switch, General Switch shall use its best efforts to obtain access agreements from the present owners within thirty (30) calendar days of entry of this Consent Decree for purposes of implementing the Requirements of this Consent Decree. Such agreements shall provide access not only for General Switch and its authorized representatives, but also for the United States, EPA and their representatives, including contractors. If General Switch, using its best efforts, fails to secure access to the Site or other areas where work is to be performed hereunder, General Switch shall immediately notify EPA and General Switch shall use its best efforts to otherwise secure the necessary access. EPA may, as it deems appropriate, assist General Switch in obtaining such access. If EPA assistance involves the expenditure of money, General Switch shall reimburse EPA in accordance with Section XX.

C. Within ten (10) days of a request by EPA, General Switch shall make available to EPA the results of all sampling and/or tests or other data generated by or on behalf of General Switch with respect to the implementation of any Requirement of this Consent Decree.

D. General Switch shall notify EPA not less than ten (10)



days in advance of any sample collection activity. At the request of EPA, General Switch shall provide split or duplicate samples to EPA or allow split or duplicate samples to be taken by EPA and its authorized representatives, including contractors, of any samples collected by General Switch pursuant to the implementation of any Requirement of this Consent Decree. In addition, EPA shall have the right to take any additional samples or direct General Switch to take any additional samples that EPA deems necessary.

E. In addition to any other Requirement specified in this Consent Decree, within fourteen (14) days of any request by EPA, General Switch shall provide to EPA any analytical, hydrogeological, scientific, chemical, engineering or design data within its possession and/or control, or that of its contractors or agents, relating to the Site.

F. Notwithstanding any other provision of this Consent Decree, EPA hereby retains all of its information gathering, access and inspection authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.

### XIII. PUBLIC INSPECTION

All data, including all monitoring, hydrogeologic, scientific, chemical or engineering data and documents, submitted by General Switch to EPA pursuant to this Consent Decree shall be available for public inspection, unless General Switch makes a satisfactory showing that the information is entitled to protection in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7).



XIV. REPORTING REQUIREMENTS

A. In addition to any other requirement of this Consent Decree, General Switch shall require its contractor to prepare and provide to EPA written monthly progress reports which: (1) describe the actions which have been taken toward achieving compliance with this Consent Decree during the previous month; (2) include all results of sampling and tests and all other data received by General Switch during the previous month; (3) describe all actions and plans which are scheduled for the next month and provide other information relating to the progress of construction as is customary in the industry; and (4) include information regarding status of completion, all delays encountered or anticipated that may affect the future schedule for completion of the Work, and a description of all efforts made to mitigate those delays or anticipated delays. These progress reports are to be submitted to EPA by the tenth day of every month following the effective date of this Consent Decree.

B. If the date for submission of any item or notification required by this Consent Decree falls upon a weekend or state or federal holiday, the time period for submission of that item or notification is extended to the next working day following the weekend or holiday.

C. Upon the occurrence of any event during performance of the Work which, pursuant to Section 103 of CERCLA, 42 U.S.C. §9603, requires General Switch to report to the National Response



Center, in addition to performing the reporting required by Section 103, General Switch shall, within 24 hours, orally notify the EPA Project Coordinator, or, in the event of the unavailability of the EPA Project Coordinator, the Response and Prevention Branch, Region II, United States Environmental Protection Agency. Within twenty (20) days of the onset of such an event, General Switch shall furnish to EPA a written report setting forth the events which occurred and the measures taken or to be taken in response thereto.

D. Once each year, until such time as the work required under the Consent Decree is terminated, within fifteen (15) days of the anniversary of the date of entry of this Consent Decree, General Switch shall submit to the United States and EPA for approval an annual report describing the progress of the Work and other activities required by this Consent Decree and the status of General Switch's compliance with this Consent Decree.

E. All reports and other documents submitted by General Switch to EPA (other than the monthly progress reports) which purport to document General Switch's compliance with the terms of this Consent Decree shall be signed by a responsible corporate officer of General Switch.

F. Three copies of all technical documents to be submitted by General Switch shall be sent to Michael O'Toole, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, NY, 12233.



XV. PLANS, REPORTS AND ITEMS REQUIRING AGENCY APPROVAL

A. If EPA disapproves all or part of any plan (other than a progress report covered by Section XIV), or other item required to be submitted to EPA for approval pursuant to this Consent Decree, General Switch shall have fourteen (14) days from the receipt of notice of such disapproval to correct any deficiencies and resubmit the plan, report or item for approval. Any notice of disapproval shall include an explanation of why the plan, report or item is being disapproved. General Switch must address each of the comments and resubmit the previously disapproved plan, report or item with the required changes within the deadline set forth above. Notwithstanding any notice of disapproval, General Switch shall proceed to take any action required by any approved portion or subportion of the plan, report or item. At such time as EPA determines that a given plan, report or item is acceptable, EPA will transmit to General Switch a written statement to that effect.

B. If any plan, report or item cannot be approved by EPA after resubmission, General Switch shall be deemed to be out of compliance with this Consent Decree. In the event that a resubmitted plan or portion thereof is disapproved, EPA retains the right to amend or develop the plan or portion thereof. Subject only to its right to invoke the dispute resolution procedures of Section XIX, General Switch shall implement any such plan as amended or developed by EPA.

XVI. RETENTION OF RECORDS

A. General Switch shall preserve and retain all records and documents now in its possession or control or which may come into its possession or control that relate in any manner to the Site, regardless of any corporate document retention policy to the contrary, for six (6) years after Certification of Completion of the Work.

B. Until termination of this Consent Decree, General Switch shall preserve, and shall instruct its contractors and subcontractors, and any other entity or person acting on General Switch's behalf at the Site to preserve (in the form of originals or exact copies, or upon EPA approval, microfiche of all originals) all records, documents, and information of whatever kind, nature, or description relating to the performance of the Work at the Site. Upon termination of this Consent Decree, General Switch shall deliver copies of all such records, documents, and information to the EPA Project Coordinator.

XVII. RESPONSE AUTHORITY

Nothing in this Consent Decree shall be deemed to limit the response authority of EPA under Section 104 of CERCLA, 42 U.S.C. § 9604, and the United States retains all authority and reserves all rights to take any and all response actions authorized by law. Nothing in this Consent Decree shall be deemed to limit the United States' enforcement authority under Section 106 of CERCLA,



42 U.S.C § 9606, or any other federal enforcement authority, except as specifically provided in Section XXII.

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XVIII. FORCE MAJEURE

A. Except as otherwise provided in this Consent Decree, General Switch's obligations to comply with the Requirements of this Consent Decree may be excused only to the extent and for the duration that such failure to comply is caused by a "Force Majeure" event.

B. "Force Majeure" for purposes of this Consent Decree is defined as any event arising from causes beyond the control of General Switch and of any entity controlled by General Switch, including its contractors and subcontractors, which delays or prevents the performance of any obligation under this Consent Decree. Force Majeure shall not include increased costs or expenses or nonattainment of the goals and standards set forth in this Consent Decree, including, without limitation, the Work Plan.

C. If circumstances occur which may delay the completion of any phase of the Work, or delay access to the Site or to any property on which any part of the Work is to be performed, whether or not caused by a Force Majeure event, General Switch shall, when it knows of such circumstances, immediately notify the EPA Project Coordinator by telephone, or in the event of his or her unavailability, the Director of the Emergency and Remedial Response Division of EPA, Region II. Within five (5)



business days of the date General Switch becomes aware of the event which it contends is responsible for the delay, General Switch shall supply to EPA in writing the reason(s) for and anticipated duration of such delay, General Switch's rationale for interpreting such circumstances as being beyond its control (should that be General Switch's claim), the measures taken and to be taken by General Switch to prevent or minimize the delay, and the timetable for implementation of such measures. Such notice shall be accompanied by all available pertinent documentation other than documents subject to the attorney/client privilege, including but not limited to third party correspondence. Should General Switch withhold any pertinent documentation on the grounds that it is privileged, an itemization of such documents shall be provided to EPA. Failure to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of any claim of Force Majeure. General Switch shall be deemed to have notice of any circumstance of which its contractor(s) or subcontractor(s) have notice.

D. If General Switch claims and EPA agrees that a delay is or was attributable to Force Majeure, the parties, in accordance with Section XXX, shall modify or seek modification of this Consent Decree, or affected plans or schedules incorporated in this Consent Decree, to provide such additional time as may be necessary to allow the completion of the specific phase of the Work and/or any succeeding phase(s) of the Work affected by such delay. Such



additional time shall not exceed the duration of the delay caused by Force Majeure.

E. If EPA does not agree that the reason for the delay was Force Majeure, or that the duration of the delay is or was warranted under the circumstances, General Switch shall have the burden of proving (1) that the delay is or was caused by a Force Majeure event and (2) that the amount of additional time requested is necessary to compensate for such event.

#### XIX. DISPUTE RESOLUTION

A. Any dispute between the parties arising under this Consent Decree shall be subject to the procedures set forth in this Section, which shall be the exclusive mechanism to resolve disputes arising under this Consent Decree. If General Switch does not invoke these dispute resolution procedures with regard to any written notice or demand from EPA within thirty (30) days of receipt of such notice or demand, General Switch waives its rights to invoke the dispute resolution procedures set forth in this Section with respect to the subject of such notice or demand.

B. All disputes shall in the first instance be the subject of informal negotiations between the parties to the dispute. Any dispute arising between the parties' Site representatives or their contractors which cannot be resolved shall be referred to the EPA Project Coordinator. The informal negotiation period shall not exceed thirty (30) days from the time written notice of

the existence of the dispute is given to EPA in accordance with Section XXVIII. The 30-day period for informal negotiations may be extended by written agreement between the parties.

C. In the event that the parties cannot resolve a dispute by informal negotiations under the preceding paragraph, EPA's position shall be considered binding unless, within ten (10) business days after the end of the informal negotiations period, General Switch files a petition with this Court setting forth the matter in dispute, the prior attempts of the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to ensure orderly implementation of this Consent Decree. EPA shall have ten (10) business days after service upon the Government of such a petition to file responsive papers. Any party may present a disputed matter to the Court before the end of the thirty-day period if the matter requires early resolution.

D. The filing of a petition asking the Court to resolve a dispute shall not extend, postpone or affect in any way any obligation of General Switch under this Consent Decree, except that payment of stipulated penalties with respect to the disputed matter shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Decree. In the event that General Switch does not prevail on the disputed issue, EPA may assess stipulated penalties



from the first day of non-compliance with any applicable provision of this Consent Decree, and if such penalties are assessed,

General Switch shall pay them as provided in Section XXI hereof.

E. In Court proceedings concerning any dispute relating to the selection, technique, cost effectiveness or adequacy of any aspect of the Work and concerning any other dispute subject to Section 113(j)(2) of CERCLA, 42 U.S.C. §9613(j)(2), the Court shall uphold EPA's decision unless General Switch can demonstrate, on the administrative record, that EPA's decision was arbitrary and capricious or otherwise not in accordance with law. In disputes other than those specified above the appropriate standard of judicial review and scope of materials to be considered by the Court shall be determined by the Court. In Court proceedings concerning any dispute, General Switch shall bear the burden of coming forward with evidence and the burden of persuasion on factual issues.

#### XX. REIMBURSEMENT

A. Any payment required of General Switch pursuant to this Consent Decree, including reimbursement of any costs incurred by the United States in assisting General Switch to obtain access, pursuant to Section XII, shall be paid to the EPA Hazardous Substances Superfund (the "Fund") by certified check(s) delivered to:

EPA-Region II  
Attention: Superfund Accounting  
P.O. Box 360188M  
Pittsburgh, PA 15251

Each such check shall be marked with a reference to the Wallkill Well Field Site, New York and to the civil action number of this matter. A copy of each such check shall be sent to the persons listed in Section XXVIII.A. below.

B. General Switch shall pay to the Fund all response costs incurred by the United States after the date of entry of this Consent Decree for the review or development of plans, reports and other items required to be submitted pursuant to this Consent Decree, any assistance to General Switch in obtaining access, and for the oversight of Work performed pursuant to this Consent Decree. The United States shall provide periodic accountings of the costs claimed, accompanied by a narrative statement. It is EPA's intent to provide such accountings on an annual basis. General Switch agrees that failure of EPA to provide such accountings on an annual basis shall not constitute a waiver by EPA of its right to reimbursement under this section for the costs incurred during such period. General Switch shall remit payments as specified in Subsection A of this Section within thirty days of the receipt by General Switch of each such EPA demand for payment.

C. On or before the thirtieth day after entry of this Consent Decree, General Switch shall pay \$55,000 to the Fund in settlement of the United States' claims for reimbursement of response costs relating to the Site incurred prior to the date of lodging of this Consent Decree.



XXI. STIPULATED PENALTIES

A. In the event that General Switch fails to meet any of the Requirements of this Consent Decree which are enumerated below, except as set forth in Section XIX.D., General Switch shall pay to the United States stipulated penalties as provided below:

B. Stipulated penalties shall accrue as follows for failure by General Switch to comply with any provision of the following sections or subsections of this Consent Decree: II., V.C.1., V.F., VI.C., VII.A. and B., X.D., XI., XII., XIV.A., D. and E., XV.A., XVIII.C., and XXVII.:

| <u>Period of Noncompliance</u> |   | <u>Penalty per violation per day</u> |
|--------------------------------|---|--------------------------------------|
| 1st through 7th day            | - | \$ 250                               |
| 8th through 14th day           | - | \$1,000                              |
| 15th through 30th day          | - | \$1,500                              |
| 31st day and beyond            | - | \$2,000                              |

C. Stipulated penalties shall accrue as follows for failure by General Switch to comply with any provision of the following sections or subsections of this Consent Decree: VII.E., F. and I., VIII., IX., X.A., B., C., E., F. and G., XIV.C., XV.B. and XX.:

| <u>Period of Noncompliance</u> |   | <u>Penalty per violation per day</u> |
|--------------------------------|---|--------------------------------------|
| 1st through 7th day            | - | \$ 500                               |
| 8th through 14th day           | - | \$2,000                              |
| 15th through 30th day          | - | \$5,000                              |
| 31st day and beyond            | - | \$8,000                              |

D. A single act or omission shall not be the basis for more than one type of stipulated penalty. However, a single act or omission may result in more than one day of stipulated penalties.

E. In the event that any violation of this Consent Decree by General Switch could be subject to the provisions of both Paragraphs B and C of this Section, the provisions of Paragraph C shall apply.

F. Such stipulated penalties shall be available to the United States in addition to any other remedies, sanctions or penalties which may be available to the United States by reason of General Switch's failure to comply with the requirements of this Consent Decree, provided that General Switch's total exposure for its first violation shall be limited to \$25,000 per day and shall be limited to \$75,000 per day for second or subsequent violations of this Consent Decree.

G. Stipulated penalties shall begin to accrue on the day that performance is due or noncompliance occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

H. All penalties due to the United States under this Section shall be due and payable within thirty (30) days of receipt by General Switch of a written demand by EPA. Interest shall accrue on amounts overdue, at a rate established by the Department of



the Treasury pursuant to 31 U.S.C. §3717, for any period of such delinquency.

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I. General Switch shall pay stipulated penalties due to the United States by certified check in accordance with Section XX.A. hereof.

J. No payments pursuant to this Section shall be tax deductible.

K. EPA will endeavor to provide General Switch with notice that General Switch is in violation of a provision of this Consent Decree for which stipulated penalties are accruing. General Switch agrees that failure of EPA to provide such notice shall not constitute a waiver by EPA of its right to collect stipulated penalties, shall not stay the accrual of stipulated penalties, shall not in any way affect General Switch's obligation to pay stipulated penalties in accordance with paragraphs A through J of this Section, and shall not relieve General Switch of its obligation to correct the noncompliance for which stipulated penalties are accruing.

## XXII. COVENANT NOT TO SUE

A. In consideration of actions which will be performed and payments which will be made by General Switch under the terms of this Consent Decree, and except as otherwise specifically provided in Paragraphs C-E of this Section, the United States covenants not to sue General Switch for Covered Matters. For purposes of this Section, "Covered Matters" includes any and all civil claims

available to the United States pursuant to Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), for: (i)

Work required under this Consent Decree; and (ii) reimbursement by General Switch of response costs incurred by the United States with respect to the Site prior to the lodging of this Consent Decree.

B. With respect to all liability for Covered Matters, the Covenant Not To Sue provided by Paragraph A of this Section shall take effect upon entry of the Consent Decree and receipt by EPA of the payment required by Section XX.C. The Covenant is conditioned upon satisfactory performance by General Switch of its obligations under this Consent Decree.

C. "Covered Matters" does not include:

1. Liability arising from hazardous substances after they are removed from the Site;
2. Damages for injury to natural resources resulting from the release of hazardous substances at the Site;
3. Claims based on a failure by General Switch to meet the requirements of this Consent Decree, including but not limited to claims for injunctive relief or claims for civil penalties pursuant to Section 122(1) of CERCLA, 42 U.S.C. § 9622(1);
4. Liability for all response costs incurred by the United States with respect to the Site after the date of lodging of this Consent Decree;



5. Any liability arising from hazardous substances other than PCE in the soil and/or groundwater at or near the Site, including, without limitation, TCE, dichloroethylene and vinyl chloride; and
6. Any liability arising from PCE-contaminated soils at the Site which are not excavated pursuant to this Consent Decree.

D. Notwithstanding any other provision in this Consent Decree, the United States reserves the right to institute proceedings in this action or to issue an order or to commence a new action seeking to compel General Switch to perform any additional response work at the Site, or at any area affected by a release or threat of release of hazardous substances at the Site, or seeking reimbursement from General Switch of response costs incurred by the United States for additional response work, if:

- a. for proceedings prior to Certification of Completion of the Work, (i) conditions at the Site, previously unknown to the United States, are discovered after the entry of this Consent Decree, or (ii) information is received after the entry of this Consent Decree, and the EPA Administrator or his delegate finds, based on these previously unknown conditions or this information together with any other relevant information, that the Work performed pursuant to

this Consent Decree is not protective of human health and the environment; or

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- b. for proceedings subsequent to Certification of Completion of the Work, (i) conditions at the Site, previously unknown to the United States, are discovered after the Certification of Completion of the Work, or (ii) information is received by EPA after the Certification of Completion of the Work, and the EPA Administrator or his delegate finds, based on these previously unknown conditions or this information together with any other relevant information, that the Work performed pursuant to this Consent Decree is not protective of human health and the environment.

E. Notwithstanding any other provision in this Consent Decree, the covenant not to sue in Paragraph A of this Section does not relieve General Switch of its obligation to meet and maintain compliance with the Requirements set forth in this Consent Decree. The United States reserves its right to take response actions at the Site in the event of a breach of the terms of this Consent Decree and to seek recovery of costs incurred after entry of the Consent Decree: (1) resulting from such a breach, (2) relating to any portion of the Work funded or performed by the United States, or (3) incurred by the United States as a result of having to take administrative action or seek judicial



assistance to remedy conditions at or adjacent to the Site.

F. Nothing in this Consent Decree shall constitute or be construed as a release or a covenant not to sue regarding any claim or cause of action against any person, firm, trust, joint venture, partnership, corporation or other entity not a signatory to this Consent Decree for any liability it may have arising out of or relating to the Site. The United States expressly reserves the right to sue any person other than General Switch in connection with the Site.

#### XXIII. NATURAL RESOURCES DAMAGES

This Consent Decree shall not be construed to affect in any way any claims of the Natural Resource Trustees against General Switch for any liability for damages to, destruction of, or loss of natural resources in connection with or arising from the Site, and nothing in this Consent Decree shall be construed as a release or covenant not to sue General Switch for any claims arising from damages to, destruction of, or loss of natural resources, or as the agreement of any Natural Resource Trustee to covenant not to sue General Switch pursuant to Section 122(j)(2) of CERCLA, 42 U.S.C. § 9622(j)(2).

#### XXIV. CONTRIBUTION PROTECTION

General Switch may seek contribution from any other person who is liable or potentially liable under Section 107(a)

of CERCLA, 42 U.S.C. § 9607(a), provided that the person has not resolved its liability to the United States in a judicially-approved settlement concerning the response action, pursuant to Section 113(f) of CERCLA, 42 U.S.C. § 9613(f). Upon entry of this Consent Decree, General Switch shall have contribution protection regarding matters addressed in this settlement against any person who has not resolved its liability to the United States pursuant to Sections 113(f) and 122(h)(4). If General Switch intends to initiate an action for contribution against any person who has not resolved its liability to the United States it shall notify EPA in writing of such intent sixty (60) days prior to filing such an action.

#### XXV. OTHER CLAIMS

A. General Switch agrees to indemnify, save and hold harmless the United States and its agencies and representatives from any and all claims or causes of action arising from acts or omissions of General Switch and/or its contractors, subcontractors, or any other person acting on its behalf in performance of the Work or its failure to perform fully or complete the Work.

B. Neither the United States nor EPA is to be construed as a party to, and neither assumes any liability for, any contract entered into by General Switch in carrying out the activities pursuant to this Consent Decree. The proper completion of the Work under this Consent Decree is solely the responsibility of



General Switch.

C. General Switch waives any claims for damages or reimbursement from the United States or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement or arrangement between General Switch and any person performing work on or with respect to the Site, including but not limited to claims on account of construction delays.

XXVI. CLAIMS AGAINST THE FUND

General Switch waives and releases any rights it may have to assert any claims against the United States or EPA pursuant to Sections 106(b)(2), 111 and/or 112 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9611, 9612, or any other provision of law, directly or indirectly, including but not limited to claims for reimbursement from the Hazardous Substance Superfund; relating to any response costs or other costs incurred by General Switch in connection with the Site prior to the lodging of this Consent Decree or in performing Work called for by this Consent Decree, or for any other claims related to or arising from the Work or this Consent Decree. Nothing in this Consent Decree shall be construed as EPA's preauthorization of a CERCLA claim against the Hazardous Substances Superfund within the meaning of Section 111 of CERCLA or 40 C.F.R. § 300.25.

XXVII. INSURANCE/FINANCIAL RESPONSIBILITY

A. Prior to commencing any Work, General Switch shall

maintain or procure for the duration of this Consent Decree, general liability and automobile insurance with limits of five million dollars, combined single limit. In addition, for the duration of this Consent Decree, General Switch shall satisfy all applicable laws and regulations regarding the provision of workmens' compensation insurance. All contractors and subcontractors acting on behalf or under the control of General Switch in connection with any Work at the Site shall have insurance protection consistent with this Section. Prior to commencement of Work under this Consent Decree, General Switch shall provide EPA with a certificate of insurance and/or a copy of the insurance policy or policies for approval. If General Switch demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering the same risks but in a lesser amount, then with respect to that contractor or subcontractor, General Switch need provide only that portion of the insurance described above which is not maintained by the contractor or subcontractor.

B. Within fourteen (14) days of entry of this Consent Decree. General Switch shall submit to EPA for review and approval an escrow agreement (the "Escrow Agreement") which establishes an escrow account (the "Escrow Account") to be used to finance the implementation of the requirements of this Consent Decree. In addition, General Switch shall identify an escrow agent (the "Escrow Agent") to administer the Escrow Account. The Escrow



Agreement shall confer upon the Escrow Agent all powers and authorities necessary to administer the Escrow Account in a manner satisfactory to EPA.

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C. EPA will either approve the Escrow Agreement or will require or make modifications to it in accordance with the procedures set forth in Section XV.

D. Within five (5) days of approval by EPA of the Escrow Agreement, General Switch shall deposit into the Escrow Account the sum of \$600,000.

E. The Escrow Account shall be established and used by General Switch and EPA solely for the purpose of satisfying the requirements of this Consent Decree, including but not limited to payment of the expenses of the Work, and for the reimbursement of oversight and other costs incurred by EPA in connection with this Consent Decree.

F. The Escrow Account shall serve as security for the completion of the Work and satisfaction of all requirements of this Consent Decree. Should General Switch fail to complete the Work or to satisfy the requirements of this Consent Decree, the balance remaining in the Escrow Account shall become the property of EPA. For purposes of this section, a determination that General Switch has failed to complete the Work or to satisfy the requirements of this Consent Decree shall be made by EPA in writing, and shall become binding within fifteen (15) days of receipt by General Switch of such written notice, unless the formal dispute resolution provisions of Section XIX.C. are invoked.

At the end of such fifteen (15) day period, (a) General Switch shall transmit to the Escrow Agent a copy of EPA's determination accompanied by a direction to transmit the remaining balance to EPA within ten (10) days, or (b) if General Switch fails to do so, EPA may transmit a copy of its determination to the Escrow Agent accompanied by a direction to transmit the remaining balance to EPA within ten (10) days. In any event, the Escrow Agreement shall provide that the Escrow Agent shall make such payment in accordance with this provision. Any payment to EPA pursuant to this Paragraph shall be credited toward the liability which General Switch has under CERCLA for payment of response costs incurred by EPA.

G. If any funds remain in the Escrow Account after EPA has issued a Certification of Completion of the Work and after reimbursement of oversight or other costs incurred by EPA, they shall be refunded to General Switch.

H. In the event of any dispute between the parties concerning the Escrow Account, unless otherwise specified herein, the provisions of Section XIX of this Consent Decree shall apply.

I. The Escrow Account shall be interest-bearing and all income from the funds in the Escrow Account shall be reinvested in and shall be considered a part of the Escrow Account. The Escrow Agreement shall provide that all taxes on income from the Escrow Account shall be paid out of the Escrow Account.



J. General Switch shall ensure that the Escrow Agent (i) provides to EPA and General Switch monthly bank or depository statements reflecting all transactions in, the identity of all payees from, and the current balance of, the Escrow Account, and (ii) provides to EPA any additional financial information with respect to the Escrow Account within ten (10) days of a request by EPA.

K. At any time during implementation of this Consent Decree, if there is evidence that the remaining balance in the Escrow Account is greater than that necessary to complete the Work and to satisfy all the requirements of this Consent Decree, General Switch may propose for EPA approval that the balance in the Escrow Account be decreased. That amount which EPA determines exceeds that necessary to complete the Work and to satisfy all the requirements of this Consent Decree shall hereinafter be referred to as the "Surplus". If EPA approves a decrease in the balance of the Escrow Account, EPA will authorize the Escrow Agent to pay over to General Switch the Surplus.

L. Within sixty (60) days of the entry of this Consent Decree and every ninety (90) days thereafter, General Switch shall submit to EPA financial reports, certified by a responsible corporate officer of General Switch, that include cash flow projections showing the level of funds that will be necessary to pay for the obligations of General Switch under this Consent Decree for the next one-hundred and eighty (180) days and the



current balance in the Escrow Account. If the balance of the Escrow Account is less than the amount projected to be needed for the next one-hundred and eighty (180) days, General Switch shall, within thirty (30) days of issuance of the financial report, deposit into the Escrow Account amounts sufficient to bring the level of the Escrow Account up to that projected amount. General Switch shall make payments to the Escrow Account when and to the extent necessary to ensure the uninterrupted performance and timely completion of the Work and all requirements of this Consent Decree. At a minimum, until EPA issues a Certification of Completion of the Work, General Switch shall at all times maintain a balance in the Escrow Account of at least (i) \$100,000 until completion of the Soil Remedy, the provision of municipal water to the Wells, the construction of the Groundwater Treatment System, and demonstration to EPA's satisfaction that the Groundwater Treatment System is working in a stable and effective manner, and (ii) \$50,000 thereafter.

M. At any time during the implementation of this Consent Decree, if EPA determines that the remaining balance in the Escrow Account is insufficient to complete the Work and to satisfy all the requirements of this Consent Decree, EPA shall so notify General Switch in writing. Any such notice shall specify the amount of additional funds to be deposited into the Escrow Account. General Switch shall have thirty (30) days from the date of receipt of such notice to deposit into the Escrow Account the



amount specified by EPA in its notice. The rights accorded to EPA in this Paragraph M are in addition to and not limited by those provided in Paragraph L.

N. No fees or expenses of the Escrow Agent shall be paid out of the Escrow Account. Such fees shall be the exclusive responsibility of General Switch.

O. Notwithstanding anything contained in this Section or in the Escrow Agreement entered into pursuant to Paragraph B of this Section, General Switch shall be responsible for compliance with this Consent Decree.

#### XXVIII. NOTICES

Whenever, under the terms of this Consent Decree, notice is required to be given, a report or other document is required to be forwarded by one party to another, service of any papers or process is necessitated by the dispute resolution provisions contained herein, or any other written communication is required, such correspondence shall, until further written notice is given by either party, be directed to the following individuals at the addresses specified below:

A. As to the Plaintiff:

- (1) Chief, New York/Caribbean Superfund Branch  
Office of Regional Counsel  
U.S. Environmental Protection  
Agency, Region II  
26 Federal Plaza, Room 437  
New York, New York 10278  
Attn: Wallkill Well Field Site Attorney

- (2) Chief, New York/Caribbean Site Compliance Branch  
U.S. Environmental Protection  
Agency, Region II  
26 Federal Plaza, Room 737  
New York, New York 10278  
Attn: Wallkill Well Field Site Project Manager
- (3) Chief, Environmental Enforcement Section  
Land & Natural Resources Division  
U.S. Department of Justice  
Benjamin Franklin Station  
P.O. Box 7611  
Washington, D.C. 20044  
Re: DOJ#90-11-3-221
- (4) Chief, Environmental Protection Unit  
Office of the United States Attorney  
Southern District of New York  
One St. Andrews Plaza  
New York, NY 10007

B. As to General Switch:

- (1) General Switch Corporation  
20 Industrial Place  
P.O. Box 640  
Middletown, New York 10940  
Attn: President
- (2) Stroock & Stroock & Lavan  
7 Hanover Square  
New York, New York 10004  
Attn: Martin S. Baker, Esq.

XXIX. PUBLIC PARTICIPATION

Final approval and entry of this Consent Decree are subject to the requirements of Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and 28 C.F.R. § 50.7.

XXX. MODIFICATION

There shall be no modification of this Consent Decree without written agreement of the parties. Any such written agreement



shall be forwarded by the United States to the Court. No material modifications to this Consent Decree shall be made without approval of the Court.

XXXI. ADMISSIBILITY OF DATA

In the event that the Court is called upon to resolve a dispute concerning implementation of this Consent Decree, General Switch waives any evidentiary objection to the admission into evidence of the results of any analyses of sampling conducted by or for it at the Site or other data gathered, generated, or evaluated pursuant to this Consent Decree, but does not waive any objections it may have as to its weight.

XXXII. CONTINUING JURISDICTION

The Court retains jurisdiction over both the subject matter of this Consent Decree and General Switch for the duration of the performance of the terms and provisions of this Consent Decree for the purposes of issuing such further orders or directions as may be necessary or appropriate to construe, implement, modify, enforce, terminate or reinstate the terms of this Consent Decree, to resolve disputes in accordance with Section XIX, or for any further relief as the interests of justice may require.

XXXIII. COMMUNITY RELATIONS

General Switch shall cooperate with EPA in providing infor-

mation concerning the Work required by this Consent Decree to the public. As requested by EPA, General Switch shall participate in the preparation of all appropriate information disseminated to the public and in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site.

XXXIV. EFFECTIVE AND TERMINATION DATES

A. This Consent Decree shall be effective upon the date of its entry by the Court.

B. When General Switch determines that it has completed the Work, it shall submit to EPA a Notice of Completion of the Work and a final report that summarizes the Work performed, any modification to the Work Plan, and the performance levels achieved. The summary shall include or reference any supporting documentation and shall include a certification statement, signed by a responsible corporate officer of General Switch, which states the following:

" I certify that the information contained in or accompanying this submission is true, accurate and complete."

" As to (the) (those) identified portion(s) of this submission for which I cannot personally verify (its) (their) truth and accuracy, I certify, as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate and complete."

"Completion of the Work" shall mean implementation of all Work required under Sections VI-X of this Consent Decree. After receipt of the Notice of Completion and a final report, EPA shall



review those documents and any other supporting documentation. EPA shall issue a Certification of Completion of the Work upon its determination that General Switch has satisfactorily completed the Work required under this Consent Decree. After submission by General Switch of a Notice of Completion and a final report, but prior to EPA's issuance of any Certification of Completion, EPA shall undertake a review of the implementation of the Work required under Sections VI-X of this Consent Decree.

C. This Consent Decree shall terminate upon General Switch's receipt of Certification of Completion of the Work, provided that all costs required to be reimbursed under Section XX have been reimbursed. Termination of this Consent Decree shall not affect the Covenant Not to Sue provided in Section XXII, the retention of records under Section XVI, the provisions relating to the reservation of rights and re-opening of this matter contained in Sections XXII.C-F, the retention of the rights of access, inspection and information-gathering contained in Section XII.F, the retention of response and enforcement authorities contained in Section XVII, or any obligation of General Switch which expressly survives the termination of this Consent Decree.

WE HEREBY CONSENT to the entry of this Consent Decree:

FOR THE UNITED STATES:

*Richard B. Stewart*

RICHARD B. STEWART  
Assistant Attorney General  
Land and Natural Resources Division  
U.S. Department of Justice

*10.27.89*

Date

BENITO ROMANO

United States Attorney for the  
Southern District of New York  
By: Gabriel W. Gorenstein  
Assistant United States Attorney

Date

*William J. Mostyński*

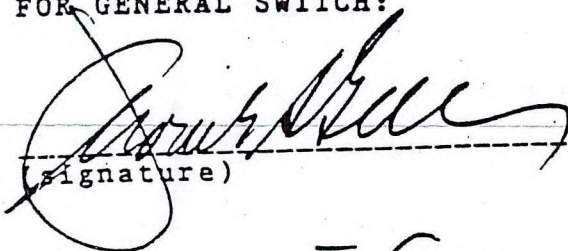
WILLIAM J. MOSTYNSKI, P.E.  
Acting Regional Administrator  
U.S. Environmental Protection Agency  
Region II

*9-26-89*

Date



FOR GENERAL SWITCH:

  
\_\_\_\_\_  
(signature)

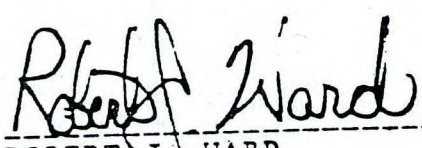
9/6/89

DATE

JEROME I. GELLMAN  
\_\_\_\_\_  
(printed name of signatory)

SECRETARY  
\_\_\_\_\_  
(title of signatory)

W DHT. U. N. E. L. J. O. K. E. J. O. K. E. J. O. K. E.  
DECEMBER 21<sup>ST</sup> 1989

  
\_\_\_\_\_  
ROBERT J. WARD  
UNITED STATES DISTRICT JUDGE

THIS DOCUMENT WAS RECORDED  
IN THE DOCKET ON \_\_\_\_\_