

New York State Department of Environmental Conservation
50 Wolf Road, Albany, New York 12233

Ed - FYI
- Boyle



Thomas C. Jorling
Commissioner

RECEIVED
MAY 22 1992
E.K. LaPOINT

B. MacDONALD
MAY 21 1992
May 13, 1992

Paul J. Lambert, Esq.
Bingham, Dana & Gould
1550 M Street, N.W.
Suite 1200
Washington, D.C. 20005

RECEIVED
MAY 18 1992

Re: GE Main Plant, Stark Oil Property (Site # 447004)

Dear Mr. Lambert:

Enclosed is a copy of the fully executed Order on Consent (Index #A4-0251-90-11) for the Interim Remedial Program at the Stark Oil Property. Acting Deputy Commissioner David L. Markell executed it on May 11, 1992.

We look forward to continuing to work cooperatively with you and the Staff at General Electric as the IRM is implemented.

Sincerely yours,

William G. Little, Esq.
Division of Environmental Enforcement

Attachment

cc., w/ attachment: A. Adamczyk
cc.: w/o attachment: W. Daigle

**STATE OF NEW YORK:
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

In the Matter of the Implementation of
an Interim Remedial Measure at an Inactive
Hazardous Waste Disposal Site by:

Order on Consent
Index #A4-0251-90-11
Site #447004

**GENERAL ELECTRIC COMPANY,
Respondent.**

WHEREAS:

1. The New York State Department of Environmental Conservation ("Department") is responsible for the enforcement of Article 27, Title 13, of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites".
2. General Electric Company, ("Respondent" or "GE"), is a corporation organized and existing under the laws of the State of New York, registered to do business in the State of New York, and transacting business at its GE Main Plant facility, ("GE Main Plant"), located at 1 River Road, Schenectady, New York.
3. The Department asserts that the GE Main Plant Site, which encompasses approximately 650 acres in size, is an inactive hazardous waste disposal site, as that term is defined at ECL 27-1301(2) and has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site Number 447004. The Department has classified the Site as a classification "2" pursuant to ECL 27-1305(4)(6), which means that the Site presents a "significant threat to the public health or environment - action required". A location map and drawing of the Site is attached and hereby incorporated into this Order a Appendix "A".
4. In March 1977, GE purchased a tract of land commonly referred to as the

Stark Oil Company Property ("Stark Oil Property") which borders on Erie Boulevard & Edison Avenue immediately adjacent to the GE Main Plant. Beginning at some unknown period of time until December 1985 the property was operated on a lease basis by the Stark Oil Company. Stark Oil Company removed storage tanks and contaminated soil from the property in 1986 under the Department's supervision.

5. The Department considers the Stark Oil Property to be included in the GE Main Plant Site, Inactive Hazardous Waste Registry Listing Number 447004.

6. Analysis of groundwater at and in the vicinity of the Stark Oil Property indicates contamination with volatile organics such as benzene, toluene, ethylbenzene, 1,2-diochloroethenes and tetrachloroethylene. The Department asserts that this contamination is due to past storage and releases of solvents and petroleum products at the property.

7. The vertical and horizontal extent of contamination at the Stark Oil Property is yet to be determined. However, the Department believes that it is necessary and proper for GE to conduct an immediate interim measure for recovery of free petroleum product at this point in time.

8. Pursuant to ECL §27-1313(3)(a), whenever the Commissioner of the Department of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the Department, at such site,

and (ii) to implement such program within reasonable time limits specified in the order".

9. GE does not admit that the Stark Oil Property is an "inactive hazardous waste site" as that term is used in Article 27, Title 13 or that there have been releases from the property of other than petroleum products. Nevertheless, and without prejudice to its right to assert in future proceedings (a) that the Stark Oil Property is not, and has not been properly listed as an inactive hazardous waste site and (b) GE is not responsible or liable for any release of hazardous wastes from the Stark Oil Property, GE is willing to perform the Approved Interim Remedial Measure Work Plan at the Stark Oil Property, attached to this Order as Appendix "B".

10. For purposes of this Order an Interim Remedial Measure is defined as a remedial measure that reduces the threat of harm to the public health and/or the environment which is taken prior to the issuance of a Record of Decision by the Department.

11. GE hereby waives its right to a hearing with respect to the performance of an Interim Remedial Measure in the manner provided by law and agrees to be bound by the terms of this Order on Consent #A4-0251-90-11.

NOW, THEREFORE, having considered this matter and being duly advised, it is ORDERED that:

I. This Order shall not be construed as imposing on or relieving GE of any duty to undertake a Remedial Investigation/Feasibility Study (RI/FS), and related activities, and an inactive hazardous waste disposal site remedial program designed to

effect a complete cleanup of the Stark Oil property or any other part of Respondent's Main Plant facility.

II. GE provided the Department with an Interim Remedial Measure Work Plan dated March 19, 1991 (attached hereto as Appendix "B"), which the Department approved. This Work Plan was superseded by an Interim Remedial Measure Pilot Study Work Plan (the "Pilot Study Work Plan") dated August 12, 1991, which the Department also approved. The objective of the Pilot Study Work Plan was to examine the overall effectiveness of utilizing a groundwater depression system to expedite separate-phase product recovery. The Pilot Study was completed on December 14, 1991. A copy of the Pilot Study Work Plan is attached hereto as Appendix "C."

III. GE has submitted to the Department a revised Interim Remedial Measure ("IRM") Work Plan (dated February 26, 1992), together with a report on the Pilot Study (chapter 3 of the IRM Work Plan), which provides for: (a) implementation of the approved IRM at the Stark Oil property pursuant to clean-up standards that are acceptable to the Department and (b) a schedule for its commencement and completion. On March 18, 1992 the Department issued a letter to GE approving the revised IRM Work Plan, with conditions. The IRM Work Plan and the Department's March 18, 1992 letter of approval, with conditions, are incorporated into and are an enforceable part of this Order and are attached hereto as Appendix "D."

IV. GE shall implement the approved IRM Work Plan in accordance with the schedule set forth therein. Within sixty days after completion, GE shall submit to the Department a final engineering report, as-built drawings, and a certification that the

interim remedial activities were conducted in accordance with the approved IRM Work Plan and the Department's March 18, 1992 letter of approval. All work will be prepared or reviewed by an engineer licensed to practice by the State of New York. The Department reserves the right to require a clarification, modification, and/or amplification and expansion of the report by GE if the Department reasonably determines, as a result of reviewing data generated by the approved final IRM Work Plan and report, or as a result of reviewing any other data or facts which have been disclosed to GE, that further information is required.

V. Upon receiving notice from the Department to do so, GE shall immediately cease and discontinue construction and/or operation of the IRM. At all times during construction of the IRM, GE shall have on site a full time representative who is qualified by training and experience to inspect the work and is authorized by GE to do so.

VI. After receipt of the final engineering report and certification, the Department shall notify GE in writing whether it is satisfied with the quality and completeness of the Interim Remedial Measure as being protective of human health and the environment. If the Department is not satisfied with the quality and completeness of the Interim Remedial Measure, the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law.

VII. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by GE.

VIII. GE shall provide notice to the Department at least 5 working days in

advance of commencing any field activities to be conducted pursuant to this Order. Nevertheless, GE shall not commence construction until the Department approves the actual site control measures instituted at the Stark Oil Property, as specified in the mobilization plans contained in the approved IRM Work Plan.

IX. GE shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary in order to perform GE's obligations under this Order.

X. GE shall permit any duly designated employee, consultant, contractor or agent of the Department or any State agency to enter upon the Stark Oil Property or areas in the vicinity of the Stark Oil Property which may be under the control of GE for purposes of inspection, sampling, photographing, and testing and to assure GE's compliance with this Order.

XI. GE shall retain professional consultants, contractors, and laboratories acceptable to the Department to perform the technical, engineering and analytical obligations required by this Order. The Department agrees that Law Environmental is an acceptable professional consultant and contractor.

XII. GE shall not suffer any penalty under this Order, or be subject to any proceeding or action, if it cannot comply with any requirements hereof because of an act of God, war or riot provided, however that GE shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of this Order.

XIII. The failure of GE to comply with any term of this Order shall be a

violation of this Order and the ECL.

XIV. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting whatever rights the Department has to take other actions with respect to the Stark Oil Property, including, but not limited to, the following:

A. To bring any action or proceeding against anyone other than GE, its directors, officers, employees, servants, agents, successors and assigns;

B. To enforce this Order against GE, its directors, officers, employees, servants, agents, successors and assigns in the event that GE shall fail to satisfy any of the terms hereof;

C. To bring any action or proceeding against GE, its directors, officers, employees, servants, agents, successors and assigns or any person with respect to claims for natural resource damages as a result of the release or threatened release of hazardous wastes or constituents or industrial wastes at or from the Stark Oil Property or areas in the vicinity of the Stark Oil Property; and

D. To bring any action or proceeding against GE, its directors, officers, employees, servants, agents, successors and assigns with respect to hazardous wastes or constituents or industrial wastes that are present at the Stark Oil Property or that have migrated from the Stark Oil Property.

XV. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of GE's rights to raise whatever defenses which are available to it in the event that the Department brings an action

against GE including, but not limited to, GE's right to assert in any future proceeding (except one for the enforcement of this Order) that (1) the Stark Oil Property is not an inactive hazardous waste site within the meaning of Article 27, Title 13 of the ECL, (2) the Stark Oil Property has not and could not be listed as such or classified within Class 2, and (3) GE has no responsibility or liability for the release of hazardous wastes from the Stark Oil Property.

XVI. This Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers they have, either at common law or as granted pursuant to statute or regulation, or to preclude GE from asserting all available defenses to any abatement proceeding.

XVII. GE shall indemnify and hold the Department, the State of New York, and its representatives and employees harmless from all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by GE, its directors, officers, employees, servants, agents, successors or assigns.

XVIII. The effective date of this Order shall be the date it is signed by the Commissioner or his designee.

XIX. If GE desires that any provision of this Order be changed, it shall make timely written application to the Commissioner, setting forth reasonable grounds for the relief sought. Approval of such application shall not be unreasonably withheld.

XX. The terms of this Order shall be deemed to bind GE, its directors, officers, employees, servants, agents, successors and assigns. Nothing herein shall be

construed to bind any other entity.

XXI. The terms hereof shall constitute the complete and entire Order between GE and the Department concerning the Interim Remedial Measure for the Stark Oil Property. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other submittals by GE shall be construed as relieving GE of its obligations to obtain such formal approvals as may be required by this Order.

DATED: , New York
5/17, 1992

THOMAS C. JORLING
Commissioner
New York State Department of
Environmental Conservation

By:

ED Sullivan
Edward O. Sullivan David L. March
Deputy Commissioner

Acting

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waive its right to a hearing herein as provided by law, and agrees to be bound by the provisions, terms and conditions contained in this Order.

GENERAL ELECTRIC COMPANY

By: J. E. Carter

Title: GENERAL MANAGER - STGMD

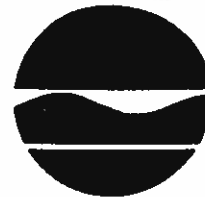
Date: 4/24/92

STATE OF NEW YORK)
COUNTY OF Schenectady) s.s.:

On this 24th day of April, 1992, before me personally came J. E. Carter, to me known, who being duly sworn, did depose and say that he resides in Albany, N.Y.; that he is the Manager - STGMD of the General Electric corporation, the corporation described herein and that he executed the foregoing instrument on behalf of said corporation, that he represents that he has the authorization to bind the corporation to this Order and that he has signed his/her name hereto.

Gloria F. Blodgett
Notary Public
GLORIA F. BLODGETT
Notary Public, State of New York
Qualified in Saratoga County
My Commission Expires March 31, 1992
#4723108

New York State Department of Environmental Conservation
6 Wolf Road, Albany, New York 12233 - 7010



Thomas C. Jorling
Commissioner

March 18, 1992

Mr. Edward LaPoint, P.E.
Environmental Engineering
General Electric Company
1 River Rd., Bldg. 41-111
Schenectady, NY 12345

Dear Mr. LaPoint:

Re: Revised Interim Remedial Work Plan
Former Stark Oil - General Electric
Main Plant Site

The Department has reviewed the Revised IRM Work Plan for the Stark Oil Site at the Main Plant in Schenectady. The Work Plan is approved, with conditions.

The conditions of this approval are revision of the Work Plan on two issues:

1. References to how this remedial effort fits into the "Draft Cleanup Policy and Guidelines" currently under development by the Department shall be removed. It is agreed that the conceptual approach proposed by General Electric to "prevent or reduce the significant spread of contaminants" will remain unchanged, but since the Draft Policy is still under development and may be significantly revised, it should not be cited. Instead, a factual statement of the purpose and goals of the Proposed IRM should be presented.
2. The cleanup standard for this IRM is proposed, on Page 4-3, as operation of the system to remove hydrocarbons "... until the amount of hydrocarbon removed per unit time becomes constant." It shall be revised to state "... until the amount of hydrocarbon removed per unit time reduces to a constant."
3. Performance of the treatment system shall be conducted in accordance with the attached effluent limitations.

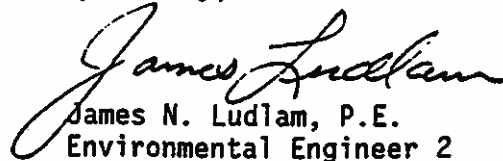
GE is advised to proceed with the construction elements necessary to implement the IRM Work Plan pursuant to the schedule contained therein.

Mr. Edward LaPoint, P.E.

Page 2

Should you have any questions please call Kevin Farrar or myself
at (518) 457-5637.

Sincerely,



James N. Ludlam, P.E.
Environmental Engineer 2
Central Technical Support Section
Bureau of Central Remedial Action
Division of Hazardous Waste Remediation

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning Start-up of Treatment System

and lasting until Discharge is stopped.

the discharges from the permitted facility shall be limited and monitored by the permittee as specified below:

| Outfall Number & Effluent Parameter | Discharge Limitations | | Units | Minimum Monitoring Requirements | |
|--|-----------------------|------------|-------|------------------------------------|----------------|
| | Daily Avg. | Daily Max. | | Measurement Frequency | Sample Type |
| Flow | N/A | N/A | GPD | Daily | Pumping Recc |
| pH (range) | 6.5 - 8.5 | | SU | Daily | Grab |
| Arsenic (Total) | - | 0.050 | mg/l | 1/month | Grab |
| Beryllium (Total) | - | 0.003 | mg/l | 1/month | Grab |
| Cadmium (Total) | - | 0.020 | mg/l | 1/month | Grab |
| Chromium (Total) | - | 0.100 | mg/l | 1/month | Grab |
| Copper (Total) | - | 1.000 | mg/l | 1/month | Grab |
| Lead (Total) | - | 0.050 | mg/l | 1/month | Grab |
| Mercury (Total) | - | 0.004 | mg/l | 1/month | Grab |
| Nickel (Total) | - | 2.000 | mg/l | 1/month | Grab |
| c (Total) | - | 5.000 | mg/l | 1/month | Grab |
| Benzene | - | 0.0007 | mg/l | 1/month | Grab |
| Ethylbenzene | - | 0.005 | mg/l | 1/month | Grab |
| Methylene Chloride | - | 0.005 | mg/l | 1/month | Grab |
| 1,1,2,2 - Tetrachloroethane | - | 0.005 | mg/l | 1/month | Grab |
| Toluene | - | 0.005 | mg/l | 1/month | Grab |
| 1,2 - Transdichloroethylene | - | 0.005 | mg/l | 1/month | Grab |
| Vinyl Chloride | - | 0.005 | mg/l | 1/month | Grab |
| Fluoranthene | - | 0.050 | mg/l | 1/month | Grab |
| Fluorene | - | 0.050 | mg/l | 1/month | Grab |
| Indeno 1,2,3-Cd Pyrene | - | 0.004 | mg/l | 1/month | Grab |
| Napthalene | - | 0.010 | mg/l | 1/month | Grab |
| Phenanthrene | - | 0.050 | mg/l | 1/month | Grab |
| Pyrene | - | 0.050 | mg/l | 1/month | Grab |

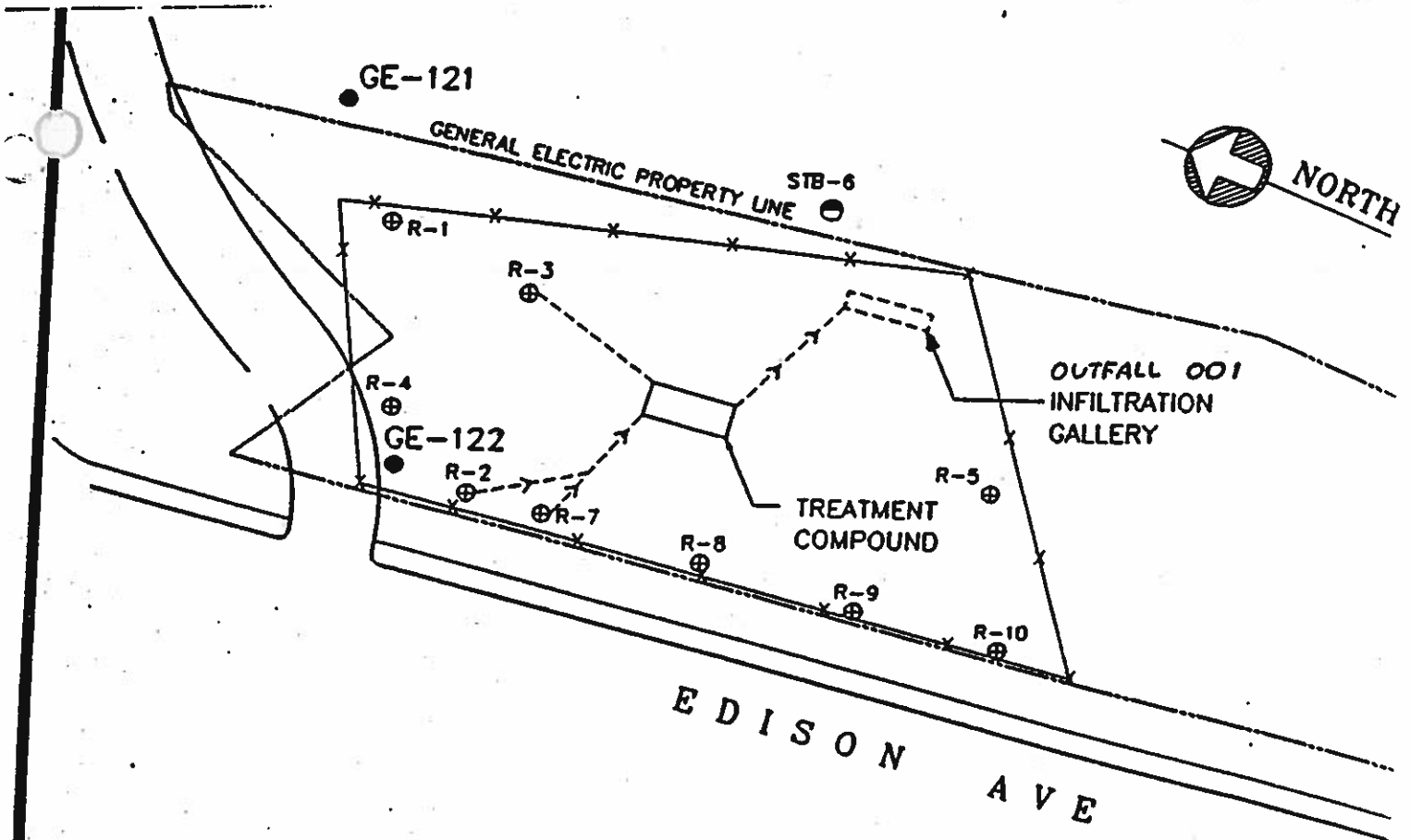
Definition of Daily Average and Daily Maximum

The daily average discharge is the total discharge by weight or in other appropriate units as specified herein, during a calendar month divided by the number of days in the month that the production or commercial facility was operating. Where less than daily sampling is required by this permit, the daily average discharge shall be determined by the summation of all the measured daily discharges in appropriate units as specified herein divided by the number of days during the calendar month when the measurements were made.

The daily maximum discharge means the total discharge by weight or in other appropriate units as specified herein, during any calendar day.

Monitoring Locations

Permittee shall take samples and measurements to meet the monitoring requirements at the location(s) indicated below: (Show locations of outfalls with sketch or flow diagram as appropriate).



SCHMATIC PLAN



APPROXIMATE SCALE