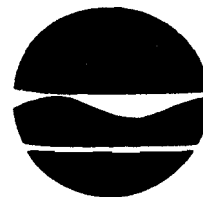


New York State Department of Environmental Conservation
2176 Guilderland Avenue, Schenectady, New York 12306



Thomas C. Jorling
Commissioner

March 18, 1988

Mr. Eugene Baker
260 Hudson River Road
Waterford, New York 12188

Re: Order on Consent
R4-0501-87-09

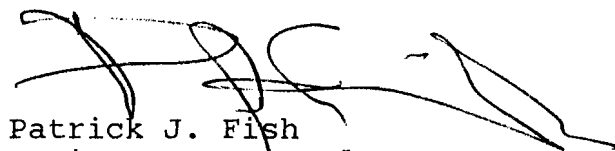
Dear Mr. Baker:

Enclosed herewith please find the original Order on Consent relative to the above entitled matter.

Please sign the Order in front of a Notary Public and return to this office no later than April 18, 1988. Upon receipt of the signed original, I will forward you a copy executed by Commissioner Thomas C. Jorling.

Thank you for your cooperation in this matter.

Very truly yours,



Patrick J. Fish
Assistant Regional Attorney
Region 4

Enclosure

PJF:jp\2PJF32

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Field
Investigation to Identify any
Threat to the Environment Caused
by the Disposal of Industrial and
Hazardous Waste by:

ORDER ON
CONSENT

FILE NO.
R4-0501-87-09

GENERAL ELECTRIC COMPANY
RIVERVIEW PLANT

Respondent.

WHEREAS:

1. The New York State Department of Environmental Conservation (hereinafter the "Department" or "DEC") is responsible for the enforcement of Article 27 Title 13, of the Environmental Conservation Law of the State of New York (hereinafter "ECL") entitled, "Inactive Hazardous Waste Disposal Sites" and Article 17 of the ECL entitled "Water Pollution Control."

2. ECL Section 27-1313(3)(a) states that, whenever the Commissioner of the Department "finds that hazardous wastes at an inactive hazardous waste disposal site constitutes a significant threat to the environment, he may order... any person responsible for the disposal of hazardous wastes at such site (a) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the Department, at

such site, and (b) to implement such program within reasonable time limits specified in the Order."

3. Respondent, the General Electric Company, is a business corporation doing business in the State of New York.

4. Respondent owns and operates a manufacturing plant (River View Site) at One Campbell Road in the City of Schenectady, in the State of New York (hereinafter "Site") which primarily manufactures insulating varnishes, wire enamels, industrial coatings and synthetic resins.

5. In its manufacturing process Respondent has generated and continues to generate industrial and hazardous wastes as those terms are defined in Section 27-1301(1) of the ECL and Parts 360 and 371 of Title 6 of the Official Compilations of Codes, Rules and Regulations of the State of New York (hereinafter "6 NYCRR").

6. Respondent's "Site" has been identified by the Department as an Inactive Hazardous Waste Disposal Site and has been duly assigned Site Code 447005 with a classification of 2.

7. The Site is an inactive hazardous waste disposal site, as that term is defined in Section 27-1301(2) of the ECL, and hazardous and/or industrial wastes at the Site constitute a significant threat to the environment pursuant to Article 27, Title 13 of the ECL. The above determination was based on the

the fact that a hazardous waste leachate was discovered immediately below the location of the Site and the fact that on the Site the Respondent had stored various hazardous wastes over a period of years.

8. The Department and Respondent acknowledge that the goals of this Order shall be that Respondent:

a. Develop and implement a field investigation program to:

(i) determine the nature of the wastes and the areal extent and vertical distribution of the wastes allegedly disposed of at the Site;

(ii) identify any past releases and any past, current and/or potential future migration of hazardous waste, as that term is defined in ECL Section 27-1301(1), and/or industrial waste, from the site to other on-Site and off-Site areas; and

(iii) evaluate the on-Site and off-Site impacts of such migration upon the environment.

9. Respondent, for the purpose of settling the matters raised herein without litigation, has affirmatively waived its right to a hearing as provided by law with respect to the matters covered by this Order and has consented to the issuance and entry of this Order and agrees to be bound by the provisions, terms, and conditions hereof.

NOW, THEREFORE, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Respondent shall undertake a field investigation of the Site and of areas off-Site affected by the disposal of hazardous waste (the "Field Investigation"). Respondent shall retain a third party professional consultant, contractor and/or laboratory to perform the technical, engineering and analytical obligations required by this Order. Said consultant, contractor and/or laboratory shall have demonstrable experience and qualifications in the type of work which they will be performing.

II. All investigations, proposals, reports, plans, and supplements and revisions thereto required by this Order shall address contamination caused by the disposal of hazardous wastes at and in the vicinity of the Site, and shall be prepared, designed and executed in accordance with Requisite Technology. As used in this Order, Requisite Technology means accepted engineering, scientific and construction principles and practices which (a) are technologically feasible, (b) will most effectively identify, mitigate and eliminate any present or potential future threat to the environment posed by the disposal of hazardous wastes at and in the vicinity of the Site, and (c) will not cost an amount inconsistent with the benefits of mitigating and minimizing the threat or potential threat to public health and the environment.

The failure of Respondent to submit or undertake a proposal, report, field investigation, construction program plan or any supplement or revision thereof, which is in accordance with Requisite Technology shall constitute a violation of this Order.

III. Within 45 days after the effective date of this Order, Respondent shall submit to the Department a proposed written scope of work (the "Proposal") outlining the nature and extent of the work to be undertaken in conducting the Field Investigation. The Proposal shall include an identification of the Quality Assurance/Quality Control protocols and procedures that will be utilized in Respondent's field investigation.

IV. Within 30 days after receipt of the Proposal, the Department shall provide written notification to Respondent of its approval or disapproval of the Proposal. If the Department approves the Proposal, Respondent shall perform the Field Investigation in accordance with the Proposal.

If the Department disapproves the Proposal, the Department shall notify Respondent in writing of the Department's objections and justifications for same. Within thirty (30) days after receipt of notice of disapproval, Respondent shall revise the Proposal in accordance with the terms, provisions and conditions of this Order and shall submit to the Department a Proposal which has been revised in response to the Department's objections (the "Revised Proposal").

Within 15 days after receipt of the Revised Proposal, the Department shall provide written notification to Respondent of its approval or disapproval of the Revised Proposal. If the Department approves the Revised Proposal, Respondent shall perform the Field Investigation in accordance with the Revised Proposal.

If the Department disapproves the Revised Proposal, the Department and Respondent shall have the right to pursue whatever relief may be legally available to them, without prejudice to either's right to contest the same.

The approved Proposal or the approved Revised Proposal shall be incorporated into this Order as Appendix "B". Such Proposal shall hereafter be referred to as the "Approved Proposal".

V. Within 60 days of completion of the field investigation, Respondent shall submit to the Department a Field Investigation Report (the "Report"), detailing the results of the investigation. The Report shall include a copy of the Approved Proposal and all data generated, and all other information obtained, during the Field Investigation and shall also include, but shall not be limited to, the following specific information with respect to the Site and areas affected by the disposal of hazardous wastes at the Site:

a. A summary of environmental conditions at the site and potentially affected off-site areas, including, but not limited to: Site drainage, Site water balance, stream flow data, adversely affected wildlife habitats, land use, soil conditions, and where relevant hydrogeologic characteristics, surface water quality groundwater quality, and air quality; said summary to include maps, tables, graphics, or any other appropriate means of presenting all information;

b. All data collected during the Field Investigation and/or used in preparing the Report, including, but not limited to: soil boring logs, well data, and the results of chemical analyses performed on samples obtained during the Field Investigation; said data presented in tabulated and/or graphic form where appropriate;

c. An assessment of the types and quantities of hazardous wastes present, which determination shall result in the preparation of a waste location map and cross-sections of waste disposal areas;

d. A determination of the nature and extent of actual and potential release and migration of hazardous wastes from the Site through surface water, groundwater, air, soil and sediment and any current or potential impacts to the environment from same. The results of any mathematical modeling of the Site shall also be provided;

e. References to all scientific or technical literature used in the preparation of the Report; and

f. Names, titles and disciplines of all professionals engaged in the preparation of the Report.

VI. Within sixty (60) days after its receipt of the Report, the Department shall provide written notification to Respondent of its approval or disapproval of the Report.

If the Department disapproves the Report, the Department shall notify Respondent in writing of the Department's objections and justification for same. Within thirty (30) days after its receipt of notice of disapproval, Respondent shall submit to the Department a Report which has been revised in responses to the Department's objections (the "Revised Report").

Within fifteen (15) days after its receipt of the Revised Report, the Department shall provide written notification to Respondent of its approval or disapproval of the Revised Report.

If the Department disapproves the Revised Report, the Department and Respondent shall have the right to pursue whatever relief may be legally available to them, without prejudice to either's right to contest the same.

The Report or the Revised Report, whichever is approved by the Department, shall become incorporated in and made a part of this Order, as Appendix "C". Such Report shall hereafter be referred to as the "Approved Report".

VII. Within ninety (90) days after receipt of the Department's approval of the Report, or within such greater period as the Department may allow for good cause shown, Respondent shall submit to the Department a feasibility study (the "Feasibility Study") evaluating remedial actions to eliminate all health and environmental hazards and potential hazards attributable to the Site.

The Feasibility Study shall include, but not be limited to, the following:

a. A summary of all health and environmental hazards and potential hazards attributable to the Site.

b. As to each such hazard or potential hazard, a statement of the remedial actions necessary to eliminate the same, including a "no action" alternative, and a categorization into discrete elements of each such remedial action.

c. As to each such discrete remedy, a statement of the alternative technologies available to accomplish the same, and analyses thereof, including, but not limited to:

1. Unit cost estimates.
2. Operation and maintenance requirements and cost estimates.
3. Long-term integrity.
4. Timeliness of implementation.
5. Conformity to applicable law. ,

d. From this list of alternatives, the Respondent will recommend the most appropriate.

VIII. Within sixty (60) days after its receipt of the Feasibility Study, the Department shall provide written notification of its approval or disapproval.

If the Department disapproves the Feasibility Study, the Department shall notify Respondent in writing of the Department's objections and justification for same. Within thirty (30) days after its receipt of notice of disapproval, Respondent shall revise the Feasibility Study and shall submit to the Department a Feasibility Study which has been revised in response to the Department's objections (the "Revised Feasibility Study").

Within fifteen (15) days after its receipt of the Revised Feasibility Study, the Department shall provide written notification to Respondent of its approval or disapproval of the Revised Feasibility Study.

If the Department disapproves the Revised Feasibility Study, the Department and Respondent shall have the right to pursue whatever relief may be legally available to them, without prejudice to either's right to contest the same.

The Feasibility Study or the Revised Feasibility Study, whichever is approved by the Department, shall become incorporated in and made a part of this Order as Appendix "D". Such Feasibility Study shall hereafter be referred to as the "Approved Feasibility Study".

IX. Within ninety (90) days after receipt of the Department's approval of the Feasibility Study, or within such greater period as the Department may allow for good cause shown, Respondent shall submit to the Department a remedial design engineering report (the "Remedial Design").

The Remedial Design shall include, but not be limited to, the following:

a. A description of the means of effectuating the selected remedial program.

b. the quality control and quality assurance procedures and protocols to be applied to construction;

c. The disposition of hazardous Wastes;

d. physical security and posting of the Site;

e. health and safety of persons living and/or working at or in the vicinity of the areas being remediated;

f. integrated air monitoring on and off-site during implementation of the Remedial Program;

g. "Contract-ready" documents for the construction of the elements of the Remedial Program, including plans and specifications prepared and certified by a licensed professional engineer registered in the State of New York, which shall satisfy all applicable state and federal laws and rules and regulations;

h. a time schedule for construction of the elements of the Remedial Program;

i. A contingency response plan to be implemented the event of a failure of the remedial design, or any portion thereof, prior to the date thirty (30) years after notification to the Department pursuant to Paragraph XI herein

X. Within sixty (60) days after its receipt of the Remedial Design, the Department shall provide written notification of its approval or disapproval.

If the Department disapproves the Remedial Design, the Department shall notify Respondent in writing of the Department's objections and justification for same. Within thirty (30) days after its receipt of notice of disapproval, Respondent shall revise the Remedial Design and shall submit to the Department a Remedial Design, which has been revised in response to the Department's objections (the "Revised Remedial Design").

Within fifteen (15) days after its receipt of the Revised Remedial Design, the Department shall provide written notification to Respondent of its approval or disapproval of the Revised Remedial Design.

If the Department disapproves the Revised Remedial Design, the Department and Respondent shall have the right to pursue whatever relief may be legally available to them, without prejudice to either's right to contest the same.

The Remedial Design or the Revised Remedial Design, whichever is approved by the Department, shall become incorporated in and made a part of this Order as Appendix "E". Such Remedial Design shall hereafter be referred to as the "Approved Remedial Design".

XI. Within such period as may be allowed therefore by the Approved Remedial Design, Respondent shall complete construction, and within forty-five (45) days thereafter, Respondent shall submit to the Department as-built drawings and a certification that construction was completed in accordance with the Approved Remedial Design. Such certification shall be by a licensed professional engineer registered in the State of New York.

XII. Within forty-five (45) days after receipt of the as-built drawings and certification, the Department shall review the same and either certify the construction or deny certification.

In the event that the Department shall deny certification of construction, the Department may take any action and pursue any remedy to which it be entitled by law.

If the Department certifies that the implementation is complete and in accordance with the Approved Remedial Design, then, such certification shall constitute a full and complete satisfaction and release of each and every claim, demand, remedy or action whatsoever against Respondent, its officers and directors, which the Department has or may have relative to or arising from the disposal of hazardous wastes, hazardous substances or petroleum products/constituents at the Site.

This release shall inure only to the benefit of Respondent, its officers, directors and employees, with respect to the aforesaid matter.

Nothing herein shall be construed as barring, diminishing, adjudicating or in any way affecting any legal or equitable rights or claims, actions, suites, causes of action or demands whatsoever that the Department may have against anyone other than Respondent, its officers, directors and employees.

XIII. The right of the Department to enforce the terms of this Order shall not be affected by any release contained herein.

XIV. Notwithstanding any provision contained in this Order to the contrary, for a period of 30 years from the date of the Department's written acknowledgement that Respondent has completed the implementation of the construction and other elements in accordance with the Approved Remedial Design, Respondent shall maintain, keep in good repair and monitor the areas at which the elements of the Remedial Program were implemented. During such Post-Closure Period, Respondent shall provide the Department with periodic monitoring reports, as set forth in the Approved Remedial Design.

XV. In the event that either the Department or Respondent finds that any of the elements of the Remedial Program has failed to meet or is inconsistent with Requisite Technology, with the requirements and goals of this Order, ~~or~~ with the provisions of the Approved Remedial Design, [§] at any time prior to or during the Thirty Year Period, one shall immediately notify the other by telephone and in writing of such failure. Respondent shall thereafter immediately take those measures as necessary to correct such failures, consistent with the requirements of Paragraph IX (i) above. ,

XVI. The Department shall have the right to obtain, for the purpose of comparative analysis, "split samples" of a sufficient sample can be taken or, if not, "duplicate samples", of all substances and materials sampled by Respondent pursuant to this Order. As used herein: "split samples" shall mean whole samples divided into aliquots; "duplicate samples" shall mean multiple samples, collected at the same time from exactly the same location, using the same sampling apparatus, collected into identical containers prepared identically, filled to the same volume, and thereafter identically handled and preserved.

XVII. Respondent shall provide notice to the Department of any excavating, drilling or sampling to be conducted pursuant to the terms of this Order at least five (5) working days in advance of such activities.

if conditions develop indicating or new
or different problem

XVIII. Respondent shall permit any duly designated officer, employee, consultant, contractor or agent of the Department to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondent, and any areas necessary to gain access thereto, for inspection purposes and for the purpose of making or causing to be made such sampling and tests as the Department deems necessary for ascertaining Respondent's compliance with the provisions of this Order. Such entry shall be after Respondent has received reasonable prior notice.

XIX. Respondent shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations which are necessary in order to perform the Field Investigation and all of Respondent's other obligations pursuant to this Order. In the event Respondent is unable to obtain whatever permits, easements, rights-of-ways, rights-of-entry, approvals or authorizations, after documented reasonable efforts, the Department shall, consistent with its legal authority, assist in obtaining, as appropriate, all such authorizations. Reasonable efforts by Respondent shall not include the payment of money to obtain access, easements, rights-of-way or rights-of-entry necessary to enable Respondent to carry out the terms of this Order.

XX. The failure of Respondent to materially comply with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order and under the

ECL provided, however, Respondent shall not suffer any penalty under any of the provisions, terms and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if it cannot comply with any requirements of the provisions hereof because of an act of God, war, riot, or other condition as to which negligence or willful misconduct on the part of Respondent was not a proximate cause, provided, however, that Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an appropriate extension or modification of the provisions hereof.

XXI. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondent, its directors, officers, employees, servants, agents, successors and assigns or that Respondent may have against anyone other than the Department; and (2) the Department's right to enforce, at law or in equity, the terms and conditions of this Order against Respondent, its successors and assigns in the event that Respondent shall fail to fulfill any of the provisions hereof.

XXII. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

XXIII. Respondent shall indemnify and hold the Department, the State of New York, and their representatives and employees harmless for all claims, suits, actions, damages and costs of every name and description to the extent they arise out of or result from the negligent acts or omissions of the Respondent, its directors, officers, employees, servants and agents stemming from fulfillment or attempted fulfillment of the provisions hereof by Respondent, its directors, officers, employees, servants, agents, successors or assigns.

XXIV. The effective date of this Order shall be the date Respondent is served with a conformed copy.

XXV. Within 30 days of the effective date of this Order, Respondent shall file a Declaration of Covenants and Restrictions with the real property records of the Schenectady County Clerk's Office, for the purpose of providing notice of this Order to all potential future purchasers of any impacted portion of the Site. Said Declaration must indicate that any successor in title to any impacted portion of the Site shall be responsible for implementing the provisions of this Order.

XXVI. If, for any reason, Respondent desires that any provision of this Order be changed, Respondent shall make timely written application therefor to the Commissioner, setting forth reasonable grounds for the relief sought. The Commissioner shall not unreasonably deny such requests.

XXVII. A. All communication required herein to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service return receipt requested or hand delivered to the address listed hereunder.

B. Communication to be made from Respondent to the Department shall be made as follows:

1. Two copies to the Division of Solid and Hazardous Waste, Room 209, 50 Wolf Road, Albany, New York 12233.
2. Two copies to the Director, Division of Environmental Enforcement, Room 618, 50 Wolf Road, Albany, New York 12233.
3. One copy to the Regional Director, Region 4, 2176 Guilderland Avenue, Schenectady, New York 12306.
4. Two copies to the Director of the Bureau of Environmental Exposure Investigation, 2 University Place, Albany, New York 12237

C. Communication to be made from the Department to Respondent shall be made as follows:

Eugene Baker
260 Hudson River Road
Waterford, New York 12188

D. The Department and Respondent respectively reserve the right to designate other or different addresses on notice to the other.

E. No oral advice or guidance by the Department's officers or employees or representatives upon any plan, report, proposal, study or other document, or modifications or additions thereto, submitted by Respondent to the Department, shall relieve Respondent of any obligation it may have pursuant to this Order to obtain the Department's written approval of the same.

XXVIII. The provisions of this Order shall be deemed to bind Respondent, and its successors and assigns.

XXIX. The provisions hereof shall constitute the complete and entire Order between Respondent and the Department concerning the Site. 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.

XXX. The terms and conditions of this Order shall not create any presumptions of law or findings of fact which shall inure to or be for the benefit of any third party and shall not be deemed to be an admission of any kind on the part of Respondent, its officers or employees.

XXXI. The provisions, terms and conditions of this Order, and any actions or submissions under or by reason of the provisions, terms and conditions hereof, shall not, in any action, proceeding or litigation whatsoever, whether or not brought by the Department, constitute, be construed, or operate as an admission that Respondent has violated any law or regulation or otherwise committed a breach of any duty at any time.

XXXII. Nothing herein shall be construed to relieve Respondent from any obligations or responsibilities it may have under the Resource Conservation and Recovery Act (RCRA).

XXXIII. Respondent shall reimburse the Department a sum not to exceed TWENTY THOUSAND DOLLARS (\$20,000.00) for administrative costs incurred or to be incurred by the Department in its

review and oversight of Respondent's compliance with this Order up to and including the review and approval of the Approved Remedial Design.

Reimbursement shall be made within sixty days of receipt by Respondent of a statement of costs submitted by the Department.

It is acknowledged by the parties hereto that the Department may incur additional administrative costs in its review and oversight of the implementation of the Approved Remedial Design. If such are incurred, the Department shall submit to Respondent a statement of costs. If Respondent disagrees with the statement of costs it shall in writing, notify the Department of the nature of its disagreement. The Department and Respondent shall thereafter negotiate in good faith to resolve their differences as to the administrative costs the Department is entitled to. If the Department and Respondent are unable to resolve their differences as to reimbursement of these additional administrative costs then each shall have the right to pursue whatever relief may be available, without prejudice to either's right to contest the same.

DATED: , New York
 , 1988

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

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives 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: _____

Title: _____

Date: _____

/

[illegible]

On this day of , 19 , before me
personally came , to me
known, who being duly sworn, did depose and say that he resides
in

is the _____ of the _____; that he

is the _____ of the _____ corporation described in and which executed the foregoing instrument; that he knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by the order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Notary Public