

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of

Amendment to
ORDER
ON
CONSENT

GENERAL ELECTRIC COMPANY,

Respondent.

Index #C5-0001-85-06
Site #558013

WHEREAS:

1. The New York State Department of Environmental Conservation (the "Department") is responsible for the enforcement of Article 27, Title 13, of the Environmental Conservation Law of the State of New York (the "ECL"), entitled "Inactive Hazardous Waste Disposal Sites".

2. Respondent, General Electric Company, ("GE") is a corporation organized and existing under the laws of the State of New York.

3. Beginning in 1952 and continuing to the present, GE has owned and operated a manufacturing facility located on John Street, in the Village of Hudson Falls, County of Warren, State of New York (the "Site"). Capacitors and capacitor products have been and continue to be produced at the Site. As the result of the operation of said manufacturing facility, certain hazardous and industrial chemicals were handled on the Site. A map of the Site is

attached hereto and is hereby incorporated into this Order as Appendix "A".

4. On July 10, 1986, the Commissioner of the Department issued an Order on Consent (Index # C5-0001-85-06) to GE under which GE agreed to develop and implement a field investigation at the Site. One of the goals of the investigation was to determine whether the Site constitutes a significant threat to the environment. Respondent completed this field investigation in accordance with the terms of the Order on Consent and submitted its investigative Report to the Department in July of 1987. Based upon the results of that investigation and the conclusions contained in the Report, the Department determined that hazardous wastes at the Site pose a significant threat to the environment and classified the Site (#558013) as a "2" in the Registry of Inactive Hazardous Waste Disposal Sites. GE contends that the results of that investigation and the conclusions contained in the Report do not indicate that the hazardous wastes present at the Site pose a significant threat to the environment, and disputes the appropriateness of the Department's classification of the Site as a "2" in the Registry of Inactive Hazardous Waste Disposal Sites. This Site is neither on the NPL or on the proposed NPL.

5. The above-referenced Order on Consent provided for the modification of the Order to include provisions for

the development and implementation of additional field investigations by GE in the event a significant threat determination was made. The parties have agreed to amend the Order to provide for a further investigation by GE of the Site in order to evaluate what remedial options may be necessary to eliminate any significant threat to the environment that may be posed by hazardous wastes at the Site.

6. GE, having waived its right to a hearing herein as provided by law, has consented to the issuance of this Order, without any adjudication of law or fact. GE's consent to and compliance with this Order does not constitute, and shall not be construed as, an admission of liability of any kind in any action or proceeding brought by the Department or any other party.

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

I. All investigations, proposals, reports, plans, and supplements and revisions thereto required by this Order shall address the contamination caused by the presence of hazardous wastes at the Site or the migration of hazardous wastes from the Site, and shall be prepared, designed and executed in accordance with Requisite Technology. As used in

this Order, Requisite Technology shall mean engineering, scientific and construction principles and practices which:

- (a) are approved by the Department;
- (b) are technologically feasible and are in accordance with sound engineering practice;
- (c) will abate and/or eliminate any significant threat to the environment posed by the presence of hazardous wastes at the Site.

II. Within the time-frames set forth below in Table No. 1, the Department shall review each of the submittals made by the Respondent pursuant to this Order. The Department shall either approve or disapprove each such submittal.

Table No. 1
Submittals

Submittal	Consent Order Paragraph	Days after Receipt for Department Review	Days to Prepare and Submit Revision
Report	III	60 Days	60 Days
Feasibility Study	IV	60 Days	60 Days

If the Department approves a submittal, it shall so notify the Respondent in writing. The Department's approval shall constitute acknowledgment that the submittal fulfills the conditions and requirements for the development of that submittal that are contained in this Order. The approved

submittal shall be appended to this Order and shall become an enforceable part hereof.

If the Department disapproves a submittal, it shall so notify the Respondent in writing, and shall state the reasons therefor. Within 60 days after receiving written notice that its submittal has been disapproved, Respondent shall make a revised submittal which addresses all of the Department's stated reasons for disapproving the first submittal. Within 30 days of its receipt of a revised submittal, the Department shall either approve or disapprove it.

If the Department approves the revised submittal, it shall so notify the Respondent in writing. The Department's approval shall constitute acknowledgment that the submittal fulfills the conditions and requirements for the development of that submittal that are contained in this Order. The approved, revised submittal shall be appended to this Order and shall become an enforceable part hereof.

If the Department disapproves the revised submittal, it shall so notify the Respondent in writing, and shall state the reasons therefor. At the written request of either party, based on a dispute concerning the terms of a revised submittal, the Commissioner may appoint an Administrative Law Judge (ALJ) to settle the matter. If the Respondent does not

submit such a request to the Commissioner, the Department may consider the Respondent to be in violation of the terms of this Order.

If the ALJ deems it necessary to convene a hearing, the taking of evidence shall be concluded as soon as practicable after the ALJ's appointment. In all proceedings hereunder:

1. The parties shall be the Respondent and the Department.

2. Notice shall be provided to the other party by the party requesting resolution of the dispute.

3. The burden of going forward shall be on the moving party.

4. The ALJ shall have all powers conferred by 6 NYCRR 622.12.

5. All proceedings conducted hereunder shall be stenographically recorded. The Respondent shall arrange for a stenographic transcript to be made after conclusion of the proceeding, and for the original and one copy of the transcript to be delivered to the ALJ at the expense of Respondent.

6. The ALJ shall prepare, within 45 working days after receipt of the transcript of the proceeding, a written summary of the documentation and testimony received during the proceeding, and a recommended decision. The summary and

recommended decision shall be hand-delivered to the Department's representative and sent by certified mail, return receipt requested, and another copy by Express Mail, to the Respondent.

7. The ALJ's recommended decision shall become the final determination of the Commissioner unless, within 15 working days from receipt of the recommended decision by the Respondent, either the Respondent or the Department objects in writing. Any objections shall be submitted in writing to the ALJ with a copy sent by Express Mail, telecopier or hand-delivery to the other party, which shall serve and file in the same manner its response, if any, within 10 working days of receipt of the objections. Upon receipt of the objections and any response, the ALJ shall refer the matter to the Commissioner for final determination.

8. The final determination by the Commissioner shall be made as soon as practicable after receipt by him or her of the recommended decision by the ALJ.

III. Respondent shall perform an investigation according to the approved Work Plan, which has been attached to this Order as Appendix "B" and thereby made an enforceable part hereof. Upon completion of the investigation, Respondent shall submit to the Department a Report (the "Report") which is founded upon the investigation conducted in accordance with the approved Work Plan. The Report shall include all data generated and all other information obtained during the

investigation and shall provide all of the assessments and evaluations which are set forth in the most current National Contingency Plan ("NCP") and are consistent with the draft USEPA guidance document entitled "Guidance on Remedial Investigations and Feasibility Studies under CERCLA," dated March, 1988 or any subsequent revisions thereto, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq., as amended by by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA").

IV. Upon its approval by the Department, the Report shall be attached to this Order as Appendix "C" and thereby made an enforceable part hereof. Within 180 days after receipt of the Department's approval of the Report, Respondent shall submit to the Department a study evaluating the feasibility of on-Site and off-Site remedial options to abate and/or eliminate any significant threat to the environment or public health (the "Study") posed by the presence of hazardous wastes at the Site. The Study shall be prepared and certified by an engineer licensed to practice by the State of New York, who may be an employee of Respondent, or an individual or member of a firm which is authorized to offer engineering services in accordance with Article 145 of the New York State Education Law.

The Study shall be performed in a manner that is consistent with the National Contingency Plan, CERCLA and with the draft USEPA guidance document entitled "Guidance on Remedial Investigations and Feasibility Studies under CERCLA," dated March, 1988 or any subsequent revisions thereto. The approved Study shall be attached to this Order as Appendix "D" and thereby made an enforceable part hereof.

V. The Department shall have the right to obtain split samples, duplicate samples, or both, of all substances and materials sampled by Respondent pursuant to this Order. As used herein, split samples shall mean whole samples divided into aliquots to be tested by the Department for the purpose of comparative analysis.

VI. Respondent shall provide notice to the Department at least 10 days in advance of any excavating, drilling or sampling to be conducted pursuant to the terms of this Order.

VII. Respondent shall obtain whatever permits, easements, rights-of-way, rights-of-entry, approvals or authorizations are necessary in order to perform the investigation and all of Respondent's other obligations pursuant to this Order. The foregoing does not require Respondent to provide compensation for access to perform such investigation or obligation.

VIII. GE shall permit any duly designated officer, employee, consultant, contractor or agent of the Department or the Department of Health to enter upon the Site at any time that work is being performed under the Order and any other reasonable time for the purposes of ascertaining GE's compliance with this Order or to otherwise sample and inspect.

IX. Respondent shall retain a third-party professional consultant, contractor and/or technically acceptable laboratory to perform the technical, engineering and analytical obligations required by this Order. If the Respondent proceeds according to the approved Work Plan, it will be deemed to have satisfied this paragraph.

X. Respondent shall not suffer any penalty or default under any of the terms of this Order, or be subject to any proceeding or actions for any remedy or relief, if it cannot comply with any requirements hereof because of an act of God, war, strike, riot, or other condition as to which negligence or willful misconduct on the part of Respondent was not a proximate cause, provided, however, that the Respondent shall immediately notify the Department in writing when it obtains knowledge of any such condition and request an extension or modification of the terms of this Order. Such notification shall result in appropriate extension or modification of this Order if the parties so agree.

XI. The failure of the Respondent to comply with any terms of this Order shall constitute a default and a failure to fulfill an obligation under this Order.

XII. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

a. 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;

b. the Department's right to enforce at law or in equity the terms and conditions of this Order against Respondent, its officers, employees, servants, agents, successors and assigns in the event that Respondent shall fail to satisfy any of the terms hereof;

c. the Department's right to bring any action at law or in equity against Respondent, its directors, officers, employees, servants, agents, successors and assigns with respect to claims for natural resource damages; and

d. any action or proceeding to which the Department may be entitled in connection with, relating to,

or arising out of the presence of hazardous wastes at the Site or the migration of hazardous wastes from the Site.

XIII. 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.

XIV. 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 arising out of or resulting from the fulfillment or attempted fulfillment of the terms of this Order by Respondent, its directors, officers, employees, servants, agents, successors or assigns. The foregoing shall not include indemnification for gross negligence or willful misconduct on the part of the State of New York, the Department, or their representatives and employees.

XV. The effective date of this Order shall be the date it is signed by the Commissioner.

XVI. If the Respondent desires to deviate in any way from the provisions of this Order, it shall make written application therefor to the Department, setting forth

reasonable grounds for the relief sought. The Department shall review and approve all requests which it determines to be reasonable.

XVII. During the period for which the terms of this Order shall apply, in the event that Respondent proposes to convey the whole or any part of its ownership interest in the Site, Respondent shall, not fewer than 30 days prior to the consummation of such proposed conveyance, notify the Department in writing of the identity of the transferee and of the nature and date of the proposed conveyance. In advance of such proposed conveyance, so long as the terms of this Order have not been satisfied, Respondent shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

XVIII. A. All communication required by this Order to be made between the Department and Respondent shall be made in writing and transmitted by United States Postal Service, Return Receipt Requested, by express mail or hand delivered to the address listed below.

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

1. Two copies to the Division of Environmental Enforcement, Room 415, 50 Wolf Road, Albany, New York 12233, Attn: Paul Van Cott, Esq.

2. Two copies to the NYS Department of Environmental Conservation, Region 5, Ray Brook, New York 12977, Attn: Tom Monroe, Regional Director.

3. Two copies to the NYS Department of Health, Attn: Ronald Tramontano, Bureau of Environmental Exposure Investigation, 2 University Place, Albany, New York 12203.

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

1. One copy to Corporate Environmental Programs, General Electric Company, 3135 Easton Turnpike - W1A, Fairfield, Connecticut 06431, Attn: Thomas M. Armstrong, Esq.

2. One copy to Dr. William J. Vullo, Manager, Environmental & Laboratory Services, Capacitor and Power Protection Operations, General Electric Company, 381 Upper Broadway, Fort Edward, New York 12828.

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

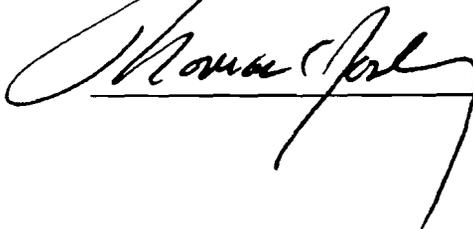
XIX. The terms of this Order shall be deemed to bind the Respondent, its successors and assigns. The Respondent shall direct those of its officers, agents, servants and employees who are to undertake these obligations to comply with the terms of this Order.

XX. Nothing herein shall be construed to bind any entity not specifically bound by the terms of this Order.

XXI. The terms hereof shall constitute the complete and entire Order between the 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. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other writing submitted by the Respondent shall be construed as relieving the Respondent of its obligations to obtain such formal approvals as may be required by this Order.

DATED: *Albany* , New York
Feb 21 , 1989

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: _____

M. J. Kelly
Mgr Human Resources
Feb 2, 1989

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

On this 2ND day of FEBRUARY, 1989, before me personally came M. J. RIELLY to me known, who being duly sworn, did depose and say that he resides in SARATOGA SPRINGS, NY; that he is the MGR - HUMAN RESOURCES of the GE - CPPD 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.

Florence S. Flint
Notary Public
FLORENCE S. FLINT
Notary Public, State of New York
Washington County
My commission Expires 2/28/92
REG No 6336585