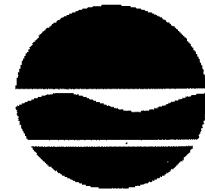
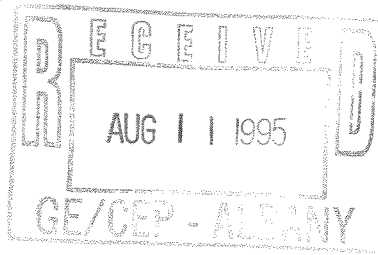


New York State Department of Environmental Conservation
Division of Environmental Enforcement
Central Field Unit
1150 North Westcott Road
Schenectady, New York 12306

Telephone (518) 357-2044
Fax Number (518) 357-2281



Michael D. Zagata
Commissioner

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 9, 1995

Leslie Hulse, Esq.
General Electric Corp
One Computer Drive South
Albany, NY 12205

ORIGINAL

Reed W. Newman, Esq.
Weinberg, Bergeson & Neuman
1300 I Street, N.W.
Suite 600 East
Washington, D.C. 20005

RE: Abandoned Solvent Savers Site (Pompey) - Site No. 734035

Dear Ms. Hulse and Mr. Newman:

Enclosed please find a fully executed copy of the "Remedial Design" Order on Consent recently entered between the department and your clients General Electric Company and Bristol-Myers Squibb Company.

Thank you for your assistance in this matter.

Very truly yours,

Michael J. Lesser
Senior Attorney

MJL:jc
Enclosure

cc: G. Caito (w/o enclosure)
C. Sullivan "
D. Munro "
R. Schick "

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the Development and
Implementation of a Remedial Program for
The Abandoned Solvent Center Inactive
Hazardous Waste Disposal Site,
Under Article 71, Title 27 of the
Environmental Conservation Law of the
State of New York by:

ORDER ON
CONSENT

Index No.
Site Code # 734035

GENERAL ELECTRIC CO., and BRISTOL-MYERS
SQUIBB COMPANY,

Respondents.

RECITATIONS

The New York State Department of Environmental Conservation (the "Department") asserts the following facts and statements of authority to be true, which the Respondents, for purpose of this Order, neither admit nor deny:

R-1. The Department is responsible for enforcement of Article 27, Title 13 of the Environmental Conservation Law of the State of New York ("ECL"), entitled "Inactive Hazardous Waste Disposal Sites." This Order is entered into pursuant to the Department's authority in ECL Article 27, Title 13 and ECL § 3-0301.

R-2. Respondents are General Electric Company ("GE"), and Bristol-Myers Squibb Company ("Bristol"). The Department alleges that each Respondent caused or directed that waste solvents be delivered to the facility now known as the Abandoned

Solvent Savers site in the Town of Pompey, New York, ("Site"), which were subsequently released or discharged into the environment, causing contamination of soils, surface waters and groundwater.

R-3. During sampling of local residential wells near the site by the Onondaga County Health Department in March and April 1986, volatile organic contamination ("VOC") of the groundwater was first identified. In May 1986, the U.S. Environmental Protection Agency ("EPA") conducted a field investigation at the Site. Analytical results confirmed the presence of VOCs in the residential wells, as well as surface soil contamination on the Site, similar to that found in the residential wells, along with PCBs. Sediments in the drainage ditch at the Site were also contaminated with volatile organic compounds. Due to continuing contamination of two neighboring residential wells, household water treatment/filtration systems were installed by EPA in or about August, 1986 to remove the contaminants extracted with the groundwater. A treatment/filtration system was also installed in 1992 by NYSDEC in a neighboring business known as the Village Pump Tavern although its well water was not found to be contaminated during sampling. These systems are presently being maintained by the State.

R-4. The Site is registered as 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 734035. The Department

has determined, pursuant to ECL 27-1305.4, that the Site presents a significant threat to the public health or environment.

R-5. In December 1990, the Department initiated a Remedial Investigation and Feasibility Study ("RI/FS"), funded under the State Superfund Program, to determine the nature and extent of the contamination at the Site as well as to identify and evaluate potential remedial alternatives to address the contamination. A report entitled "Phase I and Phase II Remedial Investigation Report - December 1992" was prepared, describing the Department's remedial investigation activities and findings in detail. In addition, a report entitled "Feasibility Study" (February 1993) was prepared, identifying, screening and evaluating potential remedial alternatives for the Site. These two documents are summarized in the Department's Record of Decision, discussed below.

R-6. Two Interim Remedial Measures ("IRM") were conducted at the Site by the State as the remedial investigation progressed. The first IRM, conducted in May 1992, involved installation of the groundwater filtration systems for the three neighboring drinking water wells, discussed above. In light of the discovery of a septic tank containing sludge reported to be contaminated with up to 3% VOCs, and believed to be a primary continuing source of contamination of the groundwater, a second IRM was performed in 1992 to remove the sludge, wash the septic tank, backfill the tank with clean fill and transport the sludge off-site for incineration.

R-7. On March 30, 1993, following a period of public comment, the Department selected a final remedial program for the Site in a Record of Decision ("ROD"). The ROD summarizes the findings of the RI/FS. The Remedial Program selected calls for the following:

- Installation of a groundwater barrier for the overburden aquifer which surrounds and contains the entire site, consisting of (1) a bentonite slurry wall upgradient to act as a deflector to prevent groundwater from entering the site and (2) a subsurface collection drain downgradient to collect contaminated groundwater, which will either be treated on site or will be sent off site for treatment and disposal;
- Installation of a low permeability cap consistent with 6 NYCRR Part 360, extending beyond the groundwater barrier system;
- Excavation of contaminated sediments from the roadside ditches, to be placed under the cap;
- Continued operation, monitoring and maintenance of existing residential drinking water treatment systems, together with an evaluation of the existing systems to determine if modification could result in improvements towards efficiency and cost effectiveness;
- Acquisition and fair compensation for the relocation of the Village Pump Tavern property and business;

- Operation, Maintenance and monitoring of the remedy and performance of reviews at least every five years to determine the effectiveness of the remedy and to insure continued protection of human health and the environment.

R-8. Acquisition of the Village Pump Tavern is deemed necessary by the Department because the Remedial Program selected in the ROD contemplates that the Site cap and groundwater barrier system will have to be extended off-site onto the Village Pump Tavern property in order to fully contain contaminated soil and groundwater. The initial location of the collection trench and cap were selected based on the defined extent of the groundwater plume. Due to the steep hydraulic gradient of the water table and the low permeability of the soils in the area of concern, it was determined that drawing the plume back upgradient would be impossible, based on various aquifer tests conducted during the RI. Therefore the Department concluded that the collection trench must intercept all contaminated groundwater to prevent off-site migration for the protection of the resource in the interest of existing and future groundwater use downgradient of the Site. (See ROD, p. 15 and responsiveness summary at pp. 7-9).

R-9. Respondents currently believe that the Remedial Program may be able to be implemented without having to acquire the Village Pump Tavern property, and may be constructable without alteration of U.S. Route 20 and/or Ridge Road.

R-10. Pursuant to ECL 27-1313.3a, whenever the Commissioner 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.

R-11. The Department's goals in this Order are for Respondents to: (1) prepare a remedial design to implement the Remedial Program for the Site selected by the Department in the ROD; ("Remedial Design"); (2) promptly take over from the Department responsibility for continued maintenance of the existing residential drinking water treatment systems; (3) ascertain early in the Remedial Design Process whether the Remedial Program set forth in the ROD can be implemented without acquiring the Village Pump Tavern property; and (4) reimburse costs incurred by the State in overseeing Respondents' performance of the Remedial Design.

R-12. Respondents, having consented to the issuance and entry of this Order, agree to be bound by its terms. Respondents consent to and agree not to contest the authority or jurisdiction of the Department to issue or enforce this Order, and agree not to contest the validity of this Order or its terms.

Notwithstanding the above and the Respondents' agreement to undertake the obligations specified herein, nothing in this Order constitutes an admission of liability or waiver of any defenses by Respondents.

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

REMEDIAL DESIGN CONTENTS

1. The ROD is incorporated by reference as an enforceable part hereof, to the extent it specifies requirements for the Remedial Design for this Site.

2. Within 30 days after this document is executed by the Commissioner or his designate, Respondents shall submit a Work Plan for the development of the Remedial Design. The Work Plan shall include plans for continued operation, monitoring and maintenance of existing residential drinking water treatment systems.

3. Within 180 days after the Department approves Respondents' Work Plan, the Respondents shall submit to the Department the Remedial Design. The Remedial Design shall be prepared by and have the signature and seal of a professional engineer who shall certify that the Remedial Design was prepared in accordance with this Order.

4. The Remedial Design shall include the following:

A. A detailed description of the remedial objectives and the means by which each element of the selected remedial alternative will be implemented to achieve those

objectives, as specified in the ROD, including, but not limited to:

1. the construction and operation of any structures;
2. the collection, destruction, treatment, and/or disposal of hazardous wastes and substances and their constituents and degradation products, and of any soil or other materials contaminated thereby;
3. the collection, destruction, treatment, and/or disposal of contaminated groundwater, leachate, and air;
4. physical security and posting of the Site;
5. health and safety of persons living and/or working at or in the vicinity of the Site;
6. quality control and quality assurance procedures and protocols to be applied during implementation of the Remedial Design;
7. monitoring which integrates needs which are present on-Site and off-Site during implementation of the Department-selected remedial alternative; and
8. operation and maintenance of residential drinking water treatment systems where water treatment systems are currently installed.

B. "Biddable Quality" documents for the Remedial Design including, but not limited to, documents and specifications prepared, signed, and sealed by a professional engineer. These plans shall satisfy all applicable local, state and federal laws, rules and regulations;

C. The parameters, conditions, procedures, and protocols to determine the effectiveness of the Remedial Program, including a schedule for periodic sampling of groundwater monitoring wells on-Site and off-Site;

D. A description of operation, maintenance, and monitoring activities to be undertaken after the Department has approved construction of the Remedial Design, including the number of years during which such activities will be performed;

E. A contingency plan to be implemented if any element of the Remedial Program fails to achieve any of its objectives or otherwise fails to protect human health or the environment; and

F. A health and safety plan for the protection of persons working at or residing in the vicinity of the Site during construction and after completion of construction. This plan shall be prepared in accordance with 29 CFR 1910 by a certified health and safety professional; and

G. A citizen participation plan which incorporates appropriate activities outlined in the Department's publication, "New York State Inactive Hazardous Waste Citizen

Participation Plan," dated August 30, 1988, and any subsequent revisions thereto, and 6 NYCRR Part 375.

5. Respondents shall propose a precise location of the Site cap, collection trench, and leachate treatment/storage facility as part of the initial Remedial Design submittal, to be submitted to the Department at the 30% completion point. This submittal shall include an evaluation of the feasibility of implementing the Remedial Design without having to acquire the Village Pump Tavern and without alteration of Route 20 and/or Ridge Road.

6. The Department shall review each of the submittals Respondents make pursuant to this Order to determine whether they were prepared, and whether the work done to generate the data and other information in the submittal was done, in accordance with this Order and generally accepted technical and scientific principles. The Department shall notify Respondents in writing of its approval or disapproval of the submittal, except for the submittal discussed in Subparagraph 3F. All Department-approved submittals shall be incorporated into and become an enforceable part of this Order.

7. If the Department disapproves a submittal, it shall so notify Respondents in writing and shall specify the reasons for its disapproval. Within 30 days (or such later date as the Department may agree is appropriate) after receiving written notice that Respondents' submittal has been disapproved, Respondents shall make a revised submittal to the Department that

addresses and resolves all of the Department's stated reasons for disapproving the first submittal. After receipt of the revised submittal, the Department shall notify Respondents in writing of its approval or disapproval. If the Department disapproves the revised submittal, the Department shall so notify Respondents and provide a reasonable opportunity to confer, to determine if an alternative solution may be feasible or, if not, whether Respondents will implement the changes sought by the Department. If Respondents advise the Department of their unwillingness to do so, the Department may deem Respondents in violation of this Order and the Department may take any action or pursue whatever rights it has pursuant to any provision of statutory or common law. If the Department approves the revised submittal, it shall be incorporated into and become an enforceable part of this Order.

8. Respondents shall modify and/or amplify and expand a submittal upon the Department's direction to do so if the Department determines, as a result of reviewing data generated by an activity required under this Order or as a result of reviewing any other data or facts, that further work is necessary; provided, however, that the Department shall not, without Respondents' consent, require work beyond that specified in the ROD.

ASSUMPTION OF DOMESTIC WATER TREATMENT SYSTEMS

9. Within 90 days the Department executes this Order, and subject to ¶ 25 infra, Respondents shall assume responsibility for the water treatment work specified in the ROD.

FORCE MAJEURE

10. Respondents shall not suffer any penalty under this Order or be subject to any proceeding or action if they cannot comply with any requirement hereof because of war, riot, or an unforeseeable occurrence arising exclusively from causes beyond Respondents' control which the exercise of ordinary human prudence could not have prevented. Respondents shall, within five days of when they, or any one of them, obtain knowledge of any such condition, notify the Department in writing. Respondents shall include in such notice the measures taken and to be taken by Respondents to prevent or minimize any delays and shall request an appropriate extension or modification of this Order. Respondents shall have the burden of proving that an event is a defense to compliance with this Order pursuant to this subparagraph.

PAYMENT OF STATE COSTS

11. Within 30 days after receipt of an itemized invoice from the Department, Respondents shall pay to the Department a sum of money which shall represent reimbursement for all or that portion of the State's expenses, including direct

labor, fringe benefits, indirect costs, travel, analytical costs, and contractor costs incurred by the State of New York for overseeing activities conducted pursuant to this Order, and administrative costs associated with this Order not disputed by Respondents. Itemization of the costs shall include an accounting of personal services indicating the employee name, title, biweekly salary, and time spent (in hours) on the project during the billing period, as identified by an assigned time and activity code. This information shall be documented by reports of Direct Personal Service. Approved agency fringe benefit and indirect cost rates shall be applied. Non-personal service costs shall be summarized by category of expense (e.g., supplies, materials, travel, contractual) and shall be documented by expenditure reports. Such payment shall be made by certified check payable to the Department of Environmental Conservation. Payment shall be sent to the Bureau of Program Management, Division of Hazardous Waste Remediation, N.Y.S.D.E.C., 50 Wolf Road, Albany, New York 12233-7010. If Respondents dispute any such expenses they shall state the grounds for their objections, and may request the Department to produce additional documentation to substantiate any expense item in the invoice. Upon any such request, the Department shall provide available backup documentation for such expenses. If Respondents' objections cannot be resolved by the parties within 45 days of the Department's receipt of the Respondents' written objections, Respondents shall pay the undisputed amount of the expenses

within 30 days thereafter, and all disputed expenses shall be reserved for future proceedings. Respondents will work promptly and in good faith with the Department to resolve any dispute as to claimed costs.

12. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating, or in any way affecting any of the State's rights including, but not limited to the following:

(a) the Department's right to seek recovery from Respondents for all costs incurred by the State prior to the date of this Order, in responding to the release and/or threatened release of hazardous substances at and from the Site;

(b) the Department's right to bring any action or proceeding against anyone other than Respondents and/or their directors, officers, employees, servants, agents, successors, and assigns;

(c) the Department's right to enforce this Order against Respondents, and/or Respondents' successors and assigns in the event Respondents fail to comply with any of the terms of this Order;

(d) the Department's right to gather information and enter and inspect property and premises.

13. Nothing contained in this Order shall be construed to prohibit the DEC Commissioner or his duly authorized representative from exercising any summary abatement powers.

14. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way effecting any of Respondents' rights to take issue with or contest the Department's entitlement to any of the relief pursuant to paras. 10 and 11.

15. Respondents reserve all rights that they may have to assert any claim against their insurers or any third party for matters arising from this action, including, without limitation, claims for breach of contract, contribution, tortious conduct and indemnity.

PUBLIC NOTICE

16. Within 30 days after the effective date of this Order, Respondents shall file a copy of this Order with the Onondaga County Clerk to give all parties who may acquire any interest in the Site notice of this Order.

CONSISTENCY WITH THE LAWS OF THE STATE OF NEW YORK AND FEDERAL LAW

17. Approval by the Department of the Remedial Design shall be deemed to be a finding by the State that all such approved Plans, Reports, Designs and work are consistent with the National Contingency Plan and the substantive provisions of all applicable State laws and regulations.

INDEMNIFICATION

18. Respondents 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 this Order by Respondents, and/or Respondents' directors, officers, employees, servants, agents, successors, and assigns.

COMMUNICATIONS

19. All written communications required by this Order shall be transmitted by United States Postal Service, by private courier service, or hand delivered as follows:

Communication from Respondents shall be sent to:

1. Robert Schick, P.E.
Division of Hazardous Waste Remediation
New York State Department of Environmental
Conservation
50 Wolf Road
Albany, New York 12233-7010
2. Director, Bureau of Environmental
Exposure Investigation
New York State Department of Health
2 University Place
Albany, New York 12203
3. Central Field Unit
Division of Environmental Enforcement
New York State Department of
Environmental Conservation
1150 North Westcott Road
Schenectady, New York 12306

20. Copies of work plans and reports shall be submitted as follows:

1. Four copies (one unbound) to:
Robert Schick, P.E.
2. Two copies to the Director, Bureau of
Environmental Exposure Investigation.
3. One copy to Ronald Heerkens, New York State
Department of Health, 677 S. Salina Street,
Syracuse, New York 13202.
4. One copy to Central Field Unit, Division of
Environmental Enforcement

21. Within 30 days of the Department's approval of any report submitted pursuant to this Order, if requested, Respondents shall submit to Robert Schick a computer readable magnetic media copy of the approved report in American Standard Code for Information Interchange (ASCII) format or other format deemed appropriate by the State.

22. Communication to be made from the Department to Respondents shall be sent to:

For G.E.:

Mike Ianniello

For Bristol:

J.R. Rao

23. The Department and Respondents reserve the right to designate additional or different addresses for communication or written notice to the other.

COVENANT NOT TO SUE; EFFECT OF SETTLEMENT

24. The State covenants not to sue Respondents for the matters addressed in this Order, as to which Respondents shall be afforded protection from contribution as to any other parties.

MISCELLANEOUS

25. Respondents shall make reasonably diligent attempts to obtain all permits, easements, rights-of-way, rights-of-entry, approvals, or authorizations necessary to perform their obligations under this Order. Should Respondents nonetheless not succeed in such efforts in a time frame consistent with the objectives of this Order, Respondents shall seek the Department's assistance.

26. Respondents shall provide a copy of this Order to each contractor hired to perform work required by this Order and to each person representing Respondents with respect to the Site and shall condition all contracts entered into in order to carry out the obligations identified in this Order upon performance in conformity with the terms of this Order. Respondents or Respondents' contractors shall provide written notice of this Order to all subcontractors hired to perform any portion of the work required by this Order. Respondents shall nonetheless be responsible for ensuring that Respondents' contractors and subcontractors perform the work in satisfaction of the requirements of this Order.

27. All references to "professional engineer" in this Order are to an individual licensed or otherwise authorized to practice professional engineering in New York State in accordance with § 7202 of the New York State Education Law.

28. All references to "days" in this Order are to calendar days unless otherwise specified.

29. The terms of this Order shall constitute the complete and entire Order between Respondents and the Department concerning the Remedial Design and other requirements specified herein. No term, condition, understanding, or agreement purporting to modify or vary any term of this Order shall be binding unless made in writing and subscribed by the party to be bound. No informal advice, guidance, suggestion, or comment by the Department regarding any report, proposal, plan, specification, schedule, or any other submittal shall be construed as relieving Respondents of Respondents' obligation to obtain such formal approvals as may be required by this Order.

30. If Respondents desire that any provision of this Order be changed, Respondents shall make timely written application, signed by Respondents, to the Commissioner setting forth reasonable grounds for the relief sought. Copies of such written application shall be delivered or mailed to Central Field Unit, Division of Environmental Enforcement, New York State Division of Environmental Conservation and to Robert Schick, Project Manager.

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

DATED: Albany, New York

8/1, 1995

Commissioner
New York State Department of
Environmental Conservation

BY: Michael D. Hooly

DATE: June 23, 1995

General Electric Company

BY: Thomas G. Corneil *TSB*
Thomas G. Corneil
Manager, Northeast/Midwest Region
Corporate Environmental Programs
1 Computer Drive South
Albany, New York 12205

Bristol-Myers Squibb Company

By: W. R. McGarry 7/8/95
William L. McGarry, Jr.
Vice President, Counsel
Bio/Chem Division
P.O. Box 4755
Syracuse, New York 13221-4755