

Emerson Orders

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STATE OF NEW YORK:
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Gd Belmar

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

Modification of
Order on Consent
Index # A7-0125-87-09
Site #755010

**EMERSON POWER TRANSMISSION 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. Respondent, Emerson Power Transmission Company, formerly Morse Industrial Corporation, hereinafter referred to as Respondent, is a corporation organized and existing under the laws of the State of Delaware, doing business in the State of New York, in that Respondent manufactures power transmission products in Ithaca, New York.

3. Plant records provided to the Department by Respondent indicate that hazardous wastes were disposed of in the fire reservoir located on the Site during the time when the Site was owned and operated by Borg Warner Corporation.

4. The Site "Morse Industrial Corporation" is an inactive hazardous waste disposal site, as that term is defined in ECL section 27-1301(2), and has been listed in the Registry of Inactive Hazardous Waste Disposal Sites in New York State as Site

Number 755010. The Department has identified and classified the site pursuant to ECL section 27-1305, under classification 2, a "significant threat to the public health or environment - action required".

5. 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".

6. On July 13, 1988 the Department entered into an Order (Index #A7-0125-87-09) with Respondent that requires a Remedial Investigation and the performance of a Remedial Action Program at the Ithaca facility.

7. The Department and Respondent acknowledge that the goal of this Modification of Order on Consent #A7-0125-8709 is that Respondent shall implement the Approved Interim Remedial Measure Work Plan, attached to this Modification of Order as Exhibit A.

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

9. Respondent, neither admitting nor denying any of the foregoing, hereby waives its right to a hearing in this matter as provided by law and agrees to be bound by the terms of this Modification of Order on Consent #A7-0125-87-09.

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

I. Except where specifically modified or amended herein the terms, conditions, obligations and rights reserved under Order on Consent #A-0125-87-09 shall remain unchanged and in full force and effect.

II. Paragraph VII of the Order #A-0125-87-09 is hereby modified to read as follows:

VII. Stage II Investigation. Within 45 days of the Department's approval of the Stage I Report, Respondent commenced implementation of the Stage II investigation and submitted to the Department a combined Stage I and II Report (the "Remedial Investigation" or "RI" Report).

Respondent submitted a Residential Monitoring Program Work Plan to the Department and the New York State Department of Health ("NYSDOH") on March 9, 1990, based on comments from both the Department and NYSDOH. Upon final approval Respondent shall implement the Residential Monitoring Program Work Plan

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pursuant to the time line contained in the approved Plan. Any disputes that arise with respect to the development or implementation of the Residential Monitoring Program Work Plan or the report submitted pursuant to the Work Plan ("Residential Monitoring Report") shall be resolved in accordance with the same dispute resolution procedures under Paragraph IV applicable to disputes involving the RI Report. The review and approval of the Residential Monitoring Report shall be governed by Paragraph III, under the same time periods for review and approval as the RI Report. The Remedial Investigation ("RI") shall be deemed complete after (a) the RI Report has been approved by the Department; (b) the Residential Monitoring Report has been approved by the Department, and; (c) the Department determines that no further information from the Interim Remedial Measure is needed to complete the RI. The "Completion Date" shall be the date that Respondent receives notice of the Department's written approval of the RI and Residential Monitoring Reports and the Department's determination that no further information from the Interim Remedial Measure is required prior to conducting the Feasibility Study.

Paragraph VIII of the Order #A7-0125-87-09 is hereby modified to read as follows:

VIII. **Feasibility Study.** Within 120 days after the Completion Date Respondent shall submit to the Department a study evaluating the feasibility of remedial options to abate the on-Site contamination and associated off-Site impacts (the "Feasibility Study"). The Feasibility Study shall include any measures to be conducted in response to the results of the Residential Monitoring Program.

Paragraph XIII of the Order #A7-0125-87-09 is hereby modified to read as follows:

XIII. **Interim Remedial Measure and Supplementary Remedial Program.**

(A) The Department has determined that immediate activity is necessary to abate, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous substances. Respondent has submitted a Work Plan for an Interim Remedial Measure ("IRM") that was approved by the Department and NYSDOH on February 6, 1991. Respondent shall implement the IRM in accordance with the terms and

schedule contained in the approved IRM Work Plan.

Within 60 days after completion of the construction phase of the IRM Respondent shall submit a final engineering report, as built drawings, and a certification that the construction activities were completed in accordance with the Approved IRM Work Plan, 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 Respondent if the Department determines, as a result of reviewing data generated by the Approved IRM Work Plan and report, or as a result of reviewing any other data or facts, that further information is required. After receipt of the final engineering report and certification, the Department shall notify Respondent in writing whether it is satisfied with the quality and completeness of the IRM as being protective of human health and the environment.

Any disputes that arise with respect to the development of the IRM Work Plan or its implementation shall be resolved in accordance with the same dispute resolution procedures under Paragraph IV applicable to disputes involving the selection of the Remedial Design.

The language currently contained in Paragraph XIII shall remain unchanged but be designated as Paragraph XIII (B).

III. The effective date of the Modification of Order on Consent #A7-0125-87-09 shall be the date it is signed by the Commissioner or his designated representative.

DATED: 5/22/91, 1991 New York

EDWARD O. SULLIVAN
Deputy Commissioner
New York State Department of
Environmental Conservation


