

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of the
Development and Implementation
of a Remedial Investigation/Feasibility
Study for an Inactive Hazardous Waste
Disposal Site, Under Article 27,
Title 13 and Article 71, Title 27
of the Environmental
Conservation Law
of the State of New York by

AMENDED
ORDER ON
CONSENT

INDEX #A7-0352-97-03

Site Code #706006
Amending Order #A7-0286-92-08

General Electric Company
Respondent.

WHEREAS,

1. On or about March 31, 1993, the New York State Department of Environmental Conservation (the "Department") and the General Electric Company ("GE" or "Respondent") entered into an Order on Consent (the "Order") for the development and implementation of a remedial investigation/feasibility study ("RI/FS") (Index #A7-0286-92-08) for the former Powerex, Inc. facility, in Auburn, New York, (the "Site"), an inactive hazardous waste disposal site, under Article 27, Title 13, and Article 71, Title 27 of the Environmental Conservation Law of the State of New York.

2. The Department and the Respondent now wish to amend the Order attached and incorporated hereto as Exhibit A (original attachments deleted) to allow Respondent to propose and implement interim actions at the Site.

3. By mutual agreement and in furtherance of the expeditious completion of the Site's remedial program, Respondent has agreed to undertake Interim Actions ("IA") on-site as the equivalent of Interim Remedial Measures ("IRM") pursuant to the Interim Action Record of Decision ("IAROD") dated March 31, 1996, issued by the Department and attached and incorporated hereto as Exhibit B.

4. The use of Interim Actions and the procedures described herein are for use in the remediation program of this Site only as described herein and may not represent the Department's position for the remediation programs of other sites.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT THE ORDER IS AMENDED BY THE DELETION OF SUBPARAGRAPHS V.B., AND VI.A, AND THE FOLLOWING LANGUAGE IS ADDED AND INCORPORATED AS FOLLOWS:

V. Performance and Reporting of Remedial Investigation

A. The Respondent shall implement the remedial investigation in accordance with the schedule set forth in the approved RI/FS Work Plan or Subparagraph VII.B as applicable.

B. 1. Respondent shall perform the remedial investigation in accordance with the Department-approved RI/FS Work Plan, including any Department-approved amendments to that work plan.

2. By mutual agreement of the parties, Respondent may elect to perform certain segments of the Site's remedial program as Interim Actions in accordance with those standards and

procedures set forth in Paragraphs V, VI and Subparagraph VII.B herein.

D. Respondent shall prepare a remedial investigation report or reports ("RI Report") within the time frame set forth in the RI/FS Work Plan or Paragraph VII.B as applicable. The RI Report shall: (see text continuation, RI/FS Consent Order).

VI. Feasibility Study

A. In accordance with the schedule set forth in the RI/FS Work Plan and/or Subparagraph VII.B herein, as applicable, Respondent shall perform, prepare and submit a feasibility study evaluating on-Site and off-Site remedial actions to eliminate, to the maximum extent practicable, all health and environmental hazards and potential hazards attributable to the Site. The Feasibility Study shall be prepared and certified by an individual or firm licensed to offer engineering services in accordance with Article 145 of the New York State Education Law.

VII. Performance and Reporting of Interim Remedial Measures and Interim Actions

Respondent may propose interim remedial measures and interim actions for the Site on an as-needed basis.

A. In proposing each IRM, Respondent shall submit to the Department a work plan which includes time frames for the completion of the IRM. Upon the Department's approval of such a work plan, it shall be incorporated into and become an enforceable part of this Order.

B. In proposing each interim action, Respondent shall submit to the Department a focused feasibility study ("FFS") to support the proposed interim remedial alternative. The Department shall review and Respondent shall modify, as required, the FFS pursuant to Paragraph IV above. The Department shall prepare a proposed interim action plan ("PIAP") based on the approved FFS and shall solicit public comment on the proposed interim action. Respondent shall cooperate and assist the Department in soliciting public comment on the FFS and the recommended interim remedial alternative identified in the PIAP, in accordance with CERCLA and the NCP and with any relevant Department policy and guidance documents in effect at the time the public comment period is initiated. After the close of the public comment period, the Department shall select an interim remedial alternative for the Site in an Interim Action Record of Decision ("IAROD"). If the IAROD is substantially similar to the proposed interim remedial alternative recommended by Respondent in the FFS, then Respondent shall implement the IAROD pursuant to the provisions set forth herein. If the IAROD is not substantially similar to the proposed interim remedial alternative recommended by Respondent in the FFS, Respondent may or may not elect to implement the IAROD. The Department reserves all rights it may have under State and Federal environmental law and specifically reserves its rights to require any responsible parties, including Respondent, to undertake further remedial activities at the Site.

1. If Respondent elects to undertake the IAROD, then Respondent shall submit a basis of design to the Department within 120 days of the issuance of the IAROD, or within 120 days of the effective date of this Amendment, whichever is later. The Department shall review the basis of design pursuant to Paragraph IV above.

2. Within 90 days of the Department's notification of its approval of the basis of design, Respondent shall submit to the Department an interim action remedial design to implement the IAROD.

C. Interim Action Remedial Design

As specified above, within 90 days after the Department notifies Respondent of its approval of the basis of design, Respondent shall submit to the Department an interim action remedial design to implement the interim remedial alternative selected by the Department for the Site in the IAROD. The interim action remedial design shall be prepared by and have the signature and seal of a professional engineer who shall certify that the interim action remedial design was prepared in accordance with this Order.

The interim action remedial design shall include, as appropriate, the following:

1. A detailed description of the interim remedial action objectives and the means by which each essential element of the selected interim remedial alternative will be implemented to achieve those objectives, including, but not limited to:

- a. the construction and operation of any structures;
 - b. 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;
 - c. the collection, destruction, treatment, and/or disposal of contaminated groundwater, leachate, and air;
 - 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 Site;
 - f. quality control and quality assurance procedures and protocols to be applied during implementation of the interim action remedial design;
 - g. monitoring, which integrates needs which are present on-Site and, if needed, off-Site during implementation of the Department-selected interim remedial alternative;
 - h. identification of all local, State or Federal permits or authorizations required to implement the selected interim remedial alternative, including access agreements required for access to off-site property that may be required and a schedule for seeking and obtaining such access; and
 - i. a plan to restore all off-Site areas impacted during the design, construction, operation and maintenance of the interim action.
2. Engineering documents of a "biddable quality" for the interim action remedial design including, but not limited to,

plans and specifications prepared, signed, and sealed by a professional engineer. Subject to 6 NYCRR 375-1.7, these plans shall satisfy all applicable local, State and Federal laws, rules and regulations;

3. A time schedule to implement the interim action remedial design;

4. The parameters, conditions, procedures, and protocols to determine the effectiveness of the Department-selected interim remedial alternative, including a schedule for periodic sampling of groundwater monitoring wells on-Site and/or off-Site;

5. A description of operation, maintenance, and monitoring activities to be undertaken after the Department has approved construction of the interim action remedial design, including, if appropriate, an estimate of the number of years during which such activities will be performed;

6. An appendix to the interim action remedial design detailing the construction quality assurance plan including a contingency plan to be implemented if any element of the interim action remedial design fails to achieve any of its objectives as set forth in the IAROD;

7. An appendix to the interim action remedial design detailing the health and safety plan for the protection of persons at and in the vicinity of the Site during construction and after completion of construction of the interim action. This plan shall be prepared in accordance with 29 C.F.R. §1910 by a qualified health and safety professional;

8. An appendix to the interim action remedial design detailing the emergency response plan to be implemented in case of an emergency or other special condition, including, but not limited to, fire, explosion and spills or releases of hazardous or toxic substances; and

9. An appendix to the interim action remedial design detailing the citizen participation plan that is, at a minimum, consistent with the Department's publication, "New York State Inactive Hazardous Waste Site Citizen Participation Plan," dated August 30, 1988, and any subsequent revisions thereto, and with 6 NYCRR Part 375. In this regard, Respondent may, as appropriate, reference the citizen participation plan previously approved by the Department for the Site and attached hereto as Exhibit C.

D. Interim Action Remedial Design Construction

1. Within 90 days of the Department's approval of the interim action remedial design or such longer time period as may be approved by the Department, Respondent shall commence construction of the interim action remedial design.

2. Respondent shall implement the interim action remedial design in accordance with the Department-approved interim action remedial design.

3. During implementation of all construction activities identified in the interim action remedial design, Respondent or Respondent's consultants or contractors shall have on-Site a representative who is qualified to supervise the work done.

4. Within 90 days after completion of the construction activities identified in the interim action remedial design or such longer time period as may be approved by the Department, Respondent shall submit to the Department a detailed operation and maintenance plan (O&M Plan"); "as-built" drawings and a final engineering report, each including all changes made to the interim action remedial design during construction, and a certification that the interim action remedial design was implemented and all construction activities were completed in accordance with the Department-approved interim action remedial design. The O&M Plan, "as built" drawings, final engineering report, and certification must be prepared, signed, and sealed by a professional engineer or firm with responsibility for oversight of design implementation.

5. Upon the Department's approval of the O&M Plan, Respondent shall implement the O&M Plan in accordance with the requirements of the Department-approved O&M Plan.

6. After receipt of the "as-built" drawings, final engineering report, and certification, the Department shall notify Respondent in writing whether the Department is satisfied that all construction activities have been completed in compliance with the approved interim action remedial design.

7. If the Department concludes that any element of the interim action remedial alternative fails to achieve the interim remedial action objectives set forth in the IAROD and determines that additional action is necessary to achieve those objectives,

the Department shall so notify Respondent in writing. Within 30 days of receipt of the Department's written determination that additional action is required pursuant to this Subparagraph, Respondent shall notify the Department's Director of Hazardous Waste Remediation (the "Director") whether Respondent elects to undertake such additional action. In the event Respondent elects not to undertake such additional action, such additional action will be reserved for future proceedings and all parties shall retain whatever rights and remedies at law that may be available to them in those future proceedings. Upon Respondent's notification of its election to undertake such additional action, such election shall be incorporated into and become an enforceable part of this Order.

E. To date, Respondent has proposed two interim remedial alternatives at the Site, one to address surface water and the other to address the shallow bedrock ground water in the source areas. Based on the FFS submitted by Respondent, which was subsequently approved by the Department, the Department prepared a PIAP and solicited public comment on the recommended interim remedial alternatives. The Department subsequently issued an IAROD. With the Department's approval, the interim remedial alternative selected to address surface water, with the exception of the associated long-term monitoring, was implemented by Respondent as an IRM pursuant to Paragraph VII.A above. Respondent has elected to implement the remaining elements of the IAROD, attached hereto as Exhibit B, pursuant to Paragraph VII.B

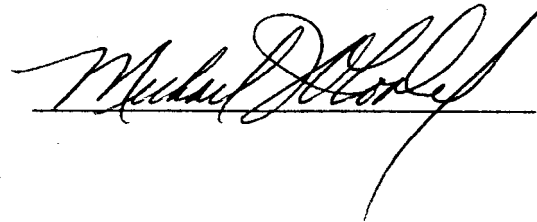
of this Order. Respondent shall acquire 18 months of data on the performance of the two interim remedial alternatives discussed above and incorporate said data into the RI/FS for the Site. Respondent shall submit the RI Report for the Site to the Department within 90 days of the completion of the 18-month data collection period. Review and approval of the submittal shall proceed in accordance with Paragraph IV of this Order. Within 120 days of receiving the Department's approval of the RI Report, Respondent shall submit a FS Report to the Department. Review and approval of the FS Report shall also be in accordance with Paragraph IV of this Order.

DATED: 5/12, New York

1997

John P. Cahill
Acting Commissioner
New York State Department
of Environmental Conservation

By



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 this Order.

GENERAL ELECTRIC COMPANY

By: [Signature]

Title: Manager and Counsel - Remediation Programs

Date: 4/28/97

Connecticut
STATE OF ~~NEW YORK~~) ss: Fairfield April 28, 1997
COUNTY OF Fairfield

On this 28th day of April, 1997, before me personally came Jane W. Gardner, to me known, who being duly sworn, did depose and say that ~~he~~ she resides in Fairfield; that ~~he~~ she is the Manager and Counsel - Remediation Programs of General Electric Company ("the Company") and that ~~he~~ she is authorized by the Company to execute the foregoing instrument.

[Signature]
Notary Public

ANDREA E. RAMOS
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1999