

OS-0116

SDMS 221275

Short Term Measure (STM) Newell Street
Marchetto Property, Quality Printing
Oct. 1990

AND

Response to Superseding Order of Conditions
File 263-310 for Short Term Measure at
Marchetto Property, Newell Street



Area Environmental & Facility Programs
General Electric Company
100 Woodlawn Avenue, Pittsfield, MA 01201

RECEIVED

OCT 4 1990

BERKSHIRE COUNTY
REGIONAL PLANNING COMMISSION

I-P - IV (A)(1)

PUBLIC INVOLVEMENT PLAN (PIP) SUBMISSION

GE-DEP Consent Order
General Electric Pittsfield Facility
SA 1-0145, 1-0146, 1-0148, 1-0563, 1-0714

To: Berkshire Athenaeum Public Library
Reference Department
1 Wendell Avenue
Pittsfield, MA 01201
Attn: Madeline Kelly

Berkshire County Regional Planning Commission
10 Fenn Street
Pittsfield, MA 01201
Attn: Chrystal Shelley

From: GE Pittsfield, G. Bowman
 Consultant for GE, Name: _____

Re: Submission of Document(s) to Repositories Under Public Involvement Plan

Date: October 1, 1990

Document Transmitted:

Short Term Measure (STM) Newell Street

Marchetto Property / Quality Printing

In the Matter of:)	
)	SA 1-0145, 1-0146, 1-0148,
THE GENERAL ELECTRIC)	1-0563 and 1-0714
COMPANY - PITTSFIELD)	Administrative
FACILITY)	Consent Order
)	

Article I - The Parties

- 1.1. The Department of Environmental Protection (pursuant to Stat. 1989, c.240, section 101, "the department of environmental quality engineering shall be known as the department of environmental protection", hereinafter referred to as the "Department") is located at One Winter Street, Boston, Massachusetts, with a regional office at 436 Dwight Street, Springfield, Massachusetts.
- 1.2. The General Electric Company ("GE") is a New York corporation with a place of business at 100 Woodlawn Avenue, Pittsfield, Massachusetts.

Article II - Statement of Purpose

- 2.1. This administrative consent order (the "Order") is voluntarily entered into by GE and the Department because they have mutually agreed that it is in the public interest and in their own interests to proceed promptly with the measures called for herein. GE and the Department have agreed that it would be more productive not to expend considerable resources and time in litigating the determinations set forth herein but instead to use their collective resources and time to undertake forthwith and without delay the measures provided for below.

In entering into this Order, the objectives of the Department and GE are to ensure the prompt, timely and effective implementation of remedial response actions (as hereinafter defined) at the sites (as hereinafter defined) consistent with the Massachusetts Contingency Plan, 310 CMR 40.000. This Order and a companion consent order which was executed and became effective on May 22, 1990 and governs remedial activities on the Housatonic River floodplain are intended to replace a certain Consent Order between GE and the Department dated May 27, 1981 and the terms of the May 27, 1981 Consent Order shall be deemed null and void as of the effective date of this Order.

By completing the work to be performed pursuant to the terms of this Order, it is the mutual objective of the Department and of GE to facilitate the expeditious implementation of the Phase III Final Remedial Response Plans to be developed pursuant to this Order, as approved by the Department.

Article III - Definitions

As used in this Order, the following terms shall have the following meanings:

- 3.1. "East Street Area 1 Site" shall mean the land and buildings located within and outside of the GE Facility currently known to extend throughout the area bounded generally on the north by Merrill Road from the southeast corner of Building 100 along a portion of the northern border of Building 69, and south in the general direction of the Housatonic River (at any place or area where uncontrolled oil and/or hazardous material has come to be located), and shall include any other place or area where uncontrolled oil and/or hazardous material emanating from said property has come to be located. The boundaries of the East Street Area 1 Site shall automatically change to include all such places or areas discovered during the duration of activities performed under this Order;
- 3.2. "East Street Area 2 Site" shall mean the land and buildings located within and outside of the GE Facility currently known to extend throughout the area bounded generally by the southern border of Building 100, the eastern border of Building 1, the eastern border of the GE parking lot below East Street, the eastern border of Building 66-B and the Housatonic River, and shall include any other place or area where uncontrolled oil and/or hazardous material emanating from said property has come to be located. The boundaries of the East Street Area 2 Site shall automatically change to include all such places or areas discovered during the duration of activities performed under this Order;
- 3.3. "GE Facility" shall mean the GE manufacturing facility located at 100 Woodlawn Avenue, Pittsfield, Massachusetts, comprising approximately 250 acres of land and containing approximately five million square feet of buildings;
- 3.4. "GE Facility (Remainder) Site" shall mean all of the land and buildings comprising the GE Facility and not included within the boundaries of the East Street Area 1 Site, the East Street Area 2 Site, the Hill 78 Area Site or the Unkamet Brook Area Site, and shall include any other place or area within or outside the GE Facility where uncontrolled oil and/or hazardous material emanating from said property has come to be located. The boundaries of the GE Facility (Remainder) Site shall automatically change to include all such places or areas discovered during the duration of activities performed under this Order;
- 3.5. "hazardous material" shall have the meaning given to it by Section 2 of M.G.L. Chapter 21E and by 310 CMR 40.020, as the same may be amended from time to time;

- 3.6. "Hill 78 Area Site" shall mean the land and buildings located within and outside of the GE Facility currently known to extend throughout the area bounded generally by Merrill Road to the south, New York Avenue to the west, the Ordnance facility fence to the east and north to an undetermined point (where uncontrolled oil and/or hazardous material has come to be located) and shall include any other place or area where uncontrolled oil and/or hazardous material emanating from said property has come to be located. The boundaries of the Hill 78 Area Site shall automatically change to include all such places or areas discovered during the duration of activities performed under this Order;
- 3.7. "imminent hazard" shall have the meaning given to it by 310 CMR 40.020, as the same may be amended from time to time;
- 3.8. "MCP" shall mean the Massachusetts Contingency Plan, promulgated at 310 CMR 40.000, as the same may be amended from time to time;
- 3.9. "oil" shall have the meaning given to it by Section 2 of M.G.L. Chapter 21E and by 310 CMR 40.020, as the same may be amended from time to time;
- 3.10. "PCBs" shall mean polychlorinated biphenyls;
- 3.11. "Phase II Report" shall mean a report of the results of the Phase II comprehensive site assessment, in such detail as is required by 310 CMR 40.545, as the same may be amended from time to time;
- 3.12. "Phase III Plan" shall mean a Final Remedial Response Plan, which term is defined by 310 CMR 40.020, as the same may be amended from time to time and a report identifying and evaluating remedial response alternatives pursuant to 310 CMR 40.546, as the same may be amended from time to time;
- 3.13. "remedial response action" shall have the meaning given to it by 310 CMR 40.020, as the same may be amended from time to time;
- 3.14. "response action costs" shall have the meaning given to it by 310 CMR 40.020, as the same may be amended from time to time;
- 3.15. "short term measure" shall have the meaning given to it by 310 CMR 40.020, as the same may be amended from time to time;
- 3.16. "sites" shall mean the East Street Area 1 Site, the East Street Area 2 Site, the Hill 78 Area Site, the Unkamet Brook Area Site, the GE Facility (Remainder) Site and any other place or area where uncontrolled oil and/or hazardous material emanating from said properties has come to be located; and
- 3.17. "Unkamet Brook Area Site" shall mean the land and buildings located within and outside of the GE Facility currently known to extend throughout the area bounded generally by Dalton Avenue to the north, south along the floodplain of Unkamet Brook to the Housatonic River,

and including the land and buildings extending west from the floodplain to the eastern border of Building 51 and extending east from the floodplain to the area surrounding Building O.P. 3, and shall include (i) any other place or area where uncontrolled oil and/or hazardous material emanating from said property has come to be located and (ii) any other adjacent place or area where uncontrolled oil or hazardous material originating from the GE Facility has come to be located. The boundaries of the Unkamet Brook Area Site shall automatically change to include all such places or areas discovered during the duration of activities performed under this Order.

Article IV - Statement of Facts

- 4.1. The Department is a duly constituted agency of the Commonwealth of Massachusetts and is responsible for the implementation and enforcement of the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, M.G.L. c.21E and the regulations promulgated thereunder at 310 CMR 40.000.
- 4.2. GE purchased much of the property comprising the GE Facility in 1903 and has used the property for various manufacturing purposes from that time continuing into the present.
- 4.3. GE has generated and used hazardous materials and oils at the GE Facility, some of which have been released to the environment in and around the GE Facility. In addition, beginning in approximately 1932 and continuing until approximately 1977, GE used PCBs at the GE Facility in the manufacture of electrical components. GE disposed of some of these PCBs at the GE Facility, and additional PCBs have come to be located at various locations in and around the GE Facility.
- 4.4. The Department entered into a consent order with GE, dated May 27, 1981, which required GE to, among other things, document past and present PCB and other hazardous waste disposal practices and locations and document site investigations conducted at the GE Facility to date.
- 4.5. GE has installed a groundwater recovery system at the East Street Area 1 Site and a groundwater recovery system and a slurry wall at the East Street Area 2 Site to control the movement of contaminated groundwater and to remove floating oil from the groundwater passing through these sites.
- 4.6. Based upon the information which GE has heretofore submitted to the Department, the Department hereby classifies the sites under the MCP as follows:
 - A) The Hill 78 Area Site has not been adequately assessed to permit the Department to make a classification decision pursuant to 310 CMR 40.544 and is within Phase I of the MCP, in accordance with 310 CMR 40.543.
 - B) The East Street Area 1 Site and the East Street Area 2 Site are classified pursuant to 310 CMR 40.544 as priority disposal sites and

are within Phase II of the MCP, in accordance with 310 CMR 40.545.

- C) The Unkamet Brook Area Site is classified pursuant to 310 CMR 40.544 as a priority disposal site and is within Phase II of the MCP, in accordance with 310 CMR 40.545.
- D) The GE Facility (Remainder) Site has not been adequately assessed to permit the Department to make a classification decision pursuant to 310 CMR 40.544 and is within Phase I of the MCP, in accordance with 310 CMR 40.543.

Based upon the foregoing statement of facts and pursuant to its authority under M.G.L. c.21E, section 9, the Department orders and GE agrees to the following terms and conditions:

Article V - Parties Bound

- 5.1. This Order shall apply to and be binding upon GE and its successors and assigns. No change in ownership or the corporate or legal status of GE will in any way alter GE's responsibilities under this Order.

Article VI - Short Term Measures

- 6.1. Effective immediately, and until GE receives the written approval of the Department to cease or modify operations, GE shall continue to maintain and operate the existing groundwater recovery systems at the East Street Area 1 Site and the East Street Area 2 Site in a manner which minimizes the risk of harm to the public health, safety, welfare or the environment which is posed by migrating oil in the groundwater at that site.
- 6.2. Within sixty (60) days of the effective date of this Order, GE shall submit to the Department for its review and approval a proposal for short term measures to control the migration of, and remove, floating oil and dissolved contaminants in and from the groundwater at the East Street Area 1 Site and the East Street Area 2 Site, in accordance with 310 CMR 40.542(3). Such proposal may incorporate the current groundwater recovery systems and slurry wall, but in this event GE must submit an evaluation of the current collection system compared to other technically feasible collection systems, and must propose the discontinuation of the discharge of untreated separated water from either of these systems into the surface water or the groundwater. Any proposal for abandonment of the groundwater recharge pond currently used by GE for the discharge of untreated waters from the recovery systems must account for the impact of abandonment of this pond on the existing recovery systems. Such proposal shall include an implementation schedule with an anticipated completion date.

If GE's proposal for such short term measures is not approved by the Department, or if the Department's approval is conditioned upon the completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of the short term measures. Upon

receipt of the Department's approval, GE shall commence implementation of the short term measures and shall diligently complete the same in accordance with the approved or modified implementation schedule.

- 6.3. GE and its contractors, representatives and agents shall, throughout the duration of the conduct of remedial response actions at each of the sites, continually evaluate the need to perform short term measures at the sites to address any imminent hazards discovered or identified. If GE or its contractors, representatives or agents identify an imminent hazard at the sites which requires or may require the performance of a short term measure, GE shall immediately notify the Department and shall as soon as possible provide the Department with all of the information set forth at 310 CMR 40.542(3)(b).

In such event, or in the event that the Department identifies an imminent hazard and determines that short term measure(s) are required, GE shall perform or arrange for the performance of such short term measure(s) as are approved or required by the Department pursuant to 310 CMR 40.542. Prior to the implementation of any such short term measure(s) at or in connection with the sites, GE shall obtain the Department's approval.

Article VII - Hill 78 Area Site
Remedial Response Actions

- 7.1. Prior to the date of execution of this Order, GE submitted to the Department a Scope of Work for a Phase I Limited Site Investigation and Report for the Hill 78 Area Site, and the Department issued a conditional approval letter to GE relative to that scope of work. Within fourteen (14) days of the date of the Department's written notice of the execution of this Order, GE shall commence implementation of the Phase I Scope of Work for the Hill 78 Area Site, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule for such work. Upon conclusion of all work called for in the Phase I Scope of Work, GE shall submit to the Department for its review and approval a Phase I Report for the Hill 78 Area Site. This report shall include, without limitation, all data assembled during previously approved activities under the Phase I Scope of Work.
- 7.2. If GE's Phase I Report for the Hill 78 Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain Department approval of a Phase I Report for the Hill 78 Area Site. The Department's conditional approval of GE's Phase I Scope of Work for the Hill 78 Area Site prior to the execution date of this Order shall not constitute or be construed as a limitation on GE's obligation under this Order to undertake all work required by the Department and consistent with the requirements of the MCP to obtain approval of a Phase I Report.

- 7.3. Within the later of (i) thirty (30) days after the date the Department notifies GE of a classification decision pursuant to 310 CMR 40.544 with respect to the Hill 78 Area Site or (ii) ninety (90) days after the date the Department notifies GE of the Department's written approval or modification of GE's Phase I Report for the Hill 78 Area Site, GE shall submit to the Department for the Department's review and approval a Phase II Scope of Work for the Hill 78 Area Site in accordance with the requirements of 310 CMR 40.545(2). Such scope of work shall propose those activities necessary to complete a Phase II Comprehensive Site Assessment of the Hill 78 Area Site in accordance with the requirements of 310 CMR 40.545, and shall include an implementation schedule with an anticipated completion date.

Without in any way limiting the foregoing, the Phase II Scope of Work for the Hill 78 Area Site shall include a schedule for developing a scope of work for, and implementing, a characterization of the risk of harm to human health, pursuant to 310 CMR 40.545(3)(g) and a characterization of the risk to safety, public welfare and the environment, pursuant to 310 CMR 40.545(3)(h). Such characterizations shall be carried out in accordance with the "Guidance for Disposal Site Risk Characterization and Related Phase II Activities in Support of the Massachusetts Contingency Plan", developed by the Department's Office of Research and Standards, as this document may be amended or revised from time to time.

- 7.4. If the Phase II Scope of Work for the Hill 78 Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase II Scope of Work for the Hill 78 Area Site.
- 7.5. Within fourteen (14) days of the date of the Department's written approval or modification of the Phase II Scope of Work for the Hill 78 Area Site, GE shall commence implementation of the Phase II Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase II Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase II Report for the Hill 78 Area Site. This report shall include, without limitation, all data assembled during previously approved activities under the Phase II Scope of Work.
- 7.6. If the Phase II Report for the Hill 78 Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase II Report for the Hill 78 Area Site, and GE shall submit to the Department for the Department's review and approval a revised Phase II Report for the Hill 78 Area Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

- 7.7. Within sixty (60) days of the date of the Department's final written approval of the Phase II Report for the Hill 78 Area Site, GE shall submit to the Department for the Department's review and approval a Phase III Scope of Work for the Hill 78 Area Site. Such scope of work shall propose those activities necessary to develop remedial response alternatives and a final remedial response plan for the Hill 78 Area Site in accordance with the requirements of 310 CMR 40.546, and shall include an implementation schedule with an anticipated completion date.
- 7.8. If the Phase III Scope of Work for the Hill 78 Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase III Scope of Work for the Hill 78 Area Site.
- 7.9. Within fourteen (14) days of the date of the Department's written approval or modification of the Phase III Scope of Work for the Hill 78 Area Site, GE shall commence implementation of the Phase III Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase III Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase III Plan for the Hill 78 Area Site. The Phase III Plan shall include, without limitation, the identification and evaluation of remedial response alternatives and a final remedial response plan.
- 7.10. If the Phase III Plan for the Hill 78 Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE will undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of the Phase III Plan, and GE will submit to the Department for the Department's review and approval a revised Phase III Plan for the Hill 78 Area Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

Article VIII - East Street Area 1 Site
Remedial Response Actions

- 8.1. Prior to the date of execution of this Order, GE submitted to the Department a Scope of Work for a Phase II Comprehensive Site Assessment for the East Street Area 1 Site, and the Department issued a conditional approval letter to GE relative to that scope of work. Within fourteen (14) days of the date of the Department's written notice of the execution of this Order, GE shall commence implementation of the Phase II Scope of Work for the East Street Area 1 Site, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase II Scope of Work, GE shall submit to the

Department for the Department's review and approval a Phase II Report for the East Street Area 1 Site. This report shall include, without limitation, all data assembled during previously approved activities under the Phase II Scope of Work.

- 8.2. If the Phase II Report for the East Street Area 1 Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase II Report for the East Street Area 1 Site, and GE shall submit to the Department for the Department's review and approval a revised Phase II Report for the East Street Area 1 Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs. The Department's conditional approval of GE's Phase II Scope of Work for the East Street Area 1 Site prior to the execution date of this Order shall not constitute or be construed as a limitation on GE's obligation under this Order to undertake all work required by the Department and consistent with the requirements of the MCP to obtain approval of a Phase II Report.
- 8.3. Within sixty (60) days of the date of the Department's final written approval of the Phase II Report for the East Street Area 1 Site, GE shall submit to the Department for the Department's review and approval a Phase III Scope of Work for the East Street Area 1 Site. Such scope of work shall propose those activities necessary to develop remedial response alternatives and a final remedial response plan for the East Street Area 1 Site in accordance with the requirements of 310 CMR 40.546, and shall include an implementation schedule with an anticipated completion date.
- 8.4. If the Phase III Scope of Work for the East Street Area 1 Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase III Scope of Work for the East Street Area 1 Site.
- 8.5. Within fourteen (14) days of the date of the Department's written approval or modification of the Phase III Scope of Work for the East Street Area 1 Site, GE shall commence implementation of the Phase III Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase III Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase III Plan for the East Street Area 1 Site. The Phase III Plan shall include, without limitation, the identification and evaluation of remedial response alternatives and a final remedial response plan.
- 8.6. If the Phase III Plan for the East Street Area 1 Site is not approved by the Department, or if the Department's approval is conditioned upon

completion of additional work, GE will undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of the Phase III Plan, and GE will submit to the Department for the Department's review and approval a revised Phase III Plan for the East Street Area 1 Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

Article IX - East Street Area 2 Site
Remedial Response Actions

- 9.1. Prior to the date of execution of this Order, GE submitted to the Department a Scope of Work for a Phase II Comprehensive Site Assessment for the East Street Area 2 Site, and the Department issued a conditional approval letter to GE relative to that scope of work. Within fourteen (14) days of the date of the Department's written notice of the execution of this Order, GE shall commence implementation of the Phase II Scope of Work for the East Street Area 2 Site, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase II Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase II Report for the East Street Area 2 Site. This report shall include, without limitation, all data assembled during previously approved activities under the Phase II Scope of Work.
- 9.2. If the Phase II Report for the East Street Area 2 Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase II Report for the East Street Area 2 Site, and GE shall submit to the Department for the Department's review and approval a revised Phase II Report for the East Street Area 2 Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs. The Department's conditional approval of GE's Phase II Scope of Work for the East Street Area 2 Site prior to the execution date of this Order shall not constitute or be construed as a limitation on GE's obligation under this Order to undertake all work required by the Department and consistent with the requirements of the MCP to obtain approval of a Phase II Report.
- 9.3. Within sixty (60) days of the date of the Department's final written approval of the Phase II Report for the East Street Area 2 Site, GE shall submit to the Department for the Department's review and approval a Phase III Scope of Work for the East Street Area 2 Site. Such scope of work shall propose those activities necessary to develop remedial response alternatives and a final remedial response plan for the East Street Area 2 Site in accordance with the requirements of 310 CMR 40.546, and shall include an implementation schedule with an anticipated completion date.

- 9.4. If the Phase III Scope of Work for the East Street Area 2 Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase III Scope of Work for the East Street Area 2 Site.
- 9.5. Within fourteen (14) days of the date of the Department's written approval or modification of the Phase III Scope of Work for the East Street Area 2 Site, GE shall commence implementation of the Phase III Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase III Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase III Plan for the East Street Area 2 Site. The Phase III Plan shall include, without limitation, the identification and evaluation of remedial response alternatives and a final remedial response plan.
- 9.6. If the Phase III Plan for the East Street Area 2 Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE will undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of the Phase III Plan, and GE will submit to the Department for the Department's review and approval a revised Phase III Plan for the East Street Area 2 Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

Article X - Unkamet Brook Area Site
Remedial Response Actions

- 10.1. Prior to the date of execution of this Order, GE submitted to the Department a Scope of Work for a Phase II Comprehensive Site Assessment for the Unkamet Brook Area Site, and the Department issued a conditional approval letter to GE relative to that scope of work. Within fourteen (14) days of the date of the Department's written notice of the execution of this Order, GE shall commence implementation of the Phase II Scope of Work for the Unkamet Brook Area Site, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase II Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase II Report for the Unkamet Brook Area Site. This report shall include, without limitation, all data assembled during previously approved activities under the Phase II Scope of Work.
- 10.2. If the Phase II Report for the Unkamet Brook Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the

MCP in order to obtain approval of a Phase II Report for the Unkamet Brook Area Site, and GE shall submit to the Department for the Department's review and approval a revised Phase II Report for the Unkamet Brook Area Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs. The Department's conditional approval of GE's Phase II Scope of Work for the Unkamet Brook Area Site prior to the execution date of this Order shall not constitute or be construed as a limitation on GE's obligation under this Order to undertake all work required by the Department and consistent with the requirements of the MCP to obtain approval of a Phase II Report.

- 10.3. Within sixty (60) days of the date of the Department's final written approval of the Phase II Report for the Unkamet Brook Area Site, GE shall submit to the Department for the Department's review and approval a Phase III Scope of Work for the Unkamet Brook Area Site. Such scope of work shall propose those activities necessary to develop remedial response alternatives and a final remedial response plan for the Unkamet Brook Area Site in accordance with the requirements of 310 CMR 40.546, and shall include an implementation schedule with an anticipated completion date.
- 10.4. If the Phase III Scope of Work for the Unkamet Brook Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase III Scope of Work for the Unkamet Brook Area Site.
- 10.5. Within fourteen (14) days of the date of the Department's written approval or modification of the Phase III Scope of Work for the Unkamet Brook Area Site, GE shall commence implementation of the Phase III Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase III Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase III Plan for the Unkamet Brook Area Site. The Phase III Plan shall include, without limitation, the identification and evaluation of remedial response alternatives and a final remedial response plan.
- 10.6. If the Phase III Plan for the Unkamet Brook Area Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE will undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of the Phase III Plan, and GE will submit to the Department for the Department's review and approval a revised Phase III Plan for the Unkamet Brook Area Site within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

Remedial Response Actions

- 11.1. Prior to the date of execution of this Order, GE submitted to the Department a Scope of Work for a Phase I Limited Site Investigation and Report for the GE Facility (Remainder) Site, and the Department issued a conditional approval letter to GE relative to that scope of work. Within fourteen (14) days of the date of the Department's written notice of the execution of this Order, GE shall commence implementation of the Phase I Scope of Work for the GE Facility (Remainder) Site, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule for such work. Upon conclusion of all work called for in the Phase I Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase I Report for the GE Facility (Remainder) Site. This report shall include, without limitation, all data assembled during previously approved activities under the Phase I Scope of Work.
- 11.2. If GE's Phase I Report for the GE Facility (Remainder) Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain Department approval of a Phase I Report for the GE Facility (Remainder) Site. The Department's conditional approval of GE's Phase I Scope of Work for the GE Facility (Remainder) Site prior to the execution date of this Order shall not constitute or be construed as a limitation on GE's obligation under this Order to undertake all work required by the Department and consistent with the requirements of the MCP to obtain approval of a Phase I Report.
- 11.3. Notwithstanding the requirements set forth below, following the Department's approval of GE's Phase I Report and the Department's classification of the GE Facility (Remainder) Site pursuant to 310 CMR 40.544, GE shall not be required under the terms of this Order to complete additional remedial actions with respect to any portion(s) of the GE Facility (Remainder) Site which are (i) classified by the Department as non-priority disposal sites or (ii) found by the Department not to be disposal sites. However, nothing contained in this Paragraph 11.3 shall be construed as a limitation on or release of any liability of GE for response action costs or for the conduct of response actions at all or any portion of the GE Facility (Remainder) Site. Without limitation, the Department specifically reserves all of the rights set forth in Article XXIV below with respect to any liability of GE for such matters.
- 11.4. Within the later of (i) sixty (60) days after the date the Department notifies GE of one or more priority disposal site classification decisions pursuant to 310 CMR 40.544 with respect to the GE Facility (Remainder) Site or (ii) ninety (90) days after the date the Department notifies GE of the Department's written approval or modification of GE's Phase I Report for all or any portions of the GE Facility (Remainder) Site, GE shall submit to the Department for the

Department's review and approval a Phase II Scope of Work for any priority disposal sites within such portions of the GE Facility (Remainder) Site for which the Department has issued an approval or modification of a Phase I Report, in accordance with the requirements of 310 CMR 40.545(2). Such scope of work shall propose those activities necessary to complete a Phase II Comprehensive Site Assessment for such site(s) in accordance with the requirements of 310 CMR 40.545, and shall include an implementation schedule with an anticipated completion date.

Without in any way limiting the foregoing, a Phase II Scope of Work for such priority disposal site(s) within the GE Facility (Remainder) Site shall include a schedule for developing a scope of work for, and implementing, a characterization of the risk of harm to human health, pursuant to 310 CMR 40.545(3)(g) and a characterization of the risk to safety, public welfare and the environment, pursuant to 310 CMR 40.545(3)(h). Such characterizations shall be carried out in accordance with the "Guidance for Disposal Site Risk Characterization and Related Phase II Activities in Support of the Massachusetts Contingency Plan", developed by the Department's Office of Research and Standards, as this document may be amended or revised from time to time.

- 11.5. If a Phase II Scope of Work for any priority disposal site(s) within the GE Facility (Remainder) Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase II Scope of Work for such site(s).
- 11.6. Within fourteen (14) days of the date of the Department's written approval or modification of a Phase II Scope of Work for any priority disposal site(s) within the GE Facility (Remainder) Site, GE shall commence implementation of the Phase II Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase II Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase II Report for such site(s). This report shall include, without limitation, all data assembled during previously approved activities under the Phase II Scope of Work.
- 11.7. If a Phase II Report for any priority disposal site(s) within the GE Facility (Remainder) Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase II Report for such site(s), and GE shall submit to the Department for the Department's review and approval a revised Phase II Report for such site(s) within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

- 11.8. Within sixty (60) days of the date of the Department's final written approval of a Phase II Report for any priority disposal site(s) within the GE Facility (Remainder) Site, GE shall submit to the Department for its review and approval a Phase III Scope of Work for such site(s). Such scope of work shall propose those activities necessary to develop remedial response alternatives and a final remedial response plan for the such site(s) in accordance with the requirements of 310 CMR 40.546, and shall include an implementation schedule with an anticipated completion date.
- 11.9. If a Phase III Scope of Work for any priority disposal site(s) within the GE Facility (Remainder) Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE shall undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of a Phase III Scope of Work for such site(s).
- 11.10. Within fourteen (14) days of the date of the Department's written approval or modification of a Phase III Scope of Work for any priority disposal site(s) within the GE Facility (Remainder) Site, GE shall commence implementation of the Phase III Scope of Work, as the same may be amended or conditioned by the Department's approval letter, and GE shall diligently complete the same in accordance with the approved or modified implementation schedule. Upon conclusion of all work called for in the Phase III Scope of Work, GE shall submit to the Department for the Department's review and approval a Phase III Plan for such site(s). The Phase III Plan shall include, without limitation, the identification and evaluation of remedial response alternatives and a final remedial response plan.
- 11.11. If a Phase III Plan for any priority disposal site(s) within the GE Facility (Remainder) Site is not approved by the Department, or if the Department's approval is conditioned upon completion of additional work, GE will undertake all additional work required by the Department and consistent with the requirements of the MCP in order to obtain approval of the Phase III Plan, and GE will submit to the Department for the Department's review and approval a revised Phase III Plan for such site(s) within the time schedule set forth by the Department at the time disapproval or conditioned approval occurs.

Article XII - Access

- 12.1. GE shall permit access to the GE Facility and all GE-owned property within the sites by the Department and its employees, consultants and other authorized contractors, representatives and agents, at all reasonable times, for the purpose of overseeing the implementation of this Order, provided that, when visiting the GE Facility, the Department and its employees, consultants and other authorized contractors, representatives and agents shall use reasonable efforts to comply with all reasonable safety rules enforced by GE on a non-discriminatory basis against all non-GE employees visiting the GE Facility concerning the use of protective clothing appropriate for site conditions and the use of a GE employee escort. Notwithstanding the

foregoing, GE shall not deny such access to the GE Facility if GE is unable to supply the necessary protective clothing or a GE employee escort upon request. Furthermore, nothing in this Paragraph 12.1 shall be construed to be a waiver of the Department's rights to access to the GE Facility in accordance with the provisions of M.G.L. c.21E.

- 12.2. GE shall use its best efforts to obtain site access agreements conferring the access rights set forth in Paragraph 12.1 above from the owners of any property not owned by GE on which work is required under this Order. In the event that required site access agreements are not obtained in a timely fashion, GE shall immediately notify the Department in writing in accordance with the procedure set forth in Article XX herein, and such notification shall include a description of the efforts made to obtain access, persons contacted, dates of such contacts, and reasons for lack of success.

Article XIII - Public Participation

- 13.1. GE shall participate in good faith and to the extent required by the Department in all public participation activities undertaken pursuant to the MCP.

Article XIV - Sample Collection

- 14.1. GE shall notify the Department not less than five (5) days in advance of any sample collection activity conducted under any approved activity pursuant to this Order unless such notice is not possible given the requirements imposed by this Order. In such cases, GE shall give the Department as much advance notice as possible. At the request of the Department, GE shall allow the Department or its authorized representatives to take duplicates of any samples collected pursuant to the terms of this Order. Notwithstanding the foregoing, GE shall not be required to notify the Department as provided in this Paragraph 14.1 with respect to any sample collection activity conducted pursuant to (i) the terms of GE's proposal for certain short term measures at the GE Facility entitled "Protocols for the Management of Excavation Activities", dated March 8, 1990 and (ii) the terms of two conditional approval letters for such proposal, issued by the Department to GE and dated May 21, 1990 and June 14, 1990, as the same may be hereinafter modified by the Department.

Article XV - Permits, Licenses and Approvals

- 15.1. GE shall use its best efforts to identify for the Department and timely obtain all federal, state and local permits, licenses or approvals and any agreements necessary for any actions required under the terms of this Order.

Article XVI - Indemnification

- 16.1. GE agrees to indemnify, save and hold harmless the Department and its employees, consultants, authorized contractors, representatives and agents, from and against any and all claims or causes of action arising

from or on account of acts or commissions of GE and/or its employees, consultants, contractors, representatives and agents in performing the activities and undertaking its responsibilities pursuant to this Order.

- 16.2. The Department is not to be construed as a party to, and does not assume any liability for, any contract, agreement or other binding obligation entered into by or on behalf of GE in performing the activities and undertaking the responsibilities assigned to it pursuant to this Order.

Article XVII - Dispute Resolution

- 17.1. The Department and GE shall attempt to resolve informally any dispute arising under this Order, including any dispute regarding a decision by the Department that GE has failed to comply with any time deadline or requirement established in or pursuant to this Order. In the event that any dispute arising under this Order is not resolved informally, and if GE wishes to pursue its disagreement, GE shall give prompt written notice to the Department as specified in Article XX of this Order and to the Department's Assistant Commissioner for Waste Site Cleanup. Such notice shall specify in reasonable detail the disputed matter. After receiving information relative to the dispute from each party to the dispute, which information may, at the sole discretion of the Assistant Commissioner, be in oral or written form, or both, the Assistant Commissioner shall provide to the Department and to GE a written statement of his/her decision and the reasons therefor. Such decision shall be effective under the terms of this Order.
- 17.2. An election by GE to employ the dispute resolution procedures set forth in Paragraph 17.1 above shall temporarily suspend the obligation or deadline which is the subject of the dispute, commencing on the date the Department receives from GE the notice of its disagreement and ending on the date GE receives from the Department's Assistant Commissioner a written statement of his/her decision, as described in Paragraph 17.1 above. Notwithstanding the foregoing, any election by GE to employ the resolution procedures set forth in Paragraph 17.1 above shall in no event delay the implementation of the requirements set forth in Article VI herein, unless the Department, in its sole discretion, agrees otherwise in writing.

Article XVIII - Stipulated Penalties

- 18.1. If GE should fail to comply with any time deadline or requirement established in or pursuant to this Order, GE agrees to pay to the Department the sums set forth below as stipulated civil administrative penalties:
- A. For a violation of Article VI herein, an amount not to exceed \$2,500.00 for each of the first three (3) days on which such a failure to comply occurs or continues, and an amount not to exceed \$5,000.00 for each such day thereafter;
 - B. For a violation of any other time deadline or requirement set forth

in this Order, an amount not to exceed \$1,000.00 for each of the first seven (7) days on which such a failure to comply occurs or continues, and an amount not to exceed \$2,500.00 for each such day thereafter.

GE shall mail payment of such stipulated penalties, in the amounts determined by the Department, to the Department within thirty (30) days of demand by the Department. Such payment shall be made in the form of a certified check or money order made payable to the Commonwealth of Massachusetts with the file number from the first page of this Order printed on the face of the instrument, and shall be mailed to the Department c/o P.O. Box 4062, Boston, Massachusetts 02211, with copies to the Department as indicated in Article XX herein.

- 18.2. The Department may, in its sole discretion and for any reason, choose to establish or not impose stipulated civil administrative penalties within the range set forth in Paragraph 18.1 above. GE agrees that the exercise of such discretion by the Department shall not be subject to the dispute resolution procedures established in Article XVII herein. Furthermore, GE specifically waives any right it may have to challenge in any administrative or judicial forum the monetary amount of any stipulated penalty imposed by the Department pursuant to Paragraph 18.1 herein.
- 18.3. The stipulated penalties set forth in this Article XVIII shall not preclude the Department from pursuing any additional remedies and sanctions which may be available by reason of GE's failure to comply with the requirements of this Order. In the event that the Department obtains a judgment or decision for statutory or regulatory penalties against GE, the amount of that judgment or decision shall be reduced by the amount of any stipulated penalties paid by GE pursuant to this Article XVIII in connection with the matter in dispute.

Article XIX - Project Coordinators

- 19.1. GE and the Department shall each designate a Project Coordinator with primary responsibility for overseeing the implementation of this Order.
- 19.2. Commencing with the effective date of this Order, the Project Coordinator for the Department will be Richard Green and the Project Coordinator for GE will be G. Grant Bowman. Any permanent change in the designated Project Coordinator shall be accomplished by sending written notice to the other party.

Article XX - Notices

- 20.1. All notices or documents required to be submitted to the Department by GE under the terms of this Order shall be sent by first class mail, postage prepaid, telefacsimile, nationally recognized overnight delivery service or certified mail, to:

A) The Department's Project Coordinator

B) Stephen F. Joyce
Regional Engineer
Department of Environmental Protection
436 Dwight Street
Springfield, MA 01103

C) Stephen Richmond
Deputy General Counsel
Department of Environmental Protection
One Winter Street
Boston, MA 02108

or to such other persons or addresses as the Department shall designate to GE in writing, and such documents and/or notices shall be deemed duly delivered upon receipt by the Department.

20.2. All notices or documents to be given to GE by the Department under this Order shall be sent by first class mail, postage prepaid, telefacsimile, nationally recognized overnight delivery service or certified mail, to:

A) GE's Project Coordinator

B) Ronald F. Desgroseilliers
Manager, Area Environmental & Facility Programs
General Electric Company
100 Woodlawn Avenue
Pittsfield, MA 01201

C) Lee L. Bishop
Environmental & Regulatory Matters
Legal Operations
General Electric Company
1 Plastics Avenue
Pittsfield, MA 01201

or to such other persons or addresses as GE shall designate to the Department in writing, and such documents and/or notices shall be deemed duly delivered upon receipt by GE.

Article XXI - Force Majeure

21.1. If any event occurs which delays or will delay a performance date or prevents the performance of any other obligation established by or pursuant to this Order, which event was beyond the control and without the fault of GE, and which event could not have been prevented or avoided by the exercise of due care, reasonable foresight, or due diligence on the part of GE, GE shall immediately and in any event within five (5) days of such occurrence notify the Department in writing of the anticipated length of the delay or period of non-performance, the cause of the delay or non-performance and the steps or measures to be taken to prevent or minimize the delay or period of non-performance, including a timetable by which GE intends to implement

such steps or measures. Upon receiving the approval of the Department, GE shall implement such steps or measures as are approved by the Department to avoid or minimize any delay or non-performance.

- 21.2. If GE notifies the Department of the occurrence of an event which delays or will delay a performance date or prevents the performance of any other obligation established by or pursuant to this Order, and if GE otherwise complies with the requirements of Paragraph 21.1 above, and if the delay or non-performance has been or will be caused by circumstances beyond the control and without the fault of GE and cannot or could not have been overcome by the exercise of due diligence, the Department shall extend the time for performance hereunder for a period of time equal to the length of the delay or period of non-performance. Financial inability or increased costs associated with the implementation of any action called for by this Order shall not be considered circumstances beyond the control and without the fault of GE.

Article XXII - Response Action Costs

- 22.1. GE shall reimburse the Department for all response action costs incurred by the Department, its employees, consultants and authorized contractors and relating to the conduct of remedial response actions at the sites and the implementation of the terms of this Order, to the extent recovery of such costs is authorized pursuant to 310 CMR 40.600. The Department shall periodically submit to GE an accounting of the costs incurred by the Department, and GE agrees, in accordance with 310 CMR 40.600, to forthwith pay such amounts to the Department, provided that GE may seek a Department review of such expenses pursuant to any administrative review procedures which the Department may have established pursuant to 310 CMR 40.600 or, if no such procedures exist, pursuant to the dispute resolution procedures set forth in Article XVII herein.

Article XXIII - Coordination With EPA

- 23.1. GE and the Department acknowledge that the United States Environmental Protection Agency ("EPA") intends to issue a corrective action permit to GE under the Hazardous and Solid Waste Amendments of 1984 of the Resource Conservation and Recovery Act, 42 U.S.C. 6901-6987 (the "HSWA Permit"), governing certain remedial actions on all or a portion of the sites. GE and the DEP shall use good faith efforts to coordinate actions called for under the terms of this Order with any similar actions called for in such permit, provided that such permit has been issued and is binding upon GE.
- 23.2. Mere failure of the parties to coordinate actions under this Order with actions required under a HSWA Permit which has been issued by EPA and is binding upon GE shall not be deemed a force majeure event under Article XXI herein. However, GE and the Department recognize that there may be benefits to coordinating such actions, and for this reason the Department may, in its discretion and if the Department deems it appropriate under the circumstances, agree to a modification of this

Order or grant an extension of time for performance under this Order to permit coordination of such actions.

- 23.3. To the extent that GE is required under the terms of this Order to take any action that would violate any requirement or prohibition imposed and binding upon GE pursuant to (i) federal or local governmental law or regulation, (ii) any permit issued pursuant to federal or local governmental law or regulation, or (iii) any order issued by a court of competent jurisdiction, and provided that GE fully complies with the requirements of Article XXI herein with respect to such requirement or prohibition, the existence of such requirement or prohibition shall be deemed a force majeure which will entitle GE to an extension of time for performance of the affected activity under this Order, pursuant to Article XXI herein.

Article XXIV - Reservation of Rights

- 24.1. The Department expressly reserves the right to issue any additional orders to GE with respect to the subject matter of this Order and to bring any actions against GE for any reason, including without limitation the recovery of (i) costs incurred by the Commonwealth of Massachusetts in the oversight, administration and enforcement of this Order and (ii) any other costs, past or future, incurred by the Commonwealth of Massachusetts in connection with remedial response activities conducted at the sites or related areas.
- 24.2. If GE at any time fails to conduct activities required of it under this Order, the Department may, at its discretion and in addition to any other remedies which are available to it, undertake such activities on GE's behalf and recover all costs for such activities from GE to the extent authorized by applicable law.
- 24.3. Nothing in this Order shall constitute or be construed as a release, waiver, or a covenant not to sue by the Department regarding any claim, cause of action, or demand in law or equity arising out of or relating in any way to the sites.
- 24.4. Nothing contained in Paragraph 17.1 shall be construed as a waiver by GE of any rights which GE may have to pursue any remedies which GE may be entitled to under applicable law. Similarly, such reservation of rights shall not be construed as a recognition by the Department that GE has any such rights.

Article XXV - Waiver

- 25.1. Failure on the part of the Department to complain of any action or non-action on the part of GE shall not constitute a waiver by the Department of any of its rights hereunder. Furthermore:
- a) No waiver by the Department of any of the provisions herein shall be construed as a waiver of any of the other provisions herein;
 - b) A waiver at any time of any of the provisions herein shall not be

construed as a waiver at any subsequent time of the same provisions, and

- c) The consent or approval by the Department of any action by GE shall not constitute consent or approval by the Department of any subsequent similar action.

Article XXVI - Waiver of Adjudicatory Hearing

- 26.1. GE hereby consents to the issuance of this Order and therefore waives any right to an administrative hearing, a tentative decision, judicial review, rehearing, reargument and reconsideration of this Order, and to notice of any such rights of review, with respect to the terms and issuance of this Order.

Article XXVII - Limitation

- 27.1. This Order shall not constitute or be construed as an admission, an estoppel or a waiver of defense by GE, or as an adjudication or finding on any issue of fact or law in any proceeding other than in an action by the Commonwealth of Massachusetts or the Department arising from the violation of any term or condition of this Order.

Article XXVIII - Multiple Copies

- 28.1. This Order shall be executed in two counterparts, each of which shall be deemed an original, but each of which shall constitute one and the same document.

Article XXIX - Effective Date

- 29.1. This Order will be effective upon the date of the signature of a duly authorized representative of the Department as set forth below.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Stephen F. Jayce
 Its Regional Engineer
 Hereunto duly authorized

Date: 2 July 90

Consented to by:

GENERAL ELECTRIC COMPANY

By: _____
 Its
 Hereunto duly authorized

Date: _____

construed as a waiver at any subsequent time of the same provisions;
and

- c) The consent or approval by the Department of any action by GE shall not constitute consent or approval by the Department of any subsequent similar action.

Article XXVI - Waiver of Adjudicatory Hearing

- 26.1. GE hereby consents to the issuance of this Order and therefore waives any right to an administrative hearing, a tentative decision, judicial review, rehearing, reargument and reconsideration of this Order, and to notice of any such rights of review, with respect to the terms and issuance of this Order.

Article XXVII - Limitation

- 27.1. This Order shall not constitute or be construed as an admission, an estoppel or a waiver of defense by GE, or as an adjudication or finding on any issue of fact or law in any proceeding other than in an action by the Commonwealth of Massachusetts or the Department arising from the violation of any term or condition of this Order.

Article XXVIII - Multiple Copies

- 28.1. This Order shall be executed in two counterparts, each of which shall be deemed an original, but each of which shall constitute one and the same document.

Article XXIX - Effective Date

- 29.1. This Order will be effective upon the date of the signature of a duly authorized representative of the Department as set forth below.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Its Regional Engineer
Hereunto duly authorized

Date: _____

Consented to by:

GENERAL ELECTRIC COMPANY

By: *[Signature]*
Its Senior Executive Vice President
Hereunto duly authorized

Date: 29 June 90.

RESPONSE TO SUPERSEDING ORDER OF
CONDITIONS, FILE 263-310 FOR SHORT
TERM MEASURE AT THE MARCHETTO PROPERTY
NEWELL STREET



Area Environmental & Facility Programs
General Electric Company
100 Woodlawn Avenue, Pittsfield, MA 01201

RECEIVED

NOV 4 1991

BERKSHIRE COUNTY
REGIONAL PLANNING COMMISSION

I-R - IV (A)(1)

PUBLIC INVOLVEMENT PLAN (PIP) SUBMISSION

GE-DEP Consent Order
General Electric Company
Housatanic River and Newell Street Consent Order
SA 1-0147 and SA 1-0151

To: Berkshire Athenaeum Public Library
Reference Department
1 Wendell Avenue
Pittsfield, MA 01201
Attn: Madeline Kelly

Berkshire County Regional Planning Commission
10 Fenn Street
Pittsfield, MA 01201
Attn: Chrystal Shelley

Lenox Public Library
18 Main St.
Lenox, MA 01240
Attn: Denis Lesieur

From: GE Pittsfield, G. Bowman
 Consultant for GE, Name: _____

Re: Submission of Document(s) to Repositories Under Public
Involvement Plan

Date: October 25, 1991

Document Transmitted:

Response to Superseding Order of Conditions, File 263-310

for Short Term Measure at the Marchetto Property,

Newell Street



Area Environmental & Facility Programs
General Electric Company
100 Woodlawn Avenue, Pittsfield, MA 01201

October 25, 1991

Mr. Roland J. Dupuis
Department of Environmental Protection
436 Dwight Street
Springfield, MA 01103

RE: Response to Superseding Order of Conditions, File 263-310
for Short Term Measure at the Marchetto Property, 247 Newell Street

Dear Mr. Dupuis:

This response is in tabular form to best denote compliance with your special conditions. There are four (4) attachments as follows:

Drawing 3927-D-372
SK1
Calculation of fill pile volumes
Proposed affidavit

Each is explained fully in the following text.

<u>Special Condition Number</u>	<u>Requirement</u>	<u>Comments</u>
16	Prior to commencement of any work at the site, revised plans be submitted to [DEP] and to the Pittsfield Conservation Commission on base plans labeled "Site Plan: Marchetto Property 247-249 Newell St., Pittsfield, MA" at a scale of 1 inch = 20 feet; March 22, 1991...	GE Drawing 3927-D-372 attached is so labeled, scaled, and shows the original drawing issue date of 3-22-91.

That contain the following information:

<u>Special Condition Number</u>	<u>Requirement</u>	<u>Comments</u>
16-1)	An accurate depiction of site topography...	The site topography is shown in 1' increments from the benchmark in Newell St. (986.8) to the rear of the property at the edge of GE property (985.0). This work is stamped and signed by a Massachusetts Registered Professional Engineer.
16-1) cont'd	including the accurate shapes of the two fill piles as they currently exist on the site.	Only one fill pile currently exists on the site. As I related by telecon to Mr. McCollum of your office on 10-7-91, the south-westerly gravel pile (containing no PCBs) had been purchased from Mr. Marchetto and delivered to GE for backfilling an underground storage tank excavation. At the time, the property owner had relocated the northerly (loam) fill pile to a location some 60 feet to the southwest.
16-1) cont'd	The elevations of the two piles should be indicated with labeled contour lines.	They are in 1-foot increments.
16-1) cont'd	The actual area extent of soil to be removed from the fill piles should be depicted on the plans.	All of the soil piles depicted on the plan(s) is to be removed. Additionally, the westerly half of the gravel pile (not depicted) was removed.

Mr. Roland J. Dupuis
October 23, 1991
Page - 3 -

<u>Special Condition Number</u>	<u>Requirement</u>	<u>Comments</u>
16-2)	The two areas to be filled (i.e., paved) should also be accurately depicted on these plans.	They are depicted as MO-3 and MO-4; they are located relative to existing building structures.
16-2) cont'd	An alternative compensatory storage area should be located prior to the commencement of work, if the combined basal area of the fill piles is less than 281 sq. ft.	Alternative is not required. The combined basal area is (based on the former location of the piles: $(17.5 \times 30 - 1/2(6 \times 8 + 6 \times 10 + 6 \times 10 + 8 \times 8)) + (15 \times 40 - 1/2(15 \times 20 + 10 \times 15)) = 525 - 116 + 600 - 225 = 784$ sq. ft. (See SK1 for calculation dimensions.) Also attached is a foot-by-foot calculation of the loam pile (in its 3/22/91 location) and the former gravel pile as accurately depicted on 3/22/91 compared to the proposed blacktop filling. At the 986 to 987 and 987 to 988-foot intervals, the material removed (or to be removed) exceeds the fill.

Mr. Roland J. Dupuis
October 25, 1991
Page - 4 -

Special Condition Number	Requirement	Comments
27	A deed notation shall be prepared by your legal representative and submitted to the Department for approval prior to the commencement of work on the property. The deed notation shall be prepared for 247 Newell St., Pittsfield, in a format acceptable to the Berkshire County Registry of Deeds. This deed notation shall bear reference to and contain a plot plan of the property which identifies existing structures, the 100-yr. floodplain elevation, and the 100-ft. "Buffer Zone" boundary. Said deed notation shall also contain, in narrative form, a note to all prospective property owners that no work is allowed to take place on the property within the 100-ft. "Buffer Zone" or any site resource area without prior approval from the Conservation Commission. The request for said approval may take the form of either a Request for Determination of applicability or a Notice of Intent.	Please find a copy of a proposed "Affidavit" attached. An informal review by the Registry of Deeds has deemed this an acceptable format. Please note that this document must be approved by legal counsel for the property owner prior to its filing and as a result, may be modified. Any proposed modifications will be forwarded to your office for approval. A copy of my letter to the property owner is being sent for your files.

If you have any questions, please call me at 494-2700 or Mark Phillips at 494-3027.

Yours truly,



G. Grant Bowman
Manager - Environmental Engineering

/ljr

Attachments

- cc: L.L. Bishop
- R.F. Desgroseilliers
- A. Kurpaska
- S.F. Joyce
- A.J. Marchetto
- M.C. Phillips
- S.P. Winslow
- Pittsfield Board of Health
- Pittsfield Conservation Commission
- ECL IA-R-IV(A) (1)

AFFIDAVIT

I, G. GRANT BOWMAN, of Worthington, Massachusetts, first being duly sworn, depose and say as follows:

1. I am employed as a Manager of Environmental Engineering with General Electric Company ("GE") in its Area Environmental and Facility Programs with a place of business at 100 Woodlawn Avenue, Pittsfield, Massachusetts.

2. This affidavit pertains to property located at 247 Newell Street, Pittsfield, Massachusetts (the "Property"), being the same premises conveyed to Anthony I. Marchetto and Grace G. Marchetto by deed dated November 10, 1966 and recorded on Certificate No. 4017 in the Land Court Records of the Berkshire Middle District Registry of Deeds in Book 19, Page 37.

3. The Property is subject to a Superseding Order of Conditions, issued to GE, as applicant, by the Massachusetts Department of Environmental Protection ("DEP"), dated September 24, 1991, DEP File No. 263-310, to be filed in the Land Court Records of said Registry of Deeds simultaneously herewith.

4. In accordance with Special Condition No. 27 set forth in said Order of Conditions, a plot plan of the Property is attached hereto and incorporated herein by reference which identifies existing structures, the 100-year floodplain elevation, and the 100-foot "Buffer Zone" boundary.

5. In accordance with said Special Condition No. 27, notice is hereby given to all prospective property owners that no work, as covered by the Massachusetts Wetlands Protection Act (MGL CH.131 S.40), is allowed to take place on the Property within the 100-foot "Buffer Zone" or any site resource area without prior approval from the Pittsfield Conservation Commission and that the request for said approval may take the form of either a Request for Determination of applicability or a Notice of Intent.

6. In accordance with said Special Condition No. 27, this affidavit is to be filed in the Land Court Records of said Registry of Deeds with a deed notation upon the Certificate of Title within the chain of title to the Property.

Signed under the penalties of perjury this _____ day of _____, 1991.

G. Grant Bowman

COMMONWEALTH OF MASSACHUSETTS

Berkshire, ss.

_____, 1991

Then personally appeared the above named G. GRANT BOWMAN and acknowledged the foregoing instrument to be his free act and deed, before me.

NOTARY PUBLIC
My Commission Expires: _____

