

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

In the Matter of the)	
GENERAL ELECTRIC COMPANY)	AGREED ORDER
Embarcadero Center West)	
275 Battery Street, 23rd Floor,)	NO. <u>DE 90-05</u>
San Francisco, CA 94111)	

I. JURISDICTION

This Order is issued pursuant to the authority of Sections 3(1) and 5(1) of the Model Toxics Control Act (MTCA).

II. STATEMENT OF FACTS

The GE - Spokane site (the "Site") is located within the Spokane city limits approximately four miles east-northeast of downtown Spokane. The street address is East 4323 Mission Avenue, Spokane, Washington.

The Site consists of a former industrial apparatus service shop and a warehouse used for service shop activities and includes surrounding areas and structures that may have been impacted by operations at the Site. The General Electric Company (GE) is the current owner of the service shop and adjacent property; Washington Water Power Company (WWP) owns property to the northwest, west, and south; and Mr. Marvin Riley owns the warehouse and property directly to the north. Each of these properties and structures and materials thereon are part of the

Site. WWP and Mr. Riley have been given formal notice of their status as proposed potentially liable parties.

GE operated the industrial apparatus service shop from the years 1961 to 1980. A wood stove and fireplace insert manufacturing company used the service shop from 1980 to 1984. The Site has not been active for commercial purposes since that time. GE used the service shop, which housed a machine shop and repair process facilities, for the repair of industrial and utility equipment, including transformers.

The principal contaminant of concern is polychlorinated biphenyl (PCB), which was a component of transformer oils that were handled at the shop.

The warehouse and property to the north of the service shop were used from 1975 to 1980 for the repair of electrical equipment (including transformers), above ground storage of transformer oils, and the manufacture of motor coils.

In June 1988, the Site was nominated to the National Priority List under CERCLA (42 U.S.C. Section 9601 et seq.). Its status on the list became final in September 1989.

Considerable information about the Site has been collected based upon investigations by GE without order or other formal agency action.

III. BASIS FOR ORDER

A. Ecology has made the following investigative and remedial decisions pursuant to the MTCA:

1. The Site is a "Facility" as defined in Section 2(3) of the MTCA.

2. Past, present and potential migration of hazardous substances from the Facility constitute an actual or potential "release" as defined in Section 2(10) of the MTCA.

3. GE, as owner/operator of the Facility, is a potentially liable person as defined in Section 2(8) of the MTCA. GE was given formal notice of its status as a proposed potentially liable person in Ecology's letter to GE dated August 31, 1989. GE was given formal notice that Ecology has determined GE to be a potentially liable person in Ecology's letter to GE dated October 25, 1989.

4. On the basis of testing and analysis described in Ecology files and records, Ecology has determined that hazardous substances, as defined at Section 2(5) of the MTCA, are present at the Site, which pose a threat or potential threat to human health or the environment.

5. The nature of the hazardous substances identified at the Facility and the extent of contamination require additional remedial action to protect the public health, welfare or the environment.

IV. NO ADMISSION BY GE

By agreeing to this Order, GE does not admit any of the foregoing Statement of Facts or the Basis For Order or admit

liability with respect to remediation of the Site. However, GE agrees that in any action by Ecology to enforce this Order, GE will not contest Ecology's authority to issue the Order.

V. WORK TO BE PERFORMED

GE shall submit to Ecology a comprehensive work plan, remedial investigation report and feasibility study report as detailed below.

Unless specific written permission is granted by Ecology's project manager, prior to conducting any remedial action at the Site, a work plan must be prepared and submitted to Ecology for review and approval. Work plans shall be of a scope and detail commensurate with the work to be performed and site-specific characteristics.

A. Work Plan

By February 15, 1990 GE shall submit to Ecology proposed work plans for the remedial investigation and the feasibility study consisting of the following elements: a detailed breakdown of the scope of work, key personnel and projected manhours sufficient to justify schedules, and proposed schedules for completion of the remedial investigation and for conducting a feasibility study.

This work plan and each element thereof shall be designed, implemented, and completed in accordance with the requirements of CERCLA as amended by SARA; the NCP, the MTCA and all applicable

federal, state and local laws and regulations, in effect at the time a particular element of work¹ is performed; proposed Ecology rule 173-340-350 promulgated by WSR 90-02-098; and all applicable EPA guidance documents.

Ecology shall approve or disapprove of said work plan within 30 days after receipt.

B. Remedial Investigation

Pursuant to the work plan, GE shall plan, propose, initiate, complete, and report upon the completion of the remedial investigation of the Site, including additional characterization of the ground water quality and further delineation of the plume(s) of contamination within the ground water flow system. Such plans, proposals, and reports shall be subject to approval by Ecology. Where a plan or proposal includes completion of the remedial investigation in phases not identified in the approved work plan pursuant to Subsection A of this section, such plan for each phase will be subject to approval by Ecology who will

¹Element of work is defined as each discrete segment specified in and part of the work plan, remedial investigation, phase 1 feasibility study and phase 2 feasibility study. The intent of this definition is to require GE to incorporate amendments to law or changes to the requirements referenced herein for each element of work up to the last date possible without requiring reperformance of an element of work completed in accordance with requirements when such requirements subsequently change.

determine and authorize additional phases. Work will begin within fifteen (15) days after authorization and approval by Ecology. The purpose of the remedial investigation is to:

- (1) determine the nature and extent of the release or threatened release of hazardous substances or pollutants or contaminants at the Site; and
- (2) characterize the Site to provide sufficient information to determine the extent of remedial action necessary for remediation of the Site.

The remedial investigation shall be conducted in accordance with the requirements of CERCLA as amended by SARA; the NCP, the MTCA, and all applicable federal, state and local laws and regulations, in effect when the remedial investigation work is performed; proposed Ecology rule 173-340-350 promulgated by WSR 90-02-098; and all applicable EPA guidance documents relating to remedial investigations, including the document titled "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA" (Interim Final, October 1988, OSWER Directive 9355.3-01).

The remedial investigation final report shall include previously submitted phase I and II reports, and an Ecology approved phase III report which is to be submitted to Ecology within 30 days after approval by Ecology of the remedial investigation work plan. The phase III report shall address pertinent issues raised by Ecology in its letter to GE dated

September 29, 1988 and in Appendix A of the draft consent decree dated August 30, 1989 that Ecology sent to GE. The remedial investigation final report shall also include the additional phases of the remedial investigation so as to provide Ecology a comprehensive final report on the site.

GE shall submit the draft final report by July 1, 1991 or pursuant to the schedule in the approved remedial investigation work plan, whichever is later.

C. Feasibility Study

Pursuant to the work plan, GE shall plan, propose, initiate, complete, and report upon a feasibility study for the Site. Such plans, proposals, and reports shall be subject to approval by Ecology. Where a plan or proposal includes completion of the feasibility study in phases not identified in the approved work plan pursuant to Subsection A of this section, such plan for each phase will be subject to approval by Ecology who will determine and authorize additional phases. Work will begin within fifteen (15) days after authorization and approval by Ecology. The purpose of the feasibility study is to identify, develop, evaluate, and recommend remedial action alternatives which are available to prevent or minimize the release or threatened release of hazardous substances or pollutants or contaminants from the Site, as identified through the remedial investigation conducted pursuant to Subsection B of this Section, so that they

do not endanger the present or future public health, welfare or environment and which give preference to permanent solutions to the maximum extent practicable. The feasibility study shall be conducted in accordance with the requirements of CERCLA as amended by SARA; the NCP, the MTCA and all applicable federal, state and local laws and regulations, in effect at the time alternative cleanup actions are evaluated for the feasibility study; proposed Ecology rule 173-340-350 promulgated by WSR 90-02-098; and all applicable EPA guidance documents relating to feasibility studies, including the document titled "Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA" (Interim Final, October 1988, OSWER Directive 9355.3-01).

The feasibility study report shall include an evaluation of alternative cleanup actions that protect human health and the environment pursuant to criteria outlined in the above-subject guidance documents so as to provide a comprehensive feasibility study on the Site consisting of two phases. The phase 1 feasibility study shall address cleanup alternatives for: contaminated shallow soils; contamination beneath and surrounding any utilities (dry wells, sumps, pits, tanks, overflow, and outlet pipes, drainlines, drainfields, and associated structures); contaminated portions of the service shop building, foundation, and asphalt paving; contaminated portions of the north warehouse; contaminated deep soils beneath the west dry

well; and, all other associated contaminated material/debris. The phase 1 feasibility study will also include a TSCA demonstration of in-situ vitrification as called for by the Geosafe Corporation TSCA permit application and TSCA demonstration test plan, both of which are pending before EPA's Office of Toxic Substances. GE shall provide Ecology a copy of the draft demonstration test plan to ensure consistency with the work to be performed herein. The phase 2 feasibility study shall address cleanup alternatives for the ground water and contaminated soils related to ground water table fluctuations.

Cleanup standards proposed under the MTCA or applicable or relevant and appropriate requirements (known as "ARARs" under CERCLA, as amended by SARA) will be identified by Ecology by September 1, 1990 and must be used by GE for evaluation of cleanup levels during the phase 1 and phase 2 feasibility study.

GE shall submit the draft phase 1 report for the feasibility study not later than March 1, 1991. GE shall submit the draft final report for the feasibility study to include the phase 1 feasibility study and the phase 2 feasibility study not later than July 1, 1991 or pursuant to the schedule in the approved feasibility study work plan, whichever is later.

GE shall take no other remedial action at the site without specific written permission of Ecology's project manager while this Order is in effect.

D. Progress Reports.

GE shall by letter submit monthly progress reports to Ecology commencing 30 days after the effective date of this Order. Such reports are intended to describe actions taken by GE during the prior 30 days in only a summary fashion and need not be a detailed description of said actions.

VI. COMMUNITY RELATIONS

Ecology shall maintain the principal responsibility for community relations at the Site. Ecology shall notify GE's project manager prior to community relations activities. Ecology will finalize community relations activities and written materials prepared under this section.

GE shall cooperate and assist Ecology with implementation of community relations for the Site. Ecology will be responsible for completing the following tasks, but with reasonable notice may require GE to complete, subject to approval by Ecology, all or portions of these tasks:

1. Prepare and implement a community relations plan and/or public participation plan for the Site.
2. Prepare for meetings and presentations with the public and local government; and prepare drafts of press releases, public notices, and fact sheets at important stages of the remedial action, such as the approval of work plans and the selection of a remedial alternative.

3. Arrange for and supply information repositories with, for example, work plans, remedial investigation and feasibility study reports, and public review documents.

4. Distribute written materials by mail or other methods as necessary.

5. Participate in public meetings and presentations deemed necessary or prudent by Ecology. Participation may be through attendance at public meetings to assist in answering questions or as a presenter.

In the event of a disagreement over the contents of any document or action prepared for purposes of community relations under this section, Ecology shall make the final decision about its content.

VII. PERFORMANCE

All remedial work performed pursuant to this Order shall be under the direction and supervision, as necessary, of a professional engineer (or equivalent) or a hydrogeologist (or equivalent) with experience and expertise in hazardous waste site investigation and cleanup. GE shall notify Ecology as to the identity of such engineer(s) or hydrogeologist(s), and of any contractors and subcontractors to be used in carrying out the terms of this Order, in advance of their involvement at the site.

VIII. ACCESS

Ecology or any Ecology authorized representative shall have the authority to enter and freely move about all GE property and

adjoining property if and to the extent access has been granted to GE at the Site at all reasonable times for the purposes of, inter alia: inspecting records, and operation logs related to the work being performed pursuant to this Order; reviewing the progress in carrying out the terms of this Order; conducting such tests or collecting samples as Ecology may deem necessary; using a camera, sound recording, or other documentary type equipment to record work done pursuant to this Order; and verifying the data submitted to Ecology by GE. Ecology shall provide reasonable notice, approximately one hour, before entering the site unless an emergency prevents such notice. Ecology shall split any samples it has taken during an inspection if GE makes available a representative and any necessary supplies and equipment for the purpose of splitting samples.

Ecology and GE agree that because GE is not the exclusive owner of the Site, access by Ecology to the Site as granted herein is limited by the access rights GE receives from the other Site owners. GE will undertake reasonable efforts to secure the access required for performance of this Order. Ecology will assist in such efforts and, if necessary, exercise its full rights of access under the MTCA on behalf of GE to enable performance of this Order.

IX. DESIGNATED PROJECT MANAGERS

The Ecology project manager and GE's project manager shall be responsible for overseeing the implementation of this Order. The

Ecology project manager will be Ecology's designated representative for the Site. To the maximum extent possible, communications between Ecology and GE and all documents, including reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the project managers. Ecology and GE may change their respective project managers by notifying the counterpart designated project manager, in writing, at least 10 days prior to the change.

The project manager for Ecology is:

Brad Ewy
Washington State Department of Ecology
Hazardous Waste Investigations and Cleanup Program
Mail Stop PV-11, Woodland Square
Olympia, WA 98504-8711 express mail address:
(206) 438-3072 4415 Woodview Dr. S.E.
FAX (206) 438-3050 Lacey, WA 98503

The project manager for GE is:

Dr. Deborah A. Hankins
Manager - Remedial Projects
General Electric Company
275 Battery Street, 23rd Floor
San Francisco, CA 94111
(415) 986-2354
FAX (415) 986-3968

X. RETENTION OF RECORDS

GE shall preserve in a readily retrievable fashion, during the pendency of this Order and for ten (10) years from the date of completion of the work performed pursuant to this Order, all records, reports, documents, and underlying data in its

possession relevant to this Order. Should any portion of the work performed hereunder be undertaken through contractors or agents of GE, a record retention requirement meeting the terms of this paragraph shall be required of such contractors and/or agents.

XI. RESERVATION OF RIGHTS

Ecology reserves all rights to issue additional orders or take any action authorized by law in the event or upon the discovery of a release or threatened release of hazardous substances not addressed by this Order and/or upon discovery of any factors not known at the time of issuance of this Order, or to abate an emergency.

Ecology reserves all rights to seek to recover the amounts spent by Ecology for investigative and remedial actions and orders under Section 5(3) of the MTCA.

In the event Ecology determines or concurs in a determination by another local, state, or federal agency that activities implementing or in noncompliance with this Order, or any other circumstances or activities, are creating or have the potential to create a danger to any person's health or welfare or to the environment, Ecology may order GE to stop further implementation of this Order for such period of time as needed to abate the danger.

This agreed order shall not be construed to be a settlement agreement under Section 4(4) of the MTCA.

GE reserves its rights under the MTCA and all other applicable law to the extent exercise of such rights is not expressly precluded by this Order or any letter issued by GE contemporaneous with this Order.

XII. COMPLIANCE WITH OTHER APPLICABLE LAWS

All actions carried out by GE pursuant to this Order shall be done in accordance with all applicable federal, state, and local requirements, including requirements to obtain necessary state or local permits.

XIII. ENFORCEMENT

In the event GE refuses, without sufficient cause, to comply with any term of this Order, this Order will be enforced as follows:

a. The Attorney General may bring an action to enforce this Order in state or federal court.

b. In any such action, GE may be liable for up to three times the amount of any costs incurred by the State of Washington as a result of the refusal to comply with this Order.

c. Additionally, GE may be liable for civil penalties of up to \$25,000 per day for each day GE refuses to comply.

d. Should Ecology conduct or provide for conducting the remedial action, the Attorney General may bring an action to recover all costs incurred by the state for such action.

e. This Order is not appealable to the Pollution Control Hearings Board and is reviewable only under Section 6 of the MTCA.

XIV. PUBLIC NOTICE

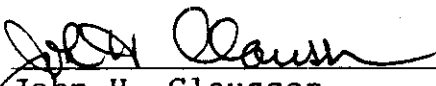
The MTCA requires that, at a minimum, this Order be subject to concurrent public notice, Section 3(2)(a). Ecology shall be responsible for providing such public notice and Ecology reserves the right to withhold or withdraw agreement to this Order based upon public comment. GE's agreement is limited to the terms of this Order and shall not be deemed to extend to any modifications or withdrawal of agreement by Ecology without GE's further agreement.

XV. EFFECTIVE DATE AND TERMINATION

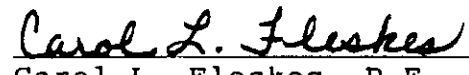
The effective date of this Order shall be 30 days after public notice is mailed, which shall be 10 working days after signature by Ecology.

This Order shall terminate July 1, 1991 or the date the final report for the feasibility study is approved by Ecology, whichever date is later.

Dated this 22nd day of
February, 1990.


John H. Claussen
Counsel-Corporate
Environmental Programs
General Electric Company

Dated this 15th day of
March, 1990.


Carol L. Fleskes, P.E.
Program Manager
Hazardous Waste Investigations
and Cleanup Program