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ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
901 NORTH 5<sup>th</sup> STREET  
KANSAS CITY, KANSAS 66101

IN THE MATTER OF: )

General Electric Company )

and )

Burlington Basket Company )

West Burlington, Iowa )

EPA RCRA ID NO. IAD000678037 )

PROCEEDING UNDER SECTION )  
3008(h) OF THE RESOURCE )  
CONSERVATION AND RECOVERY )  
ACT, AS AMENDED, 42 U.S.C. § 6928(h). )

Docket No. RCRA-07-2009-0013

ADMINISTRATIVE ORDER  
ON CONSENT

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**ATTACHMENTS**

- Attachment A – Scope of Work**
- Attachment B – Figure 1, Area Map of West Burlington**
- Attachment C – Figure 2, Detailed Site Map of Facility**
- Attachment D – Figure 3, Restricted Use Area**
- Attachment E – City of West Burlington Ordinance**
- Attachment F – Environmental Covenant**

## I. JURISDICTION

1. This Administrative Order on Consent ("Order") is issued to and voluntarily consented to by General Electric Company, a New York corporation (hereinafter referred to as "Respondent GE" or "GE") and Burlington Basket Company (hereinafter referred to as "Respondent Burlington Basket" or "Burlington Basket")(collectively "Respondents"), pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 3008(h), 42 U.S.C. § 6928(h), of the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended. The authority vested in the Administrator has been delegated to the Regional Administrator of the EPA, Region 7, by EPA Delegations Nos. 8-31 and 8-32, dated April 16, 1985, and further delegated to the Director of the Air and Waste Management Division of EPA, Region 7, by Delegation No R7-8-32, dated September 16, 2007.

2. The parties recognize that the terms of this Order have been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Order do not constitute an admission of liability.

3. Respondents will not contest EPA's jurisdiction to issue this Order and/or to enforce its terms. Each party agrees that this Order shall be admissible as evidence in any proceeding brought by the other party to enforce this Order or to enforce the implementation of any corrective measure deemed necessary by EPA as a result of this Order.

## **II. APPLICABILITY**

4. This Order shall apply to and be binding upon Respondents and their agents, successors and assigns and upon all persons, contractors and consultants acting under the direction of or on behalf of Respondents. This Order shall also be binding upon EPA and its agents, successors and assigns and upon all persons, contractors and consultants acting under the direction of or on behalf of EPA.

5. Respondent GE shall insure that all contractors, subcontractors, laboratories and consultants retained to conduct or monitor any portion of the work required to be performed pursuant to this Order comply with its requirements, and shall condition all such contracts on compliance with the terms of this Order. Respondent Burlington Basket does not anticipate contracting any work under this Order, but in the event it does this paragraph will apply.

6. No change in ownership of the Facility or any portion thereof, or change in Respondents' corporate status, shall in any way alter Respondents' obligations under this Order.

7. Respondent Burlington Basket shall give notice of this Order to any successor in interest upon receipt of notice of the transfer of ownership or operation of the property where the former Facility is located and shall provide EPA and Respondent GE with written notification of any such transfer within ten (10) days of receipt of notice of any such transfer.

## **III. STATEMENT OF PURPOSE**

8. In entering into this Order, the mutual objectives of the EPA and the Respondents are to specify the terms and conditions by which the Respondents shall be required to implement, maintain and/or to monitor the performance of the corrective measures selected by the EPA for

implementation at the Facility. The remedy selected for implementation at the Facility is 1) monitored natural attenuation of groundwater, 2) surface water sampling and 3) institutional controls. Respondent GE shall be responsible for performance of all work associated with the corrective measures. Respondent Burlington Basket, as the current owner of the property, shall be responsible for providing access to allow the work to be performed and to ensure completion of the environmental covenant and institutional controls.

#### **IV. EPA'S FINDINGS OF FACT**

9. Respondent GE is a corporation organized under the laws of the State of New York, is authorized to conduct business in the State of Iowa, and is a person as defined by Section 1004 of RCRA, 42 U.S.C. Section 6903.

10. Respondent Burlington Basket is a corporation organized under the laws of the State of Iowa, is authorized to conduct business in the State of Iowa, and is a person as defined by Section 1004 of RCRA, 42 U.S.C. Section 6903.

11. Respondent GE operated a hazardous waste management facility located at 1404 – 1418 West Mt. Pleasant Street, West Burlington, Iowa 52655 (“Facility”). The Respondent operated the Facility on or after November 19, 1980. GE leased the Facility from the owner, John Van Velzer, who sold the Facility to Respondent Burlington Basket in December 1986. Respondent GE generated hazardous waste at the Facility and also stored hazardous waste subject to the interim status requirements of 40 C.F.R. Part 265.

12. The Facility is located on the west side of West Burlington, Iowa within the Flint Basin. The Flint River, located approximately two miles north of town, flows eastward towards

the Mississippi River. The headwaters of a tributary of Flint Creek which flows into the Flint River are observed to dissect the generally flat till plain approximately 400 feet to the northwest of the site. The urban population of the cities of Burlington and West Burlington obtain their drinking water from public water sources. Numerous city wells have screens to depths of 1,800 feet below ground surface. Two of the City's water supply wells are located within one-half mile of the Facility, approximately one-half mile to the east and one-half mile to the west of the site along Highway 34. These wells extract water from deep depths and supply 600 gallons per minute of water to the community. Conditions at the Facility will not adversely impact these wells.

13. From approximately September 1974 until January 1986, GE manufactured medium voltage switchgear and switchboard apparatus in two Facility buildings known as Assembly Plant #2 and Assembly Plant #3 ("Buildings #2 and #3," respectively). A fenced concrete pad north of Building #3 was used to store virgin solvent in 55-gallon drums and in one 350-gallon aboveground tank ("general solvent storage area"). A storm sewer pipe runs from the northeast corner of Building #3 to the northern edge of the property. Figure 1 (Attachment B) is an area map of West Burlington, Iowa and Figure 2 (Attachment C) is a detailed site map of the Facility.

14. Operations in Buildings #2 and #3 included painting and degreasing processes that generated the following waste streams:

a. Waste solvents that contained, at a minimum, the following non-halogenated solvents listed in 40 C.F.R. § 261.31 as F003 and F005: xylene, methyl isobutyl ketone, toluene, and methyl ethyl ketone.

b. Spent degreasing fluids which contained, at a minimum, the following spent

halogenated solvent listed in 40 C.F.R. § 261.31 as F001: 1,1,1 trichloroethane.

15. Pursuant to Section 3010 of RCRA, 42 U.S.C. § 6930, Respondent GE notified EPA of its hazardous waste management activities at the Facility on August 18, 1980. In its notification Respondent identified itself as a generator of hazardous waste, a transporter of hazardous waste, and an owner/operator of a treatment, storage, and/or disposal facility. The Facility was assigned EPA identification number IAD000678037.

16. On or about November 17, 1980, Respondent GE filed a RCRA Part A Permit Application. Respondent indicated that the storage of hazardous waste at the Facility would be in containers.

17. On or about September 14, 1987, Respondent Burlington Basket filed a RCRA Part A Permit Application as owner of the Facility. As of the effective date of this Order, Burlington Basket continues to own and conducts operations on the property on which the Facility was located.

18. Respondent GE obtained RCRA Interim Status for the hazardous waste storage area and authorization to operate the Facility under Section 3005 of RCRA, 42 U.S.C. Section 6925, because the Facility was in existence prior to November 19, 1980, and both the notification of hazardous waste activity and the Part A Permit Application were submitted to EPA in a timely manner as required by RCRA.

19. These waste solvents and spent degreasing fluids were stored in 55-gallon drums in a fenced area within the general solvent storage area ("hazardous waste storage area") for longer than 90 days during the time that Respondent GE operated the Facility.

20. On or about March 19, 1984, Respondent GE requested that interim status for the

hazardous waste storage area be terminated.

21. On or about April 18, 1986, Respondent GE submitted a closure plan to EPA for approval. The closure plan, approved by EPA on July 31, 1986, included the Closure Plan, a closure plan modification entitled "General Electric Company Closure Plan Amendments—Hazardous Waste Storage Area," and a subsequent closure plan modification entitled "General Electric Company Closure Plan Amendments—Hazardous Waste Storage Area—Second Modification."

22. Soil Samples were collected by Respondent GE on July 19, 1985 and October 3, 1985 and again on March 17, 1986 and June 15, 1986.

23. Excavation of contaminated soils was conducted as part of the closure activities in two phases during September through November 1986. Approximately 1,500 cubic yards of soil were removed from the site during the two removal phases. Soil was excavated to an approximate depth of 1 to 5 feet from the area east of the hazardous waste storage area, 3 to 7 feet from the ditch to the north of the property, and 8 to 10 feet from the area surrounding the storm sewer pipe. All contaminated soil was removed except a small amount of soil contamination found beneath Building #3. Soil excavation was halted, even though elevated concentrations of several solvents were detected in soils supporting the footings at the northeast corner of Building #3, due to concern for the stability of the structure.

24. Two more investigative phases were conducted by Respondent GE in December 1986 and February 1987, during which soil samples were collected from fourteen (14) site locations with depths to 15 feet and from eight (8) site locations with depths to 54.5 feet.

25. Respondent GE conducted Phase I of a hydrogeologic investigation of the Facility

from October to December 1987. Phase II of a hydrogeologic investigation was performed by Respondent GE beginning in May 1988.

26. On or about September 28, 1990, Respondent GE entered into an Administrative Order on Consent with EPA under Section 3008(h) of RCRA (Docket No. VII-90-H-0034). That Administrative Order on Consent required Respondent GE to (1) determine the nature and extent of the presence of any release or the potential for future releases of hazardous wastes and/or hazardous waste constituents from the Facility by performing a RCRA Facility Investigation (RFI) and (2) to identify and evaluate alternatives(s) for the appropriate extent of corrective action necessary by completing a Corrective Measures Study (CMS).

27. From 1988 to 2001, Respondent GE conducted an RFI. The RFI activities included installation and sampling of monitoring wells and sampling of private wells to determine the horizontal and vertical extent of groundwater contamination, sampling of the intermittent creek and seep in the drainage ditch, and identification of potential receptors of groundwater contamination.

28. Remedial alternatives for the Facility were evaluated in a Corrective Measures Study (CMS), conducted by Respondent GE under EPA oversight completed in 2006.

29. The EPA created an administrative record of documents assembled during the corrective action process, including the RFI and the CMS. The documents in the administrative record were the foundation for EPA's proposed corrective measures in the Statement of Basis. The administrative record, and in particular the RFI, identifies six constituents of concern found in the ground water at the Facility, including trichloroethene, tetrachloroethene, 1,1,1-trichloroethane, 1,1-dichloroethene, cis-1,2-dichloroethene, and vinyl chloride. These six

constituents have the potential to continue to migrate in the ground water and affect surface water at the Facility.

30. Soil at the Facility was also contaminated by these same constituents. All of the soil contamination was removed by Respondent GE early in the corrective measure process except a small amount of residual soil contamination under the structure of Building #3.

31. The EPA's Statement of Basis proposed corrective measures for the Facility of monitored natural attenuation of groundwater, surface water sampling and institutional controls in the form of a groundwater use restriction in the area of the Facility and a restrictive covenant to restrict excavation in certain areas of the Facility. The Statement of Basis was put out for public comment on October 27, 2006. The public comment period ended November 27, 2006. No comments were received on the Statement of Basis.

32. The Final Remedy Decision was issued by EPA on March 8, 2007 outlining the corrective measures selected for the Facility that are identical to those proposed in the Statement of Basis. The final corrective measures consist of monitored natural attenuation, surface water sampling and institutional controls on groundwater and property use to prevent future exposure to remaining groundwater and soil contaminants.

33. The following hazardous waste and/or hazardous constituents that have been found at the Facility may have acute and/or chronic detrimental health effects in humans and/or may adversely impact the environment.

a. Trichloroethene (TCE): The Federal drinking water standard for TCE is 5 micrograms per liter ( $\mu\text{g/l}$ ). Health effects from exposure to excess levels of TCE may include liver problems and increased risk of cancer. TCE is a suspected carcinogen based on studies

conducted on rats, mice, and observations of workers exposed to TCE.

b. Tetrachloroethene (PCE): The Federal drinking water standard for PCE is 5 µg/l. Health effects from exposure to excess levels of PCE may include liver problems and increased risk of cancer.

c. 1,1,1-trichloroethane (1,1,1-TCA): The Federal drinking water standard for 1,1,1-TCA is 200 µg/l. Health effects from exposure to excess levels of 1,1,1-TCA may include liver, nervous system and circulatory problems. 1,1,1-TCA is a suspected carcinogen based upon animal studies (Handbook of Toxic and Hazardous Chemicals, 1991).

d. 1,1-dichloroethene (1,1-DCE): The Federal drinking water standard for 1,1-DCE is 7 µg/l. Health effects from exposure to excess levels of 1,1-DCE may include various kinds of liver problems. 1,1-DCE is a possible carcinogen based upon liver toxicity in rats.

e. cis-1,2-dichloroethene (cis-1,2-DCE): The Federal drinking water standard for cis-1,2-DCE is 70 µg/l. Health effects from exposure to excess levels of cis-1,2-DCE may include various kinds of liver problems.

f. Vinyl Chloride: The Federal drinking water standard for vinyl chloride is 2 µg/l. Vinyl Chloride is a known human carcinogen. Health effects from exposure to excess levels of vinyl chloride include increased risk of cancer.

34. Potential receptors to contaminated groundwater (if such groundwater was to migrate off-site) include nine private residential wells known to be used for drinking water and any future residence using groundwater as a domestic water source. Only four residential wells are considered downgradient of the groundwater contamination and they are located northeast of the Facility. The intent of the remedial effort at the Facility is to protect downgradient residences

from direct exposure to the contaminated groundwater that potentially could result in exposures via drinking water wells. Currently, the groundwater contamination has not migrated off-site. Future monitoring of the groundwater contamination will detect contaminants if they should begin to move from the existing contaminant plume boundary.

35. The following corrective action objectives for constituents in ground water were identified in the Final Remedy Decision.

Groundwater Constituent	Corrective Action Objectives (ppm) (MCL)
<b>Primary COCs</b>	
PCE	0.005
TCE	0.005
1, 1, 1-TCA	0.200
<b>Secondary COCs</b>	
1, 1-DCA	0.007
cis-1, 2-DCE	0.070
VC	0.002

#### V. EPA'S CONCLUSIONS OF LAW AND DETERMINATIONS

36. Based upon the EPA's foregoing Findings of Fact and the administrative record, the Director, Air and Waste Management Division, EPA Region 7, makes the following conclusions of law and determinations.

37. Each Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

38. Respondent GE operated and Respondent Burlington Basket owned a facility that is subject to the interim status requirements of RCRA, within the meaning of Section 3005(e) of RCRA, 42 U.S.C. § 6925(e).

39. Certain wastes and constituents thereof found at the Facility are hazardous wastes

and/or hazardous waste constituents as defined by Section 1004(5) of RCRA, 42 U.S.C. § 6903(5), Section 3001 of RCRA, 42 U.S.C. § 6921, and 40 C.F.R. Part 261.

40. There has been a release of hazardous wastes and/or hazardous waste constituents into the environment from the Facility.

41. The actions required by this Order are necessary to protect human health and/or the environment.

## **VI. WORK TO BE PERFORMED**

42. Pursuant to Section 3008(h) of RCRA, 42 U.S.C. § 6928(h), the parties agree and the Respondents are hereby ordered to perform the following acts in the manner and by the dates specified herein and consistent with the attached Scope of Work for Corrective Measures Implementation ("SOW") to implement the remedy selected by EPA (see Attachment A).

43. Within ninety (90) days of the effective date of this Order, Respondent GE shall submit a Corrective Measures Implementation Work Plan ("CMIWP") to EPA for review and approval as provided in Section VII (Submissions/Agency Approval/Additional Work), in accordance with Task 1 of the attached SOW. The approved CMIWP shall be implemented by Respondent GE according to the approved schedule. The CMIWP, as detailed in the attached SOW, shall include:

- a. Introduction/Purpose;
- b. A Current System Summary;
- c. Corrective Measures Objectives;
- d. Frequency of Monitoring;

- e. A Sampling and Analysis Plan;
- f. A Schedule for Deliverables;
- g. An Operation and Maintenance Plan;
- h. Operation and Maintenance Contingency Procedures; and,
- i. Data Management and Documentation Requirements.

44. Commencing on the effective date of this Order, Respondent Burlington Basket shall provide access to allow the performance of the work outlined in this Order and shall put measures in place to refrain from using the Facility in any manner that would interfere with or adversely affect the integrity or protectiveness of the Corrective Measures to be implemented consistent with this Order.

45. The following restrictions will be placed on all of the property at the Facility (the "Property") and continue in effect until such time as the groundwater contamination has been reduced to levels approved by EPA for residential use.

a. The Property and any buildings and other improvements to be erected thereon shall be used solely for commercial, industrial, warehouse and retail and wholesale sales only and for no other purposes whatsoever, notwithstanding that other uses may be permitted by the applicable zoning or other ordinances now or in the future affecting the Property. Further, notwithstanding any of the foregoing and even though such may constitute a "commercial" or other permitted use, in no event shall the Property be used for any residential purposes, childcare center, playgrounds, parks, or other outdoor recreational activities, school, elder care facility, nursing home or hospital;

b. Water well(s) shall not be installed on the Facility Property, or on properties

where groundwater contamination from the Facility has come to exist, and no part of the groundwater shall be used for any use or purpose whatsoever, including without limitation, industrial, commercial, residential, drinking, or irrigation purposes, except as necessary for implementation and operation of the remediation system;

c. Any excavation, drilling or similar intrusive activity in the Restricted Use Area (see attachment D) of the Facility that would disturb or interfere with any groundwater contamination on the property (other than installation groundwater monitoring wells or remediation wells) shall be prohibited without the prior written approval of EPA.

d. Respondents shall promptly notify EPA of any and all water well(s) installed on the Facility Property; and

e. Respondents shall promptly notify EPA of any water well(s) installed on properties where groundwater contamination from the Facility has come to exist.

46. In addition, the excavation of soil, other than minor surficial disturbances, in the Restricted Use Area of the Facility shall be prohibited without the prior written approval of EPA.

The Restricted Use Area is located under the northeast corner of Building #3, and in the area of former soil excavation and a drainage ditch north of the site as identified in Figure 3 (Attachment D). A Land Use Implementation Plan will provide a method to seek approval for excavation that is necessary for operations on the property due to normal maintenance activities, repairs or plant expansion. The Land Use Implementation Plan will be part of Task 3 of the SOW.

47. A ground water use restriction has been implemented using the City of West Burlington Ordinance (See Attachment D). The ordinance prohibits the installation of wells to extract ground water where access to the city's municipal water supply distribution system is

available and where contaminants are known to exist in the subsurface within the city limits. It is anticipated that the groundwater use limits will remain in effect in perpetuity with the existence of the municipal authority of West Burlington. Respondent GE shall periodically verify and report that the ordinance continues in effect until the groundwater contamination has been reduced to levels approved by EPA for unlimited access and unrestricted use.

48. A restrictive land use covenant shall be placed on the property at the Facility to provide the groundwater and soil restrictions listed in Paragraphs 45 and 46 above. The covenant will run with the land and provide for enforcement rights for the Respondents, and as third party beneficiaries, for the EPA and the Iowa Department of Natural Resources to prevent the restricted activities. The Respondents are responsible for implementing, maintaining, reporting on, and enforcing the land use controls. Although the Respondents may later transfer these procedural responsibilities to another party by contract or through other means, the Respondents shall retain ultimate responsibility for remedy integrity and land use controls. The covenant will be maintained until the concentration of hazardous substances in the soil and groundwater meet residential standards for unrestricted use and exposure as defined in the Table below or as otherwise approved in writing by EPA. The land use covenant shall be in substantially the same form as the Environmental Covenant attached hereto as Attachment F.

Soil Constituent	Residential Level (ppm)
TCE	0.043
VC	0.043
PCE	0.550
cis-1,2-DCE	43
1,1-DCA	850
1,1,1-TCA	1,400

Groundwater Constituent	Residential Level (ppm) (MCL)
VC	0.002
TCE	0.005
PCE	0.005
cis-1,2-DCE	0.070
1,1-DCA	0.007
1,1,1-TCA	0.200

49. In accordance with Task 3 of the SOW, within ninety (90) days of the effective date of this Order, the Respondent GE shall submit to EPA for review and approval a draft Institutional Control (IC) plan with respect to the Facility. The IC plan shall include:

a. A draft Environmental Covenant, in substantially the same form attached hereto as Attachment F, which is enforceable under the laws of the State of Iowa.

b. A current title insurance commitment or report which shows title to the land described in the Environmental Covenant to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA).

c. A Land Use Implementation Plan that describes the land uses acceptable at the Facility property to comply with the ground water and soil restrictions listed in Paragraphs 45 and 46, and how these restrictions will be maintained and controlled.

The IC plan should be prepared in accordance with applicable EPA guidance documents, including, the Draft Guidance document entitled "*Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups*" (February 19, 2003). The EPA will review the IC plan as provided in Section VII (Submissions/Agency Approval/Additional Work) of this Order.

50. Within thirty (30) days of EPA's approval and acceptance of the Environmental Covenant and the title evidence, Respondent GE shall update the title search and, if it is determined that nothing has occurred since the effective date of the commitment to affect the title adversely, record the Environmental Covenant with the Des Moines County Recorders Office. Within thirty (30) days of recording the Environmental Covenant, Respondents shall provide EPA with a Property Interest Certification Letter, a final title insurance policy, or other final evidence of title acceptable to EPA, and a certified copy of the original recorded Environmental Covenant showing the clerk's recording stamps. Respondent Burlington Basket shall cooperative with Respondent GE and take such other necessary actions to assure the Environmental Covenant is completed.

51. The Respondents shall notify EPA as soon as practicable but no longer than ten (10) days after discovery of any activity that is inconsistent with the Institutional Controls objectives or land use restrictions, or any other action that may interfere with the effectiveness of the ICs. The Respondents will notify EPA regarding how the Respondents have addressed or will address the interfering activity within ten (10) days of sending EPA notification of the interfering activity.

52. Within forty-five (45) days after the Respondent GE obtains information demonstrating that the approved corrective action objectives identified in the Final Remedy Decision have been satisfied, Respondent GE shall submit a Corrective Measure Completion Report ("CMCR") to EPA for review and approval, as provided in Section VII (Submissions/Agency Approval/Additional Work), that presents a summary of such information in sufficient detail and quality to provide EPA a basis to confirm that the corrective action

objectives have been satisfied. The CMCR shall be prepared in accordance with Task 6 of the attached SOW.

## VII. SUBMISSIONS/AGENCY APPROVAL/ADDITIONAL WORK

53. Respondent GE shall submit progress reports to EPA. Reports must be submitted annually, by October 1 of each year, during the implementation, operation and maintenance of the Corrective Measures until the CMCR is approved. The progress reports shall be prepared in accordance with Task 7 of the SOW and shall contain the following information:

- a. A description of significant activities and work completed/work accomplishments during the reporting period;
- b. A summary of all findings made during the reporting period, including copies of daily reports, change orders, inspection reports, groundwater analysis and laboratory/monitoring data and all other data generated during the reporting period, as well as copies of the raw data, field logs, etc. which were used to compile the data results;
- c. Groundwater contaminant plume maps using isoconcentration lines to show the three-dimensional distribution of the major contaminants of concern;
- d. Summaries of all contacts with representatives of the local community, public interest groups, state government, or federal government during the reporting period;
- e. Summaries of all problems or potential problems encountered during the reporting period and the actions being taken and/or planned to rectify the problems;
- f. Changes in personnel during the reporting period;

- g. The projected work for the next reporting period;
- h. Notification specifying the dates in the next reporting period in which any sampling event, well drilling, or installation of equipment will occur either on- or off-site of the Facility; and
- i. Notice of planned work not completed and when such work has been rescheduled for completion.

54. The following procedure will apply to the review and approval of all plans, reports, or other documents submitted to EPA for review and approval. The EPA will review each such document and notify the submitting Respondent, in writing, as to its approval or disapproval thereof. In the event EPA does not approve any such document, it will provide written comments regarding the basis of the disapproval. Within twenty-one (21) days of receipt of EPA's comments, or such longer time period as agreed to in writing by the Parties, Respondent shall modify the submission to incorporate EPA's comments, and shall submit the amended report to EPA. Upon resubmission, EPA, in its sole discretion, may either approve the document, or, if EPA determines that the document does not adequately address the comments provided by EPA, EPA may unilaterally modify the document, and will provide Respondent with a copy of the document as modified by EPA, to be implemented in accordance with any modifications. If, upon resubmission, a document, or portion thereof, is disapproved or modified by EPA, Respondent shall be deemed to have failed to submit such plan, report, or item timely and adequately. EPA's determination that any submission does not conform to the requirements of this Order shall be subject to the Dispute Resolution procedures set forth in Section XVII below; however, invocation of dispute resolution shall not stay Respondent's obligation to

perform any work required by any approved or modified document. EPA approved reports and work plans shall be deemed incorporated into and made a part of this Order.

55. Respondents shall submit two copies of each document submitted to EPA in accordance with this Order.

56. During the pendency of this Order, EPA may request in writing that Respondents perform additional work to fulfill the objectives of this Order, including but not limited to, with respect to Respondent GE, investigatory work or engineering evaluation, in addition to the tasks and deliverables specifically noted in this Order. With respect to Respondent Burlington Basket, the additional work will relate to its position as current owner of the property. The EPA will be specific about which Respondent is being requested to perform additional work. In regard to the additional work to be performed, Respondent Burlington Basket's obligations shall extend only to allowing access to the subject property and limiting its use of the property to the restrictions imposed upon the property by the EPA. EPA will request in writing that Respondent perform the additional work in this situation and shall specify the basis and reasons for EPA's determination that the additional work is necessary. Within fifteen (15) days after the receipt of such request, Respondent may request a meeting with EPA to discuss the additional work. Thereafter, if Respondent elects to perform such additional work, Respondent shall perform the additional work EPA has requested according to an EPA approved workplan, or alternatively and at the direction of EPA, submit a workplan as requested by EPA for review and approval as described in Paragraph 52 within thirty (30) days of EPA's initial request of the work plan for the additional work. All additional work performed by Respondent under this paragraph shall be performed in a manner consistent with this Order. If Respondent declines to perform the additional work,

EPA reserves its authority under RCRA, CERCLA and any other legal authority to order Respondent to perform the additional work and Respondent reserves all of its legal rights to defend such an action.

### **VIII. ON-SITE AND OFF-SITE ACCESS**

57. Respondent Burlington Basket shall provide access to the Facility to Respondent GE to allow GE to perform all work required by this Order. EPA and any authorized representatives of EPA shall have full access to the Facility during normal business hours during the effective dates of this Order for the purposes of, among other things, reviewing the progress of Respondent GE in carrying out the provisions of this Order. Respondent GE shall permit such persons to inspect and copy all records, files, photographs, documents, and other materials, including all sampling and monitoring data, that pertain to activities undertaken pursuant to this Order.

58. To the extent that activities required by this Order must be done on property not owned or controlled by Respondents, Respondent GE shall use its best efforts to obtain site access agreements for itself, as well as EPA and any authorized representatives of EPA, from the present owner(s) of such property within ninety (90) days of the effective date of this Order. Best efforts as used herein shall include, but are not limited to, the payment of reasonable sums of money in consideration of access. If agreements for access are not obtained within ninety (90) days, Respondent GE shall notify EPA in writing within seven (7) days thereafter setting forth both the efforts undertaken to obtain access and its failure to obtain such agreements.

59. Nothing in this Section shall limit or otherwise affect EPA's right of access and entry pursuant to RCRA, CERCLA or any other legal authority.

## **IX. SAMPLING AND DATA/DOCUMENT AVAILABILITY**

60. Respondent GE shall notify EPA at least fourteen (14) days prior to engaging in any field activities, such as well drilling, installation of equipment or sampling. At the request of EPA, Respondent GE shall provide or allow EPA or its authorized representatives to take split samples of all samples collected by Respondent GE pursuant to this Order.

61. Respondents may assert a business confidentiality claim covering all or part of any information submitted to EPA pursuant to this Order. Any claim of confidentiality shall be adequately substantiated by a Respondent when such claim is made. Information determined to be confidential by EPA will be disclosed only to the extent and by the procedures specified by 40 C.F.R. Part 2. If no such confidentiality claim accompanies the information when it is submitted to EPA, the information may be made available to the public by EPA without further notice to the Respondent. In no event shall physical or analytical environmental sampling data collected pursuant to this Order be deemed confidential, and Respondents agrees not to assert a confidentiality claim regarding same.

## **X. RECORD PRESERVATION**

62. For the purpose of this Section, "record(s)" shall mean all original copies of field notes and test and sampling results, and copies of documents, data, records, drawings, and tabulations prepared by a Respondent or its employees, agents, or contractors which relate in any way to this Order.

63. Respondents shall preserve their records during the pendency of this Order and for a minimum of six (6) years after the termination of this Order. Thereafter, Respondents shall notify

EPA in writing thirty (30) days prior to destruction of any such record. Upon request by EPA within such thirty (30) day period, Respondents shall make such records available to EPA as directed by EPA.

## **XI. PROJECT COORDINATOR**

64. The Project Coordinator for EPA shall be Ms. Cynthia Hutchison, RCAP/AWMD, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, Kansas 66101, telephone number: 913-551-7478. The Project Coordinator for GE shall be Joel E. Robinson, Global Remediation Manager, Global Remediation and Property Transaction Due Diligence, General Electric Consumer and Industrial Appliance Park AP26-100, Louisville, KY, 40225, telephone number: 412-319-7000. The Project Coordinator for Burlington Basket shall be Rick Thompson, Burlington Basket Company, P.O. Box 537, West Burlington, Iowa 52655, telephone number: 319-754-6508. Each Project Coordinator shall be responsible for overseeing the implementation of this Order and shall serve as each party's designated representative. All communications between Respondents and EPA, and all records, documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the Project Coordinators or their authorized representatives.

65. Respondents shall provide at least ten (10) days written notice to EPA prior to changing its Project Coordinator.

66. EPA shall provide Respondents with written notice upon any change in its designated Project Coordinator.

67. The absence of the EPA Project Coordinator from the Facility shall not be cause for the stoppage of work.

## **XII. RESERVATION OF RIGHTS**

68. Except as otherwise provided in this Order, EPA hereby expressly reserves all rights and defenses that it may have, including its right to disapprove of work performed by Respondents and to require that Respondents perform tasks in addition to those stated herein.

69. EPA hereby expressly reserves all of its statutory and regulatory powers, authorities, rights, remedies, both legal and equitable, including, without limitation, the assessment of penalties under Section 3008(h)(2) of RCRA, 42 U.S.C. § 6928(h)(2). Except as expressly provided otherwise, this Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which EPA has under RCRA, CERCLA or any other statutory, regulatory or common law authority of the United States.

70. Compliance by Respondents with the terms of this Order shall not relieve Respondents of their obligations to comply with RCRA or any other applicable local, state or federal laws and regulations. This Order is not intended to be nor shall it be construed to be a permit. This Order does not relieve Respondents of any obligation to obtain and comply with any local, state or federal permits.

71. This Order shall not limit or otherwise preclude EPA from taking additional enforcement action pursuant to Section 3008(h) of RCRA or any other available legal authorities should EPA determine that such actions are warranted and necessary to protect human health or

the environment. Such additional enforcement action may include, but is not limited to, any and all actions under RCRA, CERCLA or any other available legal authority EPA may deem necessary.

72. The EPA hereby expressly reserves any right it may have to perform any work required to be performed hereunder by Respondents if such Respondent fails to perform such work in accordance with this Order, including, but not limited to, site characterization, feasibility studies, and response/corrective actions as it deems necessary to protect public health or the environment and EPA may exercise any authority it may have under CERCLA to undertake removal actions or remedial actions at any time. Notwithstanding Respondent's compliance with the terms of this Order, EPA reserves any right it may have to seek reimbursement from Respondents for all costs incurred by the United States, and Respondents are not released from liability, if any, for such costs.

73. If EPA determines that activities in compliance or noncompliance with this Order have caused or may cause a release of hazardous waste, hazardous waste constituents or a threat to human health or the environment or that a Respondent is not capable of undertaking any studies or corrective measure ordered, EPA may order such Respondent to stop further implementation of this Order for such period of time as EPA determines may be needed to abate any such release or threat and/or to undertake any action which EPA determines is necessary to abate such release or threat.

74. Respondents reserve all of their rights unless expressly waived in this Order including legal and equitable defenses to any claim or cause of action.

75. Each Respondent reserves its right to dispute the validity of EPA's Findings of Fact

and Conclusions of Law contained within this Order in any subsequent proceeding other than proceedings to implement or enforce this Order.

### **XIII. OTHER CLAIMS**

76. Nothing in this Order shall constitute or be construed as a release by any party bound by this Order, whether or not such party is a signatory to this Order, of any claim, cause of action or demand, in law or equity, against any other person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous waste constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

### **XIV. OTHER APPLICABLE LAWS**

77. All actions required to be taken by Respondents pursuant to this Order shall be undertaken in accordance with all applicable local, state and federal laws and regulations. Respondents shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

### **XV. SUBSEQUENT MODIFICATION**

78. This Order may be amended only by mutual agreement of EPA and Respondents. Such amendments shall be in writing, shall be signed by all parties, and shall be incorporated into this Order. Unless otherwise provided for in the amendment, the effective date of any such modification shall be the date on which Respondent receives a copy of the written amendment or

modification that has been signed by EPA and Respondent.

79. No informal oral advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by a Respondent shall be construed as relieving that Respondent of its obligation to obtain, or EPA of its obligation to give, formal written approval, if and when required by this Order.

#### **XVI. SEVERABILITY**

80. If any provision or authority of this Order or the application of this Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall remain in full force and effect and shall not be affected thereby.

#### **XVII. ASSURANCE OF FINANCIAL RESPONSIBILITY FOR COMPLETING THE WORK**

81. **Estimated Cost of the Work.** Respondent GE shall submit to EPA a detailed estimate, in current dollars, of the cost of hiring a third party to perform the work required under this Order. The cost estimate shall include direct and indirect capital costs, operation and maintenance costs and any other costs attributable to the implementation of the requirements of this Order. A third party is a party who (i) is neither a parent nor a subsidiary of a Respondent and (ii) does not share a common parent or subsidiary with a Respondent.

82. **Assurances of Financial Responsibility for Completing the Work.** In order to secure the full and final completion of the work in accordance with this Order, Respondent GE shall establish and maintain financial assurances for the benefit of the EPA in the amount of the

Estimated Cost of the Work. Respondent may use one or more of the financial assurance forms generally described in Paragraphs a – f below. Any and all financial assurance instruments provided pursuant to this Order shall be satisfactory in form and substance as determined by EPA.

- a. A trust fund established for the benefit of EPA;
- b. A surety bond unconditionally guaranteeing performance of the Work;
- c. An irrevocable letter of credit;
- d. A insurance policy;
- e. A corporate guarantee, executed in favor of the EPA: or
- f. A demonstration by Respondent that Respondent meets the financial test criteria of 40 CFR § 264.143(f) .

All information regarding the selected financial assurance instrument shall be submitted to EPA within 30 days of the effective date for review and approval and shall be updated annually.

Respondent GE may submit a request to reduce or release the financial assurance instrument as Work is completed.

83. If at any time EPA determines that Respondent GE has defaulted in its responsibilities with regard to this Order, EPA may undertake to complete the tasks set forth by this Order, utilizing the proceeds of the foregoing financial assurance.

## **XVIII. DISPUTE RESOLUTION**

84. The parties recognize that a dispute may arise between the parties regarding the content of deliverables and plans required to be submitted under this Order, or concerning any

other decision or directive made by EPA. If such a dispute arises, the parties will endeavor to settle it by informal negotiations among themselves. If the parties cannot resolve the issue informally, a Respondent may notify EPA in writing of its position and its decision to invoke the dispute resolution provisions of this Section XVII. EPA will respond in writing within fourteen (14) days of receipt of Respondent's written position, stating its position with regard to the dispute and the reasons therefor. EPA and Respondent shall then have thirty (30) days from Respondent's receipt of EPA's written position to attempt in good faith to resolve the dispute. The parties may agree in writing to a mutual extension of the thirty (30) day time period set forth above if negotiations are continuing in good faith. During the thirty (30) day period of negotiations by Respondent and EPA under this paragraph, Respondent shall not be excused from performing any requirement under this Order that is not the subject of such dispute. If agreement is reached, the resolution shall be reduced to writing, signed by representatives of each party and shall be incorporated into and become a part of this Order.

85. If the parties are unable to reach an agreement within the aforesaid thirty (30) day period the matter shall be referred to the Branch Chief of the RCRA Corrective Action and Permits Branch, Air and Waste Management Division, EPA Region 7 (Branch Chief, RCAP). The Branch Chief shall then decide the matter and provide a written statement of his/her decision to Respondent. Such a decision shall then be incorporated into and become a part of this Order.

86. Notification by a Respondent of a dispute pursuant to this Section shall not alter or delay any other obligations of such Respondent under this Order.

87. No action or decision by EPA, including without limitation, decisions of the Branch Chief, RCAP, or his/her designates, pursuant to this Order, shall constitute final agency action

giving rise to any rights to judicial review prior to EPA's initiation of judicial action to compel Respondent's compliance with the requirements of this Order.

### **XIX. FORCE MAJEURE**

88. Each Respondent shall perform the requirements of this Order within the time periods set forth or approved herein, except to the extent that performance is prevented or delayed by events which constitute a force majeure. For the purposes of this Order, a force majeure is defined as an event arising from causes beyond the control of Respondent which could not be overcome by due diligence and which delays performance of any obligation required by this Order. A Respondent shall have the burden of proving a force majeure. Such events shall not include increased costs of performance, changed economic circumstances, normal precipitation events, changed circumstances arising out of the sale, lease or other transfer of Respondent's interest in any or all portions of the Facility, or failure to obtain federal, state, or local permits unless a Respondent has sought such permits in a timely and complete manner.

89. A Respondent shall notify EPA in writing within ten (10) business days after it becomes aware of events which such Respondent knows, or has reason to believe may constitute a force majeure. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to minimize the delay and an estimated timetable for implementation of these measures. Respondent's failure to comply with the notice provision of this Section shall constitute a waiver of Respondent's right to assert a force majeure.

90. If EPA determines that a force majeure has or will occur, the time for performance

for that element of the Order may be extended for a period equal to the delay resulting from such circumstance. This shall be accomplished through an amendment to this Order pursuant to Section XV (Subsequent Modification) of this Order. Such an extension shall not alter the schedule for performance or completion of other tasks required by this Order.

91. If EPA and Respondent cannot agree that a force majeure event has occurred the dispute shall be resolved in accordance with Section XVII (Dispute Resolution) of this Order.

**XX. STIPULATED PENALTIES**

92. If a Respondent fails to comply with any requirement of this Order, as identified below, in a timely and satisfactory manner, such Respondent shall pay stipulated penalties as set forth below, unless (i) there has been a written modification of a compliance date by EPA, or (ii) EPA has approved, in writing, such Respondent's written request for an extension of time, or (iii) a delay excusable pursuant to Section XVIII (Force Majeure) of this Order has arisen. The work required by Respondent Burlington Basket under this Order is the provision of access to allow all other work to be completed and limiting the use of the Property to the restrictions imposed by EPA in the Order including the completion of the Environmental Covenant.

a. For failure to submit progress reports as required in this Order:

Penalty Per Violation Per Day	Period of Noncompliance (Days)
\$ 250	1 - 10
\$ 500	11 - 30
\$ 1,000	31 and beyond

b. For failure to submit or perform the:

- (1) Corrective Measures Implementation Work Plan,
- (2) Corrective Measures Completion Report,

(3) any other work plan, report or implementation schedule as required in this Order or SOW, or pursuant to the EPA-approved work schedule of any work plan submitted pursuant to this Order, or

(4) any work required under this Order:

Penalty Per Violation Per Day	Period of Noncompliance (Days)
\$ 500	1 - 10
\$ 1,000	11 - 30
\$ 2,000	31 and beyond

93. All penalties shall begin to accrue on the first business day after complete performance is due or a violation occurs, and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

94. All penalties owed to EPA pursuant to this Section shall be due within thirty (30) days after Respondent's receipt of a written notification of the assessment thereof. Such notification will describe the noncompliance and will indicate the amount of the penalties due. In the event that any payment due is not paid as provided above, interest shall accrue at the rate determined by the Secretary of the Treasury (currently 3% per annum for the period January 1, 2009 through December 31, 2009) on the unpaid balance until such payment and accrued interest are both paid in full.

95. All penalties shall be paid by certified or cashier's check made payable to "Treasurer of the United States" and shall be remitted to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
Fines and Penalties  
PO Box 979077  
St. Louis, MO 63197-9000

All payments shall reference the name of the Facility, Respondent's name and the EPA docket number of this Order. A copy of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator and the Regional Hearing Clerk at:

Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region VII  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101.

96. Any dispute regarding the assessment of stipulated penalties shall be subject to Section XVII (Dispute Resolution) of this Order.

#### **XXI. INDEMNIFICATION OF THE UNITED STATES**

97. Respondents agree to indemnify and save and hold harmless the United States Government, its agencies, departments, agents and employees from any and all claims or causes of action arising from or on account of any acts or omissions of a Respondent or its employees, officers, directors, agents, independent contractors, receivers, trustees and assigns in carrying out activities required by this Order. Respondents shall not be responsible for indemnifying any party for claims or causes of action arising from or on account of acts or omissions of that party.

#### **XXII. TERMINATION AND SATISFACTION**

98. This Order shall terminate when the Respondents demonstrate in writing and certify to the satisfaction of EPA that all activities required under this Order, including any additional work and any stipulated penalties due and owing EPA have been performed or paid and EPA has approved the certification, which approval shall not be unreasonably withheld. This notice shall not, however, terminate Respondent's obligation to comply with Section X (Record Preservation)

of this Order.

99. The certification shall be signed by a responsible official of each Respondent who shall make the following attestation:

"I certify that the information contained in or accompanying this certification is true, accurate and complete." For purposes of this Order, a responsible official is a corporate officer of Respondent who is in charge of a principal business function.

### **XXIII. NON-SIGNATORIES TO ORDER**

100. Nothing contained in this Order shall be construed as conferring upon or giving rise to any rights to any persons not parties hereto, except as expressly contained herein.

### **XXIV. EFFECTIVE DATE**

101. This Order shall be effective upon receipt by Respondents of a fully executed duplicate original of this Order.

102. Except as specifically provided in this Order, all times for performance and compliance begin to run from the effective date of this Order.

103. This Order may be executed in multiple counterparts, each of which shall be deemed an original.

### **XXV. WAIVER OF HEARING**

104. Each Respondent waives its right to request a public hearing pursuant to Section 3008(b) of RCRA, 42 U.S.C. § 6928(b) relating to this Order.

IT IS SO AGREED AND ORDERED.

IN THE MATTER OF  
GENERAL ELECTRIC COMPANY AND  
BURLINGTON BASKET COMPANY  
RCRA 3008(H) ADMINISTRATIVE ORDER ON CONSENT

For General Electric Company

09/29/09  
Date

By: Keith Mooneyham  
[Name] Keith Mooneyham  
[Title] GM EHS

IN THE MATTER OF  
GENERAL ELECTRIC COMPANY AND  
BURLINGTON BASKET COMPANY  
RCRA 3008(H) ADMINISTRATIVE ORDER ON CONSENT

For Burling Basket Company

9-29-09  
Date

By:   
[Name] Rick L. Thompson  
[Title] Chief Executive Officer

IN THE MATTER OF  
GENERAL ELECTRIC COMPANY AND  
BURLINGTON BASKET COMPANY  
RCRA 3008(H) ADMINISTRATIVE ORDER ON CONSENT

For the United States Environmental Protection Agency

9/30/09  
Date



Becky Weber  
Director  
Air and Waste Management Division  
U.S. Environmental Protection Agency, Region 7



Steven L. Sanders  
Assistant Regional Counsel  
U.S. Environmental Protection Agency, Region 7

**ATTACHMENT A**

**SCOPE OF WORK FOR  
CORRECTIVE MEASURES IMPLEMENTATION  
FORMER GENERAL ELECTRIC (a.k.a BURLINGTON BASKET)  
WEST BURLINGTON, IA**

**Purpose**

This Scope of Work (SOW) sets forth the tasks required as part of the Corrective Measures Implementation (CMI) process concerning the operation, maintenance, and monitoring of the corrective measures selected by EPA for implementation at the Facility. In accomplishing the tasks set forth herein, Respondents shall comply with the provisions of the Administrative Order on Consent (Order) between the United States Environmental Protection Agency (EPA), General Electric (Respondent GE), and Burlington Basket (Respondent Burlington Basket) (collectively Respondents), this SOW, and relevant EPA guidance, including, but not limited to, Final RCRA Corrective Action Plan (OSWER Directive 9902/3-2A, May 1994); RCRA Groundwater Monitoring Technical Enforcement Guidance Document (OSWER Directive 9950.1, September 1996); Test Methods for Evaluating Solid Waste (SW-846); and EPA Requirements for Quality Assurance Project Plans, EPA QA/R5, EPA/240/B-01/003, March 2001, (R5).

**Scope**

In EPA's Final Remedy Decision, EPA informed the Respondents of the corrective measures selected for the Facility, which in sum are monitored natural attenuation, surface water sampling, and institutional controls for groundwater and property use. These selected corrective measures shall be implemented until the Corrective Action Objectives (CAOs) set forth in the Final Remedy Decision or other EPA-approved risk based cleanup objectives have been achieved. Submittals required by Respondent GE as part of the CMI process include: a Corrective Measures Implementation Work Plan, a Health and Safety Plan, an Institutional Control Plan, 5-yr and 10-yr Monitoring Well and Monitored Natural Attenuation (MNA) Performance Evaluations, a Corrective Measures Completion Report (CMCR), and annual Progress Reports. The schedule for each document (designated as Tasks in this SOW) is specified below followed by a short description for each task.

**Submittal**

**Due Date**

Corrective Measures  
Implementation Work  
Plan  
(Task 1)

90 days following the  
effective date of the Order

Health and Safety Plan (Task 2)	90 days following the effective date of the Order
Institutional Control Plan (Task 3)	90 days following the effective date of the Order
5-Yr MNA Performance Evaluation (Task 4)	5 years following the effective date of the Order
10-Yr MNA Performance Evaluation (Task 5)	10 years following the effective date of the Order
Corrective Measure Completion Report (Task 6)	45 days following the point at which Respondent can demonstrate that additional monitoring is not required, based on accumulated site data
Progress Reports (Task 7)	Annually (on October 1 of each year) during operation and maintenance until the CMCR is approved

**Task 1: CORRECTIVE MEASURES IMPLEMENTATION WORK PLAN**

Within 90 days of the effective date of this Order, Respondent GE shall submit a Corrective Measures Implementation Work Plan (CMIWP) to EPA for review and approval that includes the following information and satisfies the following requirements:

- A. Introduction/Purpose: Describe the purpose of the document and provide a summary description of the corrective measure.
- B. A Current System Summary that provides a summary of the RFI, CMS and Interim Measures.
- C. Corrective Measures Objectives: Respondent shall propose processes and criteria for determining when the Corrective Action Objectives (CAOs) set forth in the Final Remedy Decision or other EPA-approved risk based cleanup objectives have been achieved. Respondent shall also propose the processes and criteria for determining when maintenance and monitoring may cease. These criteria must reflect the need for long-term monitoring (and corresponding maintenance) to determine whether the CAOs have been satisfied.

- D. Frequency of Monitoring: Respondent shall propose a schedule for system performance monitoring until the CAOs are achieved.
- E. A Sampling and Analysis Plan (SAP): Respondent GE shall propose a SAP that describes the sampling techniques and methodology in sufficient detail for EPA to determine whether such sampling conforms to the requirements of EPA guidance. To ensure that all information, data and resulting decisions are technically sound, statistically valid, and properly documented, Respondent shall prepare a Quality Assurance Project Plan (QAPP) to document all monitoring procedures, sampling, field measurements and sample analyses performed during these activities. Respondent shall use quality assurance, quality control, and chain-of-custody procedures approved by EPA. The QAPP should be completed according to EPA Requirements for Quality Assurance Project Plans, EPA QA/R-5, EPA/240/B-01/003, March 2001, (R5).
- F. Schedule for Deliverables: Respondent GE shall propose a schedule for all projected major activities and deliverables required by the Order and this SOW.
- G. An Operation & Maintenance (O&M) Plan: The O&M plan shall, at a minimum, include the following elements and satisfy the following requirements:
1. Project Management: Describe the management approach including levels of personnel authority and responsibility of key personnel who will maintain and monitor the corrective measures (including contractor personnel).
  2. System Description: A description of the corrective measure that identifies equipment necessary for implementation of the remedy. This portion may be amended, as necessary, with EPA approval, to reflect changes in the corrective measure and monitoring systems without requiring modification of the O&M Plan, the CMIWP or the Order.
  3. Operation and Maintenance Procedures: A description of operation and maintenance procedures including:
    - i. A description of tasks for operation and maintenance;
    - ii. Identification of monitoring wells to be sampled as part of the Facility monitoring network;
    - iii. Identification of groundwater constituents which will be targeted for sampling and analysis, which is to include monitored natural attenuation parameters;
    - iv. A schedule showing the frequency of each O&M task; and

- v. A description of tasks for sampling and monitoring the surface water in the intermittent stream.
  4. Replacement/Expansion criteria for equipment and installed components.
  5. Waste Management Practices: A description of the wastes anticipated to be generated by operation of the corrective measure and how such wastes will be managed, including a discussion of all applicable permits (local, state and federal) required to operate the system.
  6. Access: A description of what property must be accessed (both the Facility and off-site properties) for Respondent GE to implement, operate and monitor the corrective measure and how Respondent will ensure long term access to such property.
- H. O&M Contingency Procedures:
1. Procedures to address system breakdowns and operational problems.
  2. Procedures to be implemented in the event that the corrective measure is experiencing major operational problems, is not performing to design specifications and/or will not achieve the cleanup goals in the expected time frame.
  3. Criteria to determine whether expansion of the corrective measure systems is necessary to achieve the CAOs. Such criteria should evaluate all monitoring data generated by the corrective measure.
  4. If contingencies such as operation problems or new information (such as monitoring data) require modification of the corrective measure in a substantive fashion which also requires physical alteration of installed monitoring or remediation equipment, an Interim Measure Work Plan shall be submitted to EPA for review and approval within thirty (30) days of receipt of a written request for the submittal from EPA.
- I. Data Management and Documentation Requirements: The O&M Plan shall specify that Respondent GE collect and maintain the following information:
1. Progress Report Information;
  2. Monitoring and laboratory data; and
  3. Personnel, maintenance and inspection records.

## **Task 2: HEALTH AND SAFETY PLAN**

Respondent GE shall submit to EPA for review a Health and Safety Plan for all field activities, although it does not require approval by EPA. The Health and Safety Plan shall be developed as a stand alone document but may be submitted with the Operation and Maintenance Plan. The Health and Safety Plan must, at a minimum, include the following elements:

- A. Objectives: Describe the goals and objectives of the health and safety program that applies to on-site personnel and visitors. The health and safety plan must be consistent with the Facility Contingency Plan, OSHA Regulations, NIOSH Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities (1985), all state and local regulations and applicable EPA guidance.
- B. Hazard Assessment: List and describe the potentially hazardous substances that could be encountered by field personnel during operation and maintenance activities. Discuss the following:
- Inhalation Hazards
  - Dermal exposure
  - Ingestion Hazards
  - Physical Hazards
  - Overall Hazard Rating

Include a table that at a minimum, lists: known contaminants, highest observed concentration, media, symptoms/effects of acute exposure.

- C. Personal Protection/Monitoring Equipment
- Describe personal protection levels and identify all monitoring equipment for each operational task.
  - Describe any action levels and corresponding response actions (i.e., when levels of safety will be upgraded).
  - Describe decontamination procedures and areas.
- D. Site Organization and Emergency Contacts
- List and identify all contacts (including phone numbers). Identify the nearest hospital and provide a regional map showing the shortest route from the Facility to the hospital. Describe site emergency procedures and any site safety organizations. Include evacuation procedures for neighbors (where applicable). Include a Facility map showing emergency station locations (first aid, eye wash areas, etc.).

- E. A summary of inspection findings, including copies of key inspection documents in appendices.

### **Task 3: INSTITUTIONAL CONTROL PLAN**

Within 90 days of the effective date of the Order, Respondent GE shall submit an Institutional Control Plan (ICP) to EPA for review and approval. The ICP shall describe the purpose and scope of the ICs, the residual risk being addressed by the ICs, how the ICs will be implemented and monitored, and how the ICs will be enforced. In addition, the ICP shall include the following information and satisfy the following requirements:

- A. A draft Environmental Covenant, in substantially the same form as Attachment F to the Order, which is enforceable under the laws of the State of Iowa.
- B. An agreement signed by the owner of the property providing for the implementation of the Environmental Covenant.
- C. A current title insurance commitment or report which shows title to the land described in the Environmental Covenant to be free and clear of all prior liens and encumbrances (except when those liens or encumbrances are approved by EPA).
- D. A Land Use Implementation Plan that describes the land uses acceptable at the Facility property to comply with the ground water and soil restrictions listed in Paragraphs 42 and 43 of the Order, and how these restrictions will be maintained and controlled. This Land Use Implementation Plan shall include those activities necessary for O&M of the corrective measures, and normal operation and maintenance activities for current operations of the Facility.

EPA will review the submitted ICP as provided in Section VII (Submissions/Agency Approval/Additional Work) of the Order and in accordance with applicable EPA guidance documents, including the document entitled "*Institutional Controls: A Guide to Implementing, Monitoring, and Enforcing Institutional Controls at Superfund, Brownfields, Federal Facility, UST and RCRA Corrective Action Cleanups*" (February 19, 2003).

Respondents shall appropriately file and provide EPA a copy of the Environmental Covenant as outlined in paragraph 50 of the Order. Respondent Burlington Basket, shall cooperate with GE and EPA and take such necessary steps to ensure completion of the Environmental Covenant and implementing the institutional controls at the property.

#### **Task 4: 5-YR MNA PERFORMANCE EVALUATION**

Respondent GE shall conduct a performance evaluation at the 5-year point following the effective date of the Order and submit a report documenting the effectiveness of the MNA processes and the progress that has been made toward attainment of clean-up standards. EPA will review the performance evaluation report upon its submittal and evaluate the report for compliance with the Scope of Work. The performance evaluation report shall, at a minimum, include the following elements:

- A. Purpose.
- B. Synopsis of objectives of the MNA and definition of the MNA process.
- C. Up-to-date groundwater contaminant plume maps showing isoconcentration lines of the major contaminants, with separate maps for PCE, TCE, 1,1,1-TCA, 1,1-DCE, cis-1,2-DCE, and vinyl chloride.
- D. Assessment of the degree to which remedial objectives have been attained based on concentration trends at monitoring wells; if remedial goals have not been attained, perform an MNA analysis, prepared in accordance with, but not limited to: *Technical Protocol for Evaluating Natural Attenuation of Chlorinated Solvents in Groundwater*, EPA/600/R-98/128, September 1998; *Use of Monitored Natural Attenuation at Superfund and RCRA Corrective Action Sites*, OSWER Directive 9200.4-17P (April 21, 1999); and *Monitored Natural Attenuation of Chlorinated Solvents*, EPA/600/F-98/022, May 1999.
- E. Using the MNA data collected, determine whether the MNA is achieving its objectives and if reasonable progress is being made toward remedial goals.
- F. Discuss the uncertainties in the MNA analysis.
- G. Determine whether MNA well locations or sampling parameters need to be modified based on the MNA analysis to achieve remediation goals.

#### **TASK 5: 10-YR MNA PERFORMANCE EVALUATION**

Respondent GE shall conduct a second MNA performance evaluation at the 10 year point following the effective date of the Order and submit a report documenting the progress that has been made toward attainment of clean-up standards. EPA will review the performance evaluation report upon its submittal and evaluate the report for compliance with the Scope of Work. The performance evaluation report shall, at a minimum, include the following elements:

- A. Purpose.
- B. Synopsis of objectives of the MNA and definition of the MNA process.
- C. Up-to-date groundwater contaminant plume maps showing isoconcentration lines of the major contaminants, with separate maps for PCE, TCE, 1,1,1-TCA, 1,1-DCE, cis-1,2-DCE, and vinyl chloride.
- D. Assessment of the degree to which remedial objectives have been attained based on concentration trends at monitoring wells; if remedial goals have not been attained, perform an MNA analysis, prepared in accordance with, but not limited to: *Technical Protocol for Evaluating Natural Attenuation of Chlorinated Solvents in Groundwater*, EPA/600/R-98/128, September 1998; *Use of Monitored Natural Attenuation at Superfund and RCRA Corrective Action Sites*, OSWER Directive 9200.4-17P (April 21, 1999); and *Monitored Natural Attenuation of Chlorinated Solvents*, EPA/600/F-98/022, May 1999.
- E. Using the MNA data collected, determine whether the MNA is achieving its objectives and if reasonable progress is being made toward remedial goals.
- F. Discuss the uncertainties in the MNA analysis.
- G. Determine whether MNA well locations or sampling parameters need to be modified based on the MNA analysis to achieve remediation goals.

#### **TASK 6: CORRECTIVE MEASURES COMPLETION REPORT**

Within forty five (45) days after Respondent GE receives information demonstrating that the approved CAO's and completion criteria have been satisfied, Respondent GE shall prepare a Corrective Measure Completion Report (CMCR) for EPA review and approval. The purpose of the CMCR shall be to provide sufficient documentation to confirm that the approved CAOs and completion criteria have been satisfied and thereby justify that operations of the corrective measures and/or monitoring may cease. The CMCR shall, at a minimum, include the following elements and satisfy the following requirements:

- A. A statement of purpose for the report.
- B. A synopsis of the implementation of the corrective measures.
- C. An evaluation of Corrective Measure Completion Criteria that describes the process and criteria used for determining when maintenance and monitoring the corrective measure may cease.

- D. Demonstration that the CAO's and completion criteria have been met. Include results of testing and/or monitoring, indicating how operation of the corrective measure compares to the completion criteria.
- E. A summary of significant activities and work accomplishments that occurred during operations. Include a discussion of problems encountered and how they were addressed.
- F. A summary of inspection findings, including copies of key inspection documents.
- G. Summary of total operation and maintenance costs.
- I. Discussion of potential impacts that cessation of maintenance and monitoring could have on the future effectiveness of the corrective measure and/or potential receptors.

#### **TASK 7: PROGRESS REPORTS**

Respondent GE shall, at a minimum, provide EPA with signed annual Progress Reports, to be submitted on or before October 1, during operation and maintenance.

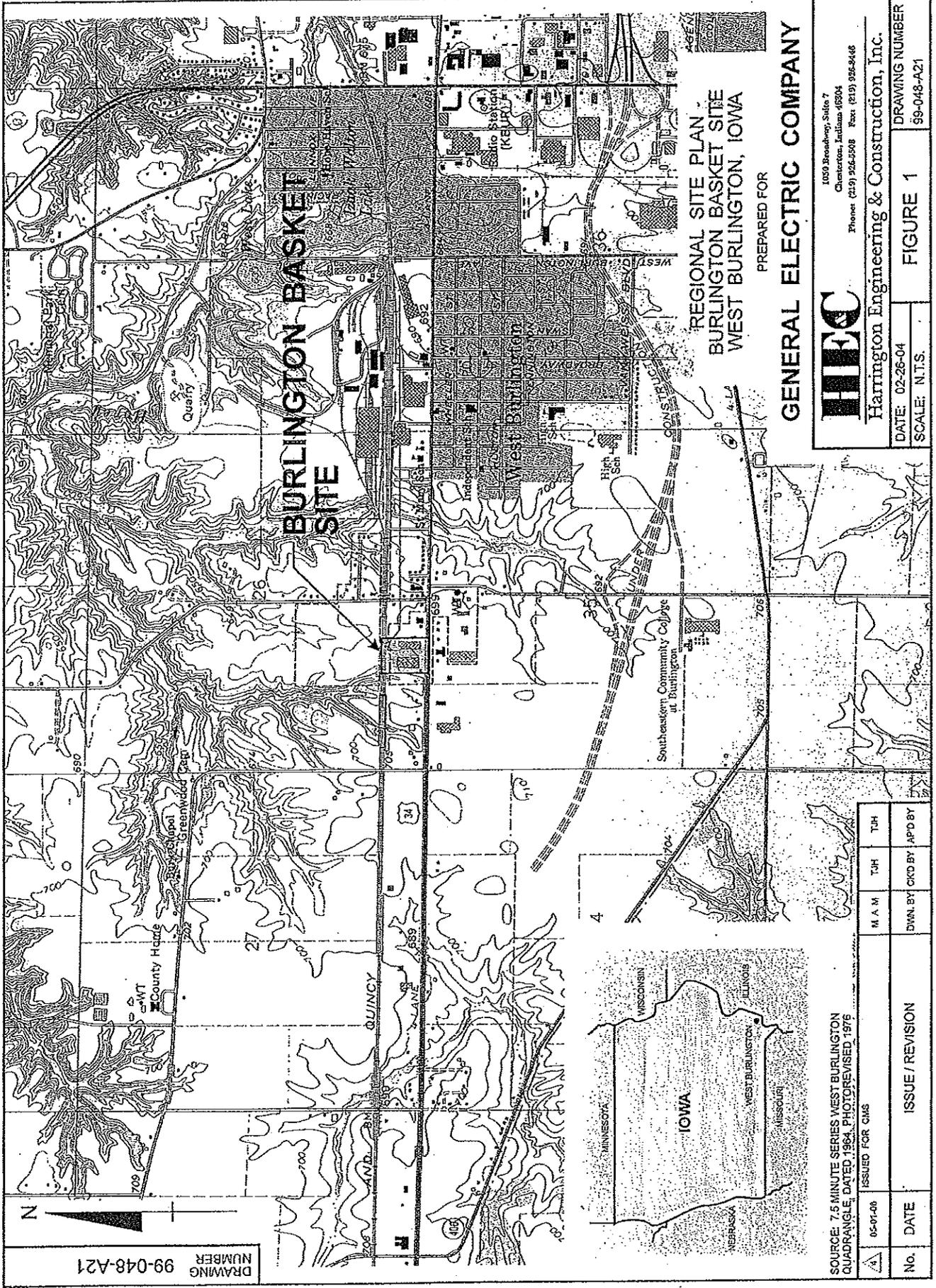
Progress Reports shall, at a minimum, include the following elements:

- A. A description of significant activities (e.g., sampling events, inspections, etc.) and work completed/work accomplishments (e.g., performance levels achieved, treated volumes, concentration of contaminants in treated volumes, nature and volume of wastes generated, etc.) during the reporting period; this is to include a description of any maintenance activities associated with the MNA, and the status of the institutional controls.
- B. Summaries of all findings made during the reporting period, including copies of daily reports, change orders, inspection reports, groundwater analysis and laboratory/monitoring data and all other data generated during the reporting period, as well as copies of the raw data, field logs, etc. which were used to compile the data results.
- C. Groundwater contaminant plume maps using isoconcentration lines to show the three-dimensional distribution of the major contaminants of concern.
- D. Summaries of all contacts with representatives of the local community, public interest groups, State government or federal government during the reporting period regarding the implementation of the corrective measures during the reporting period.

- E. Summaries of all problems or potential problems encountered during the reporting period and the actions being taken and/or planned to rectify the problems.
- F. Changes in personnel during the reporting period.
- G. Projected work for the next reporting period.
- H. Notification specifying the dates in the next reporting period in which any sampling event, well drilling, or installation of equipment will occur either on- or off-site of the Facility.
- I. Notice of planned work not completed and when such work has been rescheduled for completion.

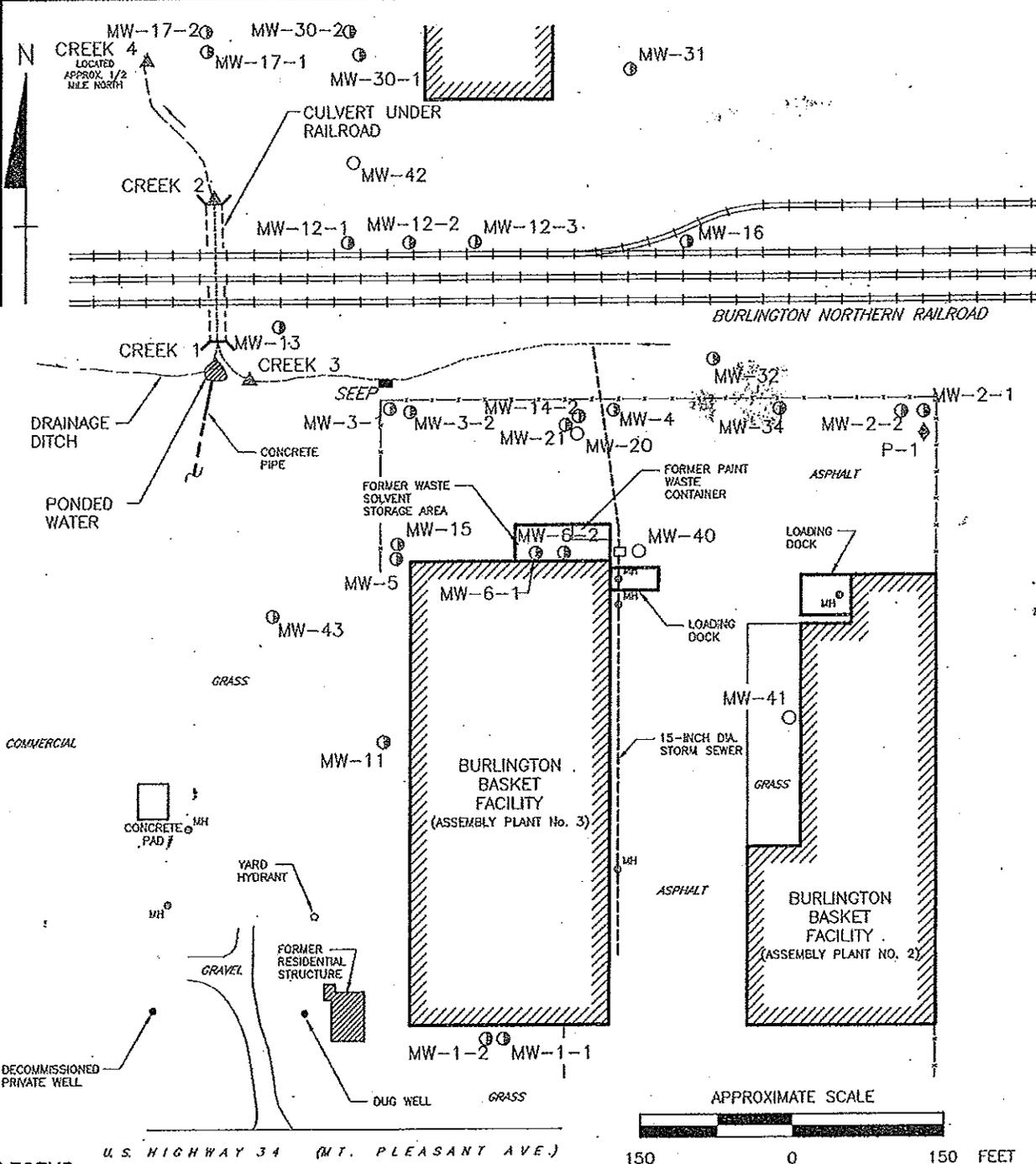
Annual Progress Reports shall include Respondent GE's evaluation and conclusions concerning the conduct and design of the remedy and of monitoring for the remedy, based on the data generated and reported in the Annual Progress Reports as well as any other appropriate sources.

# ATTACHMENT B



# ATTACHMENT C

DRAWING NUMBER 99-048-A23



**LEGEND:**

- — — — — FENCE LINE
- MW-1-1 TILL MONITORING WELL
- MW-40 BEDROCK MONITORING WELL
- ▲ CREEK 3 SURFACE WATER SAMPLES
- <sup>MH</sup> MANHOLE
- ◇<sup>P-1</sup> BEDROCK PIEZOMETER

MONITORING WELL AND  
SURFACE WATER SAMPLING PLAN  
BURLINGTON BASKET SITE  
WEST BURLINGTON, IOWA

PREPARED FOR  
**GENERAL ELECTRIC COMPANY**

REFERENCE:  
- BE&K INTERNATIONAL INCORPORATED, FIGURE 2, FEB. 1997, REV. 00.

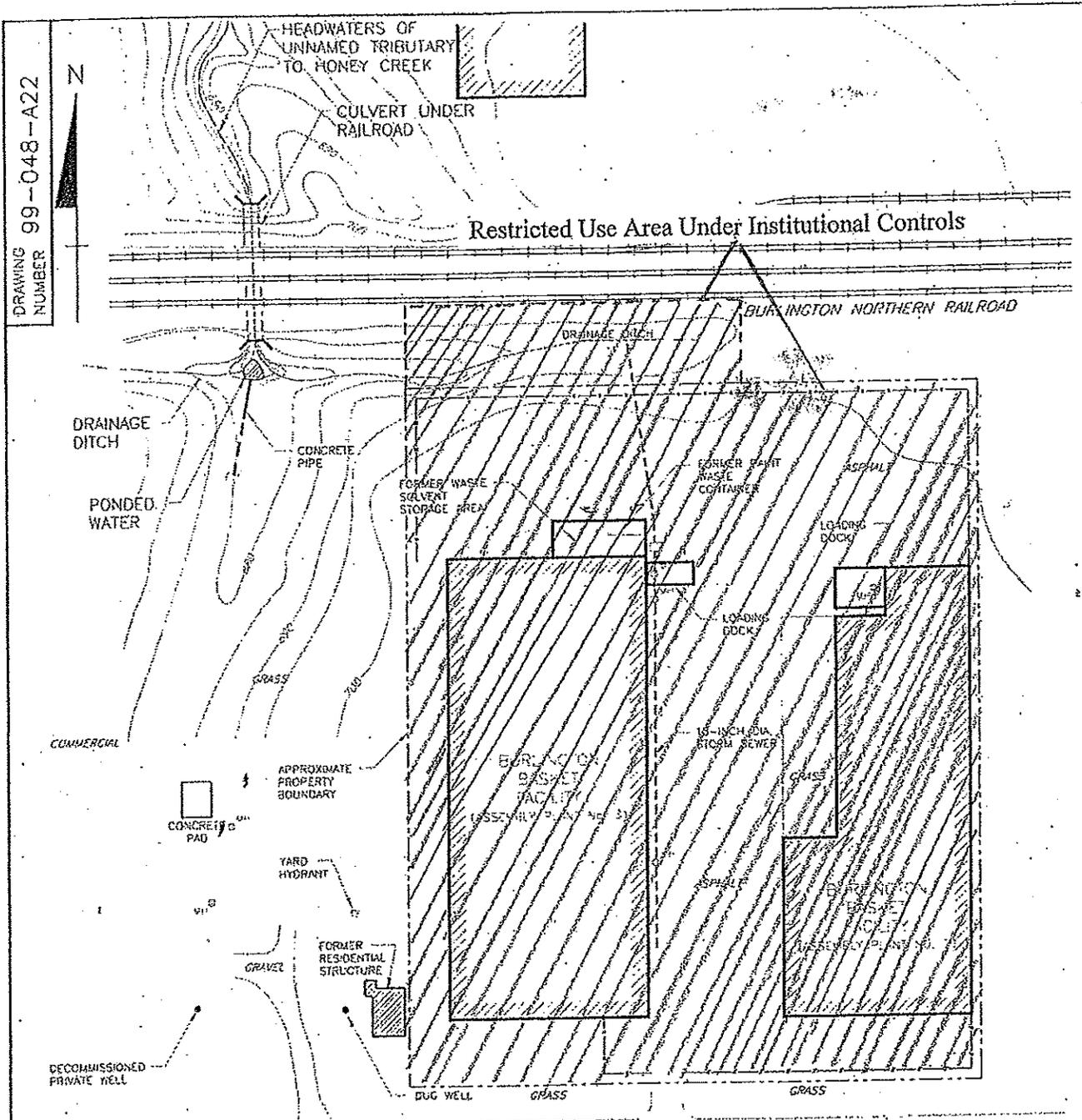


1050 Broadway, Suite 7  
Chesterton, Indiana 46304  
Phone: (219) 520-5609 • Fax: (219) 028-8446

**Harrington Engineering & Construction, Inc.**

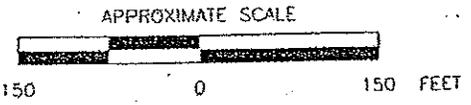
△	05-01-06	ISSUED FOR CMS	M.A.M	T.J.H	T.J.H
No.	DATE	ISSUE / REVISION	OWN. BY	CK'D BY	AP'D BY
			DATE: 02-26-04		FIGURE 3
			SCALE: AS SHOWN		DRAWING NUMBER 99-048-A23

# ATTACHMENT D



DRAWING NUMBER 99-048-A22

U.S. HIGHWAY 34 (MT. PLEASANT AVE.)



**LEGEND:**  
 - - - - - FENCE LINE  
 ○ MANHOLE

**SITE PLAN**  
**BURLINGTON BASKET SITE**  
**WEST BURLINGTON, IOWA**  
 PREPARED FOR  
**GENERAL ELECTRIC COMPANY**

**REFERENCE:**  
 BEAK INTERNATIONAL INCORPORATED, FIGURE 2, FEB. 1997, REV. 02  
 (WATERWAYS ESTIMATED)

1050 Broadway, Suite 7  
 Chesterton, Indiana 46304  
 Phone: (219) 928-5500 • Fax: (219) 928-0440

Harrington Engineering & Construction, Inc.

△	05-01-06	ISSUED FOR CMS	M.A.M.	T.J.H.	T.J.H.
No.	DATE	ISSUE / REVISION	DWN. BY	CK'D BY	AP'D BY

DATE: 02-26-04  
 SCALE: AS SHOWN  
**FIGURE 3**  
 DRAWING NUMBER 99-048-A22

## **ATTACHMENT E**

### **APPENDIX C**

**City of West Burlington Ordinance, Chapter 90  
(From City of West Burlington's Web Page - [www.westburlington.org](http://www.westburlington.org))**

## WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Public Works Director: Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Stop
90.04 Abandoned Connections	90.15 Interior Stop and Waste Cock
90.05 Permit	90.16 Boiler and Pressure Vessels
90.06 Fee for Permit and Connection Charge	90.17 Inspection and Approval
90.07 Compliance with Plumbing Code	90.18 Completion by the City
90.08 Plumber Required	90.19 Shutting off Water Supply
90.09 Excavations	90.20 Operation of Curb Stop and Hydrants
90.10 Tapping Mains	90.21 Cross Connection Prohibited
90.11 Water Service Pipe and Main Specifications	90.22 Well – Construction, Installation, Maint., Operation or Use of Non-Public Water Supply Systems

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the water Service System:

1. "Customer" means in addition to any person receiving water service from the City the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
2. "Water Main" means a water supply pipe provided for public or community use.
3. "Water Service Pipe" means the pipe from the water main to the building served.
4. "Water System" or "Water Works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 PUBLIC WORKS DIRECTOR: DUTIES. The Public Works Director shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Public Works Director shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Public Works Director may make temporary rules for the protection of the system until due consideration by the Council may be had.

(Code of Iowa , Sec. 372.13 [ 4 ])

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the Clerk. The application for the permit shall be filed with the Clerk on blanks furnished by the Clerk. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses will be allowed except by written permission of the Clerk. The Clerk shall sign and issue the permit and state the time of issuance, if the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid. Work under any permit must be begun within six (6) months after it is issued. The Clerk may at any time revoke the permit for any violation of this chapter and require that the work be stopped.  
(Code of Iowa , Sec. 372.13 [ 4 ])

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay twenty-five dollars (\$25.00) for residential premises and fifty dollars (\$50.00) for commercial or industrial premises to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of one hundred dollars (\$100.00) for a ¾ inch tap, one hundred twenty-five dollars (\$125.00) for a 1-inch tap, and one hundred seventy-five dollars (\$175.00) for a 1¼ inch tap paid before the issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served. The connection charge for taps larger than 1¼ inch shall be based on the current City service charges for private use of City equipment and manpower. The foregoing permit fees and connection charges for ¾ inch, 1-inch and 1 ¼ inch taps shall be increased five percent (5%) each July 1 unless such increase is waived or modified by resolution of the Council prior to the effective date of the increase.

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of Division 4, Plumbing Rules and Regulations, of the State Building Code.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber. The plumber shall provide a surety bond in the sum of two thousand dollars (\$2,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Public Works Director and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Public works Director and unless provision is made so that each house, building or premise may be shut off independently of the other.
  2. Sizes and Location of Taps. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
  3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the Public Works Director, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one size smaller than the service pipe.
  4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Public works Director in such form as the Public Works Director shall require.
- (Code of Iowa , Sec. 372.13[ 4 ])

90.11 WATER SERVICE PIPE AND MAIN SPECIFICATIONS.

1. Water service pipes from the main to the meter setting shall be standard weight type K copper or approved cast iron.
2. The minimum size of all water mains installed shall be six-inch National Pipe size. The type of water main to be used shall be determined by the engineer. The size of all water mains to be installed or that need to be installed over the size of six inches shall be determined by the engineer. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.  
(Code of Iowa , Sec. 364.12[ 3a & h ])

90.14 CURB STOP. There shall be installed within the public right-of-way a main shut-off valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Public Works Director. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

90.15 INTERIOR STOP AND WASTE COCK. There shall be installed a shut-off valve and waste cock on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 BOILER AND PRESSURE VESSELS. Customers having boilers and/or pressure vessels receiving a supply of water from the City must have a check valve on the water supply line and a vacuum valve on the steam line to prevent collapse in case the water supply from the City is discontinued or interrupted for any reason, with or without notice.

90.17 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Public Works Director before they are covered, and the Public Works Director shall keep a record of such approvals. If the Public works Director refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Public works Director to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

Any property owner may require a meter to be tested by paying into the office of the Water Department the sum of \$25.00 and should the meter register 2% or more fast, such property owner shall be entitled to an adjustment on the basis of the over registration for four months and a refund of the \$25.00 deposit. The deposit will not be refunded in the event the meter passes the accuracy test.

90.18 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Public works Director shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

(Code of Iowa , Sec. 364.12 [ 3a & h ])

90.19 SHUTTING OFF WATER SUPPLY. After following the procedures set out in Section 92.05, the Public Works Director may shut off the supply of water to any customer because of any substantial violation of this chapter, or valid regulation under Section 90.02 that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Public Works Director has ordered the water to be turned on.

90.20 OPERATION OF CURB STOP AND HYDRANTS. It is unlawful for any person except the Public Works Director to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.21 CROSS CONNECTION PROHIBITED. The connection or cross connection of any separate water supply to premises which receive water from the City is prohibited.

90.22 WELL – CONSTRUCTION, INSTALLATION, MAINTENANCE, OPERATION OR USE OF NON-PUBLIC WATER WELLS OR NON-PUBLIC SUPPLY SYSTEMS.

1. Prohibited Activity. No person shall construct, install, maintain, operate or use any non-public water supply system when the water there from is unfit or there is evidence that it is potentially unfit for human or animal consumption, contaminated, or evidence that it may be potentially contaminated, toxic, poisonous, hazardous, presents a danger to or jeopardizes or there is evidence that it potentially jeopardizes public health or safety, is hazardous or there is evidence that it is potentially hazardous to or will contaminate or there is evidence that it may potentially contaminate underground water supply sources by surface runoff, leeching, or soil absorption or threatens to interfere with an ongoing ground water remediation project.

2. Definitions.

A. "Non-public water well" or "Non-public water supply system" means any dug, cased, well, cistern, hole or cavity from which water may be drawn directly from underground and by gravity, pump, piping, or other mechanical means dispersed onto the surface of the ground or into any structure, and which water source is unconnected to a municipal or public water supply system.

B. Prohibited "use" of a contaminated, or potentially contaminated, toxic, poisonous, hazardous, or unfit or potentially unfit non-public water well supply source means use for human or animal consumption, and further means use for purpose other than human or animal consumption including watering trees, shrubs, lawns or gardens; washing of vehicles, campers, boats or structures; irrigation, interference or potential interference with remedial measures or activities established to eliminate pre-existing contamination or hazardous conditions of subsurface ground water, or any other activity which permits discharge of contaminated or potentially contaminated toxic, poisonous or hazardous water onto any public or private property whereby subsurface ground water will be additionally, repeatedly or potentially contaminated, hazardous, or a danger to public health.

B. "Person" means any individual person, firm, association, corporation, partnership, company, organization, agency, joint venture or other legal entity.

3. Contaminated or Hazardous Determination. Water from any non-public well for non-public water supply system shall be determined to be unfit or potentially unfit for human or animal consumption, contaminated, toxic, poisonous, hazardous or danger or potential danger to public health, or potentially jeopardized public health and safety in accordance with rules and regulations promulgated by Iowa Department of Natural Resources, and rules and regulations promulgated by Iowa Department of Water, Air and Waste Management for non-public water wells and published in Section 900-49 of the Iowa Administrative Code as may be amended or modified.

4. Penalty. Any person violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or imprisonment not exceeding thirty days.

5. Separate Violations. Each prohibited use of any contaminated or potentially contaminated, toxic, poisonous, hazardous or unfit non-public water well or water supply system shall be deemed to be a separate violation and subject to separate penalty.

ATTACHMENT F

Type/Title of Document: Environmental Covenant

Return Document to: Steven L. Sanders  
Office of Regional Counsel  
U.S. EPA, Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, KS 66101  
(913) 551-7578

Preparer Information: Steven L. Sanders  
Office of Regional Counsel  
U.S. EPA, Region 7  
901 N. 5<sup>th</sup> Street  
Kansas City, KS 66101  
(913) 551-7578

Taxpayer Information: Burlington Basket Company  
[Address]  
[City, State, Zip]  
[Phone]

Grantor: Burlington Basket Company  
[Address]  
[City, State, Zip]  
[Phone]

Holder/Grantee: General Electric Company  
[Address]  
[Address]  
[City, State, Zip]  
[Phone]

Legal Description: [Description of Property]

## ENVIRONMENTAL COVENANT

This Environmental Covenant is made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between Burlington Basket Company (“Grantor”), having an address of [Address, City, State, Zip], and General Electric Company (“Holder”), having an address of [Address, City, State, Zip]. This environmental covenant is established for the purpose of subjecting the affected property described below to certain activity and use limitations in accordance with the terms and conditions specified below and the provisions of Iowa’s Uniform Environmental Covenants Act, Iowa Code Chapter 455I. The U.S. Environmental Protection Agency, Region 7 (“EPA”) is entering into this covenant in its capacity as an “agency” as provided in Iowa Code sections 455I.2 and 455I.3. The Iowa Department of Natural Resources (“IDNR”) is entering into this covenant pursuant to Iowa Code section 455B.103(7).

1. **The Property.** Burlington Basket Company is the fee simple title owner of that real property legally described as [Description of property], and located at 1404 – 1418 West Mt. Pleasant Street, West Burlington, Des Moines County, Iowa 52655 (the “Property”).

2. **Purpose.** Because contamination remains on the Property at levels above those appropriate for unlimited use and unrestricted exposure, this Environmental Covenant is being imposed on the Property for the purposes of protecting public health and the environment, and to prevent interference with the performance, and the operation and maintenance, of any environmental response project required under the terms of the below-referenced Administrative Order on Consent.

3. **Background.** The Property was formerly the site of a General Electric (“GE”) plant at which GE manufactured medium voltage switchgear and switchboard apparatus in two facility buildings. GE leased the facility from John Van Velzer, who sold the facility to the current owner the Burlington Basket Company in 1986. Interim Status and authorization to operate and own the hazardous waste facility was granted under Section 3005 of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6925. GE requested termination of interim status in 1984 and submitted a closure plan for the site which was approved in 1986. GE conducted a RCRA Facility Investigation (“RFI”), to determine the nature and extent of the presence of any release or the potential for future releases of hazardous wastes and/or hazardous waste constituents from the facility. An RFI report was finalized on February 25, 1997. Additional investigation work was completed and on March 29, 2002, an RFI Addendum report was finalized. GE performed a Corrective Measures Study (“CMS”) to identify and evaluate alternatives(s) to determine the appropriate extent of corrective action necessary at the facility to address site contamination. On June 12, 2006, GE finalized the CMS report. The EPA issued a Statement of Basis for public comment on October 27, 2006, proposing monitored natural attenuation of groundwater, surface water sampling and institutional controls to address the risks posed by the contamination at the facility. On March 8, 2007, the EPA issued a Final Remedy Decision which selected the corrective actions to address contamination at the Site. The Final Remedy Decision included institutional controls as part of the corrective measures. GE and Burlington Basket have entered into an Administrative Order on Consent, Docket No. RCRA-07-2009-0013, with the EPA which requires the imposition of the activity and use limitations herein. The Statement of Basis, Final Remedy Decision, Administrative Order on Consent, and other

documents contained in the administrative record may be reviewed at the EPA offices at the address specified in Paragraph 17 below.

**4. Identity of Grantor, Grantee/Holder, and Agency, as each is defined in this Environmental Covenant and as provided in Iowa's Uniform Environmental Covenants Act (Iowa Code Chapter 455I).**

Grantor: Burlington Basket Company is the current owner of the Property and the Grantor of this Environmental Covenant.

Grantee/Holder: General Electric Company, its successor and assigns, is the Grantee/Holder of this Environmental Covenant.

Agency: EPA is an Agency under this Environmental Covenant.

**5. Representations and Warranties.** The Grantor warrants to the other signatories to this Environmental Covenant the following:

- A. That it is the sole fee simple title owner of the Property;
- B. That it holds sufficient fee simple title to the Property to grant the rights and interests described in this Environmental Covenant free of any conflicting legal and equitable claims; and
- C. That it has identified all other persons holding legal or equitable interests to the Property, including, but not limited to, contract buyers, mortgagees, other consensual lien holders, and lessees and secured their consent to this Environmental Covenant either by obtaining their signatures hereto or by a separate subordination agreement attached hereto.

**6. Running with the Property.** This Environmental Covenant is perpetual and runs with the Property as provided in Iowa Code Chapter 455I until modified or terminated as provided below in Section 11. This Environmental Covenant is binding on Grantor and all of its successors, assigns, and all transferees acquiring or owning any right, title, lien or interest in the Property and their heirs, successors, assigns, grantees, executors, administrators, and devisees. The term "transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, contract buyers, mortgagees, easement holders, and/or lessees.

**7. Activity and Use Limitations and Terms.** The following activity and use limitations apply to the use of the Property:

- A. The Property and any buildings and other improvements to be erected thereon shall be used solely for commercial, industrial, warehouse and retail and wholesale sales only and for no other purpose whatsoever, notwithstanding that other uses may be permitted by the applicable zoning or other ordinances now or in the future affecting the Property. Further, notwithstanding any of the foregoing and even though such may constitute a "commercial" or other permitted use, in no event shall the Property be used for any residential purposes, childcare center, playgrounds, parks or other outdoor recreational activities, school, elder care facility, nursing home or hospital;

- B. Excavation or other subsurface work will be permanently restricted in the area of the Property as identified in Figure 3, except in cases of emergency utility repair activities or other subsurface work necessary for the protection of human health and safety. EPA and IDNR shall be notified within 7 calendar days of the initiation of any excavation or subsurface work in this area of the Property.
- C. Other than as provided in Paragraph 9 below, water well(s) shall not be installed on the Facility property, or on properties where groundwater contamination from the Facility has come to exist, and no part of the groundwater shall be used for any use or purpose whatsoever, including without limitation, industrial, commercial, residential, drinking, or irrigation purposes;
- D. EPA, IDNR and Holder shall be notified a minimum of 90 calendar days prior to any transfer of title to the property or change in the use of the Property from its current use as an industrial facility.

8. **Notice of Non-Compliance.** Grantor and any subsequent transferee of the Property shall notify IDNR, EPA, and Grantee/Holder as soon as possible of any conditions that would constitute a breach of the activity and use limitations specified above in Paragraph 7.

9. **Access.** Grantor grants to the Grantee/Holder and its authorized representatives and to IDNR, and its authorized representatives, an irrevocable, permanent and continuing right of access at all reasonable times to the Property, and also hereby assures the access of EPA, an Agency, and its authorized representatives, to the Property for the purposes of:

- A. Implementing the corrective measures in the Final Remedy Decision and Administrative Order on Consent;
- B. Verifying any data or information submitted to EPA;
- C. Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
- D. Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitations, sampling of soil, air, and groundwater, and specifically, without limitation, obtaining split or duplicate samples;
- E. Drilling and construction of groundwater monitoring wells authorized or otherwise directed by EPA;
- F. Conducting periodic reviews of the Grantor's response actions, including but not limited to reviews required by the Administrative Order on Consent and applicable statutes and/or regulations; and

- G. Implementing additional or new corrective measures if EPA, in its sole discretion, determine i) that such actions are necessary to protect the environment because either the original corrective measures performed have proven to be ineffective or because new technology has been developed which will accomplish the purposes of the corrective measure in a significantly more efficient or cost effective manner; and ii) that the additional or new corrective measure will not impose any significantly greater burden on the Property or unduly interfere with the then existing uses of the Property.

10. **Groundwater Hazard Statement.** Iowa Code section 558.69 requires submission of a groundwater hazard statement and notice if "hazardous waste," as defined in Iowa Code sub-sections 455B.411(3), 455B.412(2) or section 455B.464, is present on real property. If hazardous waste is present, the groundwater hazard statement must state that the condition is being managed in accordance with IDNR rules. Grantor and all subsequent transferees required to submit a groundwater hazard statement under Iowa Code section 558.69 for the Property shall make reference to this Environmental Covenant in any instrument conveying an interest in the Property. Such reference shall be in substantially the following form:

THE INTEREST CONVEYED IS SUBJECT TO AN ENVIRONMENTAL COVENANT, DATED \_\_\_\_\_, 200\_, RECORDED IN THE DES MOINES COUNTY RECORDER/REGISTRAR OFFICE ON \_\_\_\_\_, 200\_, AS [DOCUMENT \_\_\_, BOOK \_\_\_, PAGE \_\_\_, OR BY PARCEL NUMBER \_\_\_]. THE ENVIRONMENTAL COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS: (1) THE PROPERTY AND ANY BUILDINGS AND OTHER IMPROVEMENTS TO BE ERECTED THEREON SHALL BE USED SOLELY FOR COMMERCIAL, INDUSTRIAL, WAREHOUSE AND RETAIL AND WHOLESALE SALES ONLY AND FOR NO OTHER PURPOSE WHATSOEVER, NOTWITHSTANDING THAT OTHER USES MAY BE PERMITTED BY THE APPLICABLE ZONING OR OTHER ORDINANCES NOW OR IN THE FUTURE AFFECTING THE PROPERTY. FURTHER, NOTWITHSTANDING ANY OF THE FOREGOING AND EVEN THOUGH SUCH MAY CONSTITUTE A "COMMERCIAL" OR OTHER PERMITTED USE, IN NO EVENT SHALL THE PROPERTY BE USED FOR ANY RESIDENTIAL PURPOSES, CHILDCARE CENTER, PLAYGROUNDS, PARKS OR OTHER OUTDOOR RECREATIONAL ACTIVITIES, SCHOOL, ELDER CARE FACILITY, NURSING HOME OR HOSPITAL; (2) OTHER THAN AS DIRECTED BY EPA OR IDNR, WATER WELL(S) SHALL NOT BE INSTALLED ON THE FACILITY PROPERTY, OR ON PROPERTIES WHERE GROUNDWATER CONTAMINATION FROM THE FACILITY HAS COME TO EXIST, AND NO PART OF THE GROUNDWATER SHALL BE USED FOR ANY USE OR PURPOSE WHATSOEVER, INCLUDING WITHOUT LIMITATION, INDUSTRIAL, COMMERCIAL, RESIDENTIAL, DRINKING, OR IRRIGATION PURPOSES ; (3) EXCAVATION OR OTHER SUBSURFACE WORK IN THE AREA OF THE PROPERTY AS IDENTIFIED IN FIGURE 3 SHALL BE PROHIBITED ON THE PROPERTY WITHOUT PRIOR NOTIFICATION AND APPROVAL OF EPA, EXCEPT IN CASES OF EMERGENCY UTILITY REPAIR ACTIVITIES, OR OTHER SUBSURFACE WORK NECESSARY FOR THE PROTECTION OF HUMAN HEALTH AND SAFETY. EPA AND IDNR SHALL

BE NOTIFIED WITHIN 7 CALENDAR DAYS OF THE INITIATION OF EMERGENCY SUBSURFACE WORK ON THE PROPERTY; AND (4) EPA AND IDNR SHALL BE NOTIFIED A MINIMUM OF 30 CALENDAR DAYS PRIOR TO ANY TRANSFER OF TITLE TO THE PROPERTY OR CHANGE IN USE OF THE PROPERTY FROM ITS CURRENT USE AS AN INDUSTRIAL FACILITY.

11. **Modification and Termination.** This Environmental Covenant may be modified or terminated in accordance with and subject to the provisions of Iowa Code Chapter 455I and applicable federal law, including, but not limited to, Iowa Code 455I.10 if the modification is by consent and Iowa Code 455I.9.3 since a federal agency is involved. The termination or modification of this Environmental Covenant is not effective until the document evidencing consent of all necessary persons is properly recorded.

12. **Enforcement.** The terms of this Environmental Covenant may be enforced in a civil action for injunctive or other equitable relief by the signatories and those persons authorized by and in accordance with Iowa Code Chapter 455I.

13. **Severability.** If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

14. **Governing Law.** This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the state of Iowa.

15. **Recordation.** Within thirty (30) days following execution of this Environmental Covenant by all parties hereto, Grantor shall properly record this Environmental Covenant with the Des Moines County, Iowa, Recorder/Registrar Office.

16. **Effective Date.** The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been properly recorded with the Des Moines County, Iowa, Recorder/Registrar Office.

17. **Notice.** Unless otherwise notified in writing by an Agency, any document or notice required by this Environmental Covenant shall be submitted to:

To Grantor:

Burlington Basket Company  
[Address]  
[City, State, Zip]

To Holder:

General Electric Company  
[Address]  
[Address]  
[City, State, Zip]

To Agencies:

Director  
Iowa Department of Natural Resources  
Wallace State Office Building  
502 East 9<sup>th</sup> Street  
Des Moines, Iowa 50319

And

Director  
Air and Waste Management Division  
U.S. Environmental Protection Agency, Region 7  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

To Municipality:

Public Works Director  
City of West Burlington  
122 Broadway Street  
West Burlington, Iowa 52655





IOWA DEPARTMENT OF NATURAL RESOURCES

\_\_\_\_\_, 200\_\_

\_\_\_\_\_  
Richard Leopold  
Director, Iowa Department of Natural Resources

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally appeared Richard Leopold, known to me to be the Director of the Iowa Department of Natural Resources or the lawful designee of the Director who executed the foregoing instrument, and acknowledge that this person executed the same as his/her/their voluntary act and deed.

\_\_\_\_\_  
Notary Public, State of Iowa

**AGENCY:**

U.S. ENVIRONMENTAL PROTECTION AGENCY

\_\_\_\_\_, 200\_

By: \_\_\_\_\_  
Becky Weber, Director  
Air and Waste Management Division

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_\_ day of \_\_\_\_\_, 200\_, before me personally appeared Rebecca Weber, the Director of the Air and Waste Management Division of Region VII of the U.S. Environmental Protection Agency, who being duly sworn, did sign this Environmental Covenant.

\_\_\_\_\_  
Notary Public, State of Kansas

IN THE MATTER OF General Electric Company and Burlington Basket Company, Respondents  
Docket No. RCRA-07-2009-0013

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Administrative Order on Consent was sent this day in the following manner to the addressees:

Copy hand delivered to  
Attorney for Complainant:

Steven L. Sanders  
Assistant Regional Counsel  
Region VII  
United States Environmental Protection Agency  
901 N. 5<sup>th</sup> Street  
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Rick Thompson  
Burlington Basket Company  
1404 W. Mt. Pleasant St.  
West Burlington, Iowa 52655

Joel E. Robinson  
Global Remediation Manager  
Global Remediation and Property Transaction Due Diligence  
General Electric Consumer and Industrial Appliance Park AP26-100  
Louisville, KY, 40225

Dated: 10/1/09

  
Kathy Robinson  
Hearing Clerk, Region 7