

CONSENT DECREE
Site: GE-0000
Break: 10.8
Other: 9420

WESTON Ref. No.

00-0388

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

UNITED STATES OF AMERICA,
STATE OF CONNECTICUT,
COMMONWEALTH OF
MASSACHUSETTS,

Plaintiffs,

v.

GENERAL ELECTRIC
COMPANY,

Defendant.

CIVIL ACTION NO'S. _____

99-30225, 99-30226,

99-30227-MAP

(consolidated cases)

CONSENT DECREE

9420

Work Plan for Upper ½ Mile Reach, and Work Plans developed and/or implemented pursuant to this Consent Decree:

- a. Settling Defendant shall perform the Removal Actions Outside the River in accordance with this Consent Decree and the SOW attached hereto.
- b. Settling Defendant shall perform the Upper ½ Mile Reach Removal Action in accordance with this Consent Decree and the Removal Action Work Plan for Upper ½ Mile Reach (Appendix F hereto) as approved by EPA.
- c. Settling Defendant shall, with respect to the 1 ½ Mile Reach Removal Action, pay its share of the 1½ Mile Reach Removal Action Costs in accordance with Section XX of this Consent Decree (Reimbursement of Costs) and perform other activities as specified in this Consent Decree.
- d. Subject to and in accordance with Paragraph 22 (Rest of River) of this Consent Decree, Settling Defendant shall complete the RCRA Facility Investigation Report, shall propose Interim Media Protection Goals, and shall perform the Corrective Measures Study for the Rest of the River in accordance with the Reissued RCRA Permit, and shall perform the Rest of River Remedial Action and O&M in accordance with the modification of that Reissued RCRA Permit to select the Rest of the River Remedial Action and in accordance with the Rest of River SOW.

15. In addition to Settling Defendant's other obligations in this Consent Decree, including the specific obligations regarding the performance of response actions and Restoration Work and other natural resource protection and restoration actions pursuant to Sections VII (Removal Actions Outside the River), VIII (River

Response Actions), and XXI (Natural Resource Damages) and its obligation to achieve and maintain Performance Standards as set forth in Section IX of this Consent Decree and in the SOW, Settling Defendant shall comply with the following requirements with respect to each Removal or Remedial Action required under this Consent Decree:

a. Materials that are excavated or otherwise removed from their current location at the Site and demolition debris from building demolition may be permanently consolidated at the GE Plant Area using a combination of the Hill 78 Consolidation Area, the Building 71 Consolidation Area, and another potential Consolidation Area at the corner of New York Avenue and Merrill Road, as designated in the SOW as permanent consolidation areas (collectively referred to herein as "on-plant consolidation areas"), in accordance with the following:

(i) All materials to be consolidated at the Hill 78 Consolidation Area shall contain less than 50 ppm PCBs, as determined by appropriate composite sampling techniques or other techniques approved by EPA, and shall not constitute hazardous waste under RCRA.

(ii) Settling Defendant shall not place in the on-plant consolidation areas any asbestos-containing materials required by applicable law to be removed from buildings or structures prior to demolition, free liquids, "free product," intact drums and capacitors, or other equipment that contains liquid PCBs within its internal components. If such materials are encountered, Settling Defendant will instead dispose of these materials appropriately off-site. For purposes of this Paragraph, "free product" is defined as materials containing PCBs or other Waste Material that by visual inspection

flow at room temperature or from which liquid passes when a 100 mg or 100 ml sample is placed on a mesh number 60 plus or minus 5 percent paint filter and allowed to drain at room temperature for 5 minutes.

(iii) The specific design and implementation requirements of the on-plant consolidation areas, including, but not limited to, engineering limitations and consolidation area configuration (e.g., horizontal extent and maximum elevation), shall comply with Section 2.1.4 and Annex 1 of the SOW attached to this Consent Decree.

b. In addition to using the on-plant consolidation areas for consolidation of building demolition debris, Settling Defendant may use the existing foundations of certain buildings, as described in the SOW, for placement of debris from building demolition activities conducted pursuant to the Definitive Economic Development Agreement and at Buildings 12, 12X, and 12Y. Such building foundations shall not be considered "on-plant consolidation areas" for purposes of this Consent Decree. However, if Settling Defendant uses such building foundations for the placement of building demolition debris, it shall comply with the requirements of Section 2.1.5 of the SOW for placement of such material in building foundations and for the covering of those foundations after use. Building demolition conducted pursuant to the Definitive Economic Development Agreement and at Buildings 12, 12X, and 12Y is not part of the GE Plant Area Removal Actions; however, the placement of demolition debris in the foundations shall be part of the GE Plant Area Removal Actions for the areas where such foundations are located (but will be excluded from the spatial averaging for such areas, as provided in Section 2.1.5 of the SOW).

c. To the extent Settling Defendant performs the Work in accordance with this Consent Decree, the SOW, the Upper ½ Mile Reach Removal Action Work Plan, and other required work plans, RCRA land disposal restrictions shall not apply to on-plant consolidation (including placement of materials in the on-plant consolidation areas and placement of building demolition debris in building foundations), because the areas covered by those documents have been designated by EPA as an Area of Contamination pursuant to EPA's "Area of Contamination Policy." For the Building 71 and New York Avenue/Merrill Road Consolidation Areas, Settling Defendant shall suitably prepare, cap, monitor and maintain the area in accordance with Section 2.1.4, Attachments G, H and J, and Annex 1 of the SOW; provided, however, that except as otherwise provided therein, the additional liner and leachate collection requirements of 40 C.F.R. § 761.75 and 40 C.F.R. § 253.301(c) and comparable requirements of Massachusetts regulations shall not apply to the consolidation areas. For the Hill 78 Consolidation Area, as well as the other on-plant consolidation areas, Settling Defendant shall comply with the requirements of Paragraph 25.b (Performance Standards) of this Consent Decree.

16. Performance of Removal Actions Prior to Effective Date of Consent Decree.

a. Obligations to be Performed. In order to expedite response actions at the Site, Settling Defendant has agreed to commence and perform the following work as a contractual obligation effective upon lodging of this Consent Decree: (1) all design and implementation of the Allendale School Removal Action, in

River Remedial Action that is determined to be arbitrary and capricious or otherwise unlawful by the EPA Environmental Appeals Board or by the United States Court of Appeals.

201. The Parties agree that the characteristics of the Site and the context of these negotiations are unique and that no aspect of this settlement should be considered precedent.

XXX. ACCESS TO INFORMATION

202. Settling Defendant shall provide to EPA, Connecticut and the State, upon request, copies of all documents and information within its possession or control or that of their contractors or agents relating to the implementation of this Consent Decree, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Settling Defendant shall also make available to the United States, Connecticut and the State, at a reasonable time and place, for purposes of assisting the United States, Connecticut or the State in overseeing the Work or implementing the Consent Decree, a representative of Settling Defendant with knowledge of, and to discuss, the performance of the Work. Nothing in this Paragraph constitutes a waiver of otherwise applicable privilege or business confidentiality claims.

203. In response to requests for information from EPA, Settling Defendant may assert business confidentiality claims covering part or all of the documents or information submitted to EPA under this Consent Decree to the extent permitted by and in