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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

ENVIRONMENTAL APPEALS BOARD

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In the Matter of:)	CERCLA § 106(b) Petition No. 05-01
)	
Grand Street Mercury Site,)	Unilateral Administrative Orders
General Electric Company, Petitioner)	Docket No. II-CERCLA-97-0108
)	Docket No. II-CERCLA-98-0108
)	
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**DECLARATION OF SAMUEL I. GUTTER IN SUPPORT OF
GENERAL ELECTRIC COMPANY'S RESPONSE TO THE ENVIRONMENTAL
APPEALS BOARD'S ORDER TO SHOW CAUSE WHY PETITION FOR
REIMBURSEMENT SHOULD NOT BE DISMISSED IN PART AS PREMATURE**

SAMUEL I. GUTTER, an attorney, pursuant to 28 U.S.C. § 1746, declares the following under penalty of perjury:

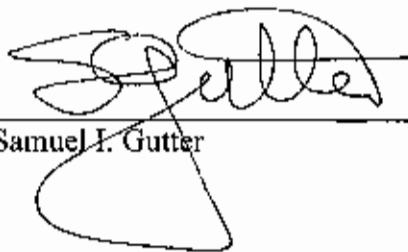
1. I am a partner at Sidley, Austin, Brown, & Wood, LLP, counsel to petitioner General Electric Company ("GE") in this matter, and am familiar with the prior legal proceedings related to the Grand Street Mercury Site ("Site"). I am also familiar with the two UAOs issued for this Site, Docket No. II-CERCLA-97-0108 (the "Site Maintenance UAO") and Docket No. II-CERCLA-98-0108 (the "Remedial Action UAO").

2. A true and accurate copy of a letter from Margaret A. Carillo-Sheridan to Jack Harmon, dated Dec. 31, 2004, is attached hereto as Exhibit 1.

3. On March 29, 2005, GE submitted a Remedial Action Report as required by paragraph 57 of the Remedial Action UAO and Section IX of the Statement of Work.

4. A true and accurate copy of a letter from Margaret A. Carrillo-Sheridan to Farnaz Saghafi, dated March 29, 2005, is attached hereto as Exhibit 2. This letter is the cover letter that accompanied GE's Remedial Action Report.

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed this 20 day of April, 2005.

By: 
Samuel I. Gutter

GUTTER DECLARATION
EXHIBIT 1



20041221
JUN 16 2005
3377200

Transmitted Via Federal Express

December 31, 2004

Jack D. Harmon, OSC
Removal Action Branch
United States Environmental Protection Agency
Region II
2890 Woodbridge Avenue
Suite 209 (MS-211)
Edison NJ 08837

Re Grand Street Mercury Site
Hoboken, New Jersey
BBL Project # 0428.42814 #5

Dear Mr. Harmon

Please find enclosed three copies of the revised pages of the *Final Report* for the above-referenced project. Blasland, Bouck & Lee, Inc., on behalf of General Electric Company (GE), has revised the *Final Report* pursuant to the modifications required in the United States Environmental Protection Agency's (USEPA's) comment letter to GE dated December 21, 2004.

As discussed in the USEPA's comment letter to GE dated December 21, 2004, the *Final Report* shall be submitted following completion of the removal actions required under the Unilateral Administrative Order (UAO) for Removal Response Activities issued by Region II of the USEPA to GE and John Pascale, Sr. effective May 9, 1997. The removal actions required under the UAO for Removal Response Activities were completed on December 30, 2004. As required by the USEPA in their comment letter to GE dated December 21, 2004, the *Final Report* has been revised to reflect December 31, 2004 as the date of completion. Also as requested by USEPA in their December 21, 2004 letter, GE is submitting the revised pages of the *Final Report*. Please remove pages 1-1 and 2-2 from the report and replace with the attached revised pages.

The response activities required by the UAO Removal Response Activities were completed on December 31, 2004. On January 1, 2005, GE will turn over site security and maintenance to the USEPA.

Please feel free to contact me if you have any questions.

Sincerely,

BLASLAND, BOUCK & LEE, INC.

Margaret A. Carrillo-Sheridan, P.E.
Vice President

DLM/mbg
Enclosures

V:\GE_Grand_Street\Correspondence\Final\56240842.doc

cc: Kirk Macfarlane, Esq., General Electric Company
Roy S. Blickwedel, P.G., General Electric Company
Frederick J. Kirschenheiter, P.E., Blasland, Bouck & Lee, Inc.
Jay D. Keough, C.I.H., Blasland, Bouck & Lee, Inc.
Douglas L. Musser, P.G., Blasland, Bouck & Lee, Inc.
Mary Lou Parra, New Jersey Department of Environmental Protection
Sarah P. Flanagan, Esq., United States Environmental Protection Agency
Farnaz Saghafi, United States Environmental Protection Agency

1. Introduction

1.1 General

This *Final Report* has been prepared by Blasland, Bouck & Lee, Inc. (BBL), on behalf of the General Electric Company (GE). It summarizes activities conducted at the Grand Street Mercury Site (site) to comply with the requirements set forth in the Unilateral Administrative Order (UAO) for Removal Response Activities issued by Region II of the United States Environmental Protection Agency (USEPA) to GE and John Pascale, Sr. dated February 24, 1997, revised May 5, 1997, and effective May 9, 1997. John Pascale, Sr. did not comply with the UAO, and therefore this *Final Report* is submitted on behalf of GE, only. This *Final Report* has been prepared in conformance with the requirements set forth in Section 300.165 of the National Contingency Plan (NCP) titled "OSC Reports" and the Office of Solid Waste and Emergency Response (OSWER) Directive No. 9360.3-03, entitled "Removal Response Reporting." This *Final Report* does not describe activities conducted in connection with a second UAO issued to GE by the USEPA for this site (the UAO for Remedial Design and Remedial Action, dated April 1, 1998 and amended June 18, 1998). The activities associated with the second UAO will be described in the *Remedial Action Report* to be submitted to the USEPA in 2005.

The response actions required by the UAO for Removal Response Activities and the UAO for Remedial Design and Remedial Action were completed on December 31, 2004. On January 1, 2005, GE turned over site security and maintenance to USEPA.

1.2 Report Organization

This *Final Report* is organized into the following sections:

Section	Description
1 - Introduction	Presents general report information and report organization.
2 - Summary of Events	Presents a summary of site conditions and background, the organization of the response and a narrative of the response actions.
3 - Effectiveness of Removal Actions	Describes the actions taken by the potentially responsible parties (PRPs); federal, state, and local agencies, teams, and forces; and contractors, private groups, and volunteers.
4 - Difficulties Encountered	Identifies items that affected the response, issues of intergovernmental coordination, and specific difficulties interpreting, complying with, or implementing policies and regulations.
5 - Recommendations	Provides recommendations for preventing a recurrence of the release, improving removal actions, and changes in regulations and response plans.

manufacture some mercury-containing products at the site until 1939, when its name was changed to GE. GE continued site operations until 1948.

In 1948, Cooper-Hewitt (Cooper-Hewitt II, a different entity from Cooper-Hewitt I that was not affiliated with GH) was formed and purchased the site from GE. Cooper-Hewitt II manufactured mercury vapor lamps similar to those described above and other lamps requiring mercury during the manufacturing process. Cooper-Hewitt II manufactured items including Sperti Sun Lamps, glow lamps, and fluorescent tubes. Between 1948 and 1955, Cooper-Hewitt II leased portions of the industrial building to Quality Tool and Die Company and John Pascale, Sr.

In 1955, John Pascale, Sr., Marie Pascale, and Quality Tool and Die Company purchased the site from Cooper-Hewitt II. John J. Pascale, Sr. operated the Quality Tool and Die Company from 1940 to 1979. In the 1950s, John Pascale, Sr. formed Majoda Tool and Manufacturing (Majoda) which manufactured tools at the site. In 1963, Majoda's manufacturing operations were moved to 51 Newark Street, Hoboken, New Jersey for approximately 3 years prior to moving back to the site in 1966. Quality Tool and Die Company and Majoda manufactured precision tools and fabricated precision dies for the medical, pharmaceutical, commercial, and aerospace industries. After 1955, Quality Tool and Die Company leased a portion of the site to Cooper-Hewitt II, which continued lamp manufacturing activities until approximately 1965. From 1955 to 1965, Cooper-Hewitt II conducted business at the site under several names, including Cooper Hewitt Electric Company, Sperti Sun Lamp, Sperti-Faraday, and Sperti Drug Company. Cooper-Hewitt II moved site operations to Erlanger, Kentucky in approximately 1965.

In 1971, all stock in Majoda was given to John Pascale, Jr. By May 1979, the site and all shares of stock in Quality Tool and Die Company were transferred to David Pascale. Sherrill Pascale was added to the Deed to the property in 1993. A lawsuit was filed in August 1982 by John Pascale, Sr. seeking to set aside these transfers. Between October 1985 and March 1987, several decisions were made by the New Jersey court system as discussed in the ROD (USEPA, 1997a). Quality Tool and Die Company discontinued site operations during 1988, but did not at that time file an application for cessation of operation activities as required by the New Jersey Environmental Cleanup and Responsibility Act (ECRA) statute.

In 1990, David Pascale filed an application for the cessation of operation activities under ECRA. As discussed in the ROD (USEPA, 1997a), the New Jersey Department of Environmental Protection (NJDEP) approved David Pascale's ECRA "negative declaration" on February 8, 1993. However, the NJDEP revoked the "negative declaration" in December 1996 since the application for cessation of operation did not accurately reflect the full type, extent, and magnitude of contamination within site buildings and property surrounding these buildings.

In August of 1993, David Pascale sold the site to the Grand Street Artist Partnership (GSAP) for conversion from industrial use to residential condominiums. The GSAP partnership was formed to hold title to the site between the date of purchase until final certificates of occupancy were issued for each condominium unit. The partners in GSAP are primarily the former residents of the industrial building, who were dissociated from the site in January 1996. As discussed in detail within the ROD (USEPA, 1997a), the GSAP intended to subdivide and renovate the industrial building into 16 units and the townhouse into one unit. During subdivision and renovation activities at the site, the GSAP identified a silvery substance which appeared to be mercury in the building on two occasions in 1993 and on one occasion in 1994.

Following renovation and construction of the residential areas, residents began moving into the building under temporary Certificates of Occupancy (COs) in mid to late 1994. In October 1994, the title for the common areas in the building was transferred from the GSAP to the Grand Street Artists Condominium Association (Condo

GUTTER DECLARATION
EXHIBIT 2



BLASLAND, BOUCK & LEE, INC.
engineers, scientists, economists

Transmitted Via Federal Express

March 29, 2005

Ms. Farnaz Saghafi
Emergency and Remedial Response Division
United States Environmental Protection Agency
Region II
290 Broadway, 19th Floor
New York, NY 10007-1866

Re: Grand Street Mercury Site
Hoboken, New Jersey
BBL Project #: 0201.40481 #5

Dear Ms. Saghafi:

On behalf of General Electric Company (GE), please find enclosed three copies of the Remedial Action (RA) Report for the above-referenced site. Pursuant to your request, we are including one paper copy and two electronic copies (on compact discs) of the RA Report appendices. The RA Report was prepared in accordance with the following documents:

- Record of Decision dated October 9, 1997;
- Unilateral Administrative Order for Remedial Design and Remedial Action dated April 1, 1998, and amended June 18, 1998;
- Statement of Work for Remedial Design and Remedial Action dated April 1, 1998 amended June 18, 1998;
- Explanation of Significant Differences dated April 18, 2003; and
- Explanation of Significant Differences dated July 8, 2004.

If you have any questions regarding the enclosed, please do not hesitate to contact me.

Sincerely,

BLASLAND, BOUCK & LEE, INC.

Margaret A. Carrillo-Sheridan, P.E.
Vice President

DLM/mbg
Enclosures

cc: Roy S. Blickwedel, P.G., General Electric Company
Kirk Macfarlane, Esq., General Electric Company
Frederick J. Kirschenheiter, P.E., Blasland, Bouck & Lee, Inc.
Jay D. Keough, C.I.H, Blasland, Bouck & Lee, Inc.
Douglas L. Musser, P.G. Blasland, Bouck & Lee, Inc.
Mary Lou Parra, New Jersey Department of Environmental Protection
Sarah P. Flanagan, Esq. United States Environmental Protection Agency
Ronny Hwee, United States Army Corps of Engineers