



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

IN THE MATTER OF:)
)
 COMMISSIONER,)
 INDIANA DEPARTMENT OF)
 ENVIRONMENTAL MANAGEMENT)
)
 Complainant)
)
 vs)
)
 General Electric)
 Industrial Systems Inc. Facility)
 1412 13th St)
 Tell City, Indiana)
 U. S. EPA ID No. IND006392773)
 AI ID 15759)
)
 Respondent.)

Cause No. H-13874

CORRECTIVE ACTION AGREED ORDER

A. JURISDICTION

This Administrative Agreed Order (“**Order**”), issued pursuant to the authority vested in the Commissioner of the Indiana Department of Environmental Management (“**Commissioner**”) by Indiana Code (“**IC**”) §§ 13-22-13-1 and 13-30-3-3, is entered into between the Indiana Department of Environmental Management, (hereinafter referred to as “**IDEM**”), and General Electric Company (hereinafter referred to as “**GE**” or “**Respondent**”). GE hereby agrees to waive the issuance of a Notice of Violation as required by IC § 13-30-3-3(a) and voluntarily enter into this Order without admitting that any violation occurred, as provided under IC § 13-30-3-3(c).

Respondent is the Owner/Operator of the General Electric Industrial Systems Inc. Facility, 1412 13th St, Tell City, Indiana (the “**Facility**”). Respondent consents to and agrees not to contest IDEM’s jurisdiction to enter into this Order. Further, Respondent will not contest IDEM’s jurisdiction to: enforce the terms of this Order; compel compliance with this Order in any subsequent enforcement proceedings, either administrative or judicial; require Respondent’s full or interim compliance with the terms of this Order; or impose sanctions for violations of this Order.

B. PARTIES BOUND

1. This Order shall apply to and be binding upon Respondent and its officers, directors, employees, agents, successors and assigns, as well as upon those personnel, contractors, subcontractors, laboratories and consultants (collectively "**Respondent Consultants**") performing Work for Respondent pursuant to this Order.
2. Respondent shall provide a copy of this Order to those Respondent Consultants that have been retained to conduct or monitor any portion of the work performed pursuant to this Order: within one (1) week after the "**Effective Date**" as defined in Paragraph 69 for existing Respondent Consultants; or one (1) week after the date of that such consultant is retained for future Respondent Consultants. All contracts with Respondent Consultants for work performed pursuant to this Order shall require compliance with the terms of this Order.
3. No change in ownership or corporate or partnership status relating to the Facility will in any way alter Respondent's responsibility under this Order.
4. Until this Order is Terminated and Satisfied under Paragraph 67, Respondent shall give notice of this Order to any successor in interest prior to transferring ownership or operation of the Facility and shall notify IDEM's Project Manager in writing of Respondent's intent to transfer ownership or operation of the Facility, at least sixty (60) days prior to such transfer.

C. STATEMENT OF PURPOSE

5. IDEM acknowledges that Respondent's first priority at the Facility has been to protect human health and the environment through voluntary actions that have demonstrated a commitment to addressing environmental issues. Moreover, Respondent has worked diligently and cooperatively to meet its Corrective Action obligations at and related to the Facility. This Order is intended to enhance Respondent's voluntary actions and the ongoing cooperation between IDEM and Respondent and does not constitute a finding or determination that any violation of or noncompliance with applicable laws exists at the Facility.
6. In entering into this Order, the mutual objectives of IDEM and GE are: (1) to acknowledge and confirm that Resource Conservation and Recovery Act ("**RCRA**") Corrective Action has been completed and No Further Action is required for those 36 Solid Waste Management Units ("**SWMUs**") that have been identified at the Facility, as set forth in Paragraph 36; (2) to supplement as necessary, the existing environmental data for the Facility that has been summarized in that Current Conditions Report prepared by Arcadis U.S. Inc. May 3, 2019, VFC # ("**CCR**")¹, so that the nature and extent of any release(s) of hazardous waste and/or hazardous constituents known at this time has been

¹ IDEM's Virtual File Cabinet (VFC) at <https://www.in.gov/idem/legal/2363.htm> provides internet access to more than 2 million agency public records. For documents related to this Facility search "Land Site" General Electric, Tell City, or IND 006392773. The VFC numbers reference herein are to the specific documents related to this Facility.

fully delineated at or from the Areas of Concern ("AOCs") identified below in Paragraph 37; (3) if reasonably determined by IDEM be necessary, to perform a Corrective Measures Study ("CMS") to identify and evaluate presumptive remedies and other remedial alternatives at AOCs 1-4 that will prevent or mitigate any remaining migration or release of hazardous waste and/or hazardous constituents at or from the AOCs; (4) to confirm that Respondent has investigated and, based on current data, has taken Interim Measures including Offsite Sampling and Vapor Mitigation at those offsite structures that have been identified as requiring investigation and Corrective Measures, and that Respondent shall continue under this Order to perform Offsite Sampling and necessary Vapor Mitigation as Interim Measures; and (5) to implement those Corrective Measure(s) that may be proposed by Respondent and approved by IDEM for the Facility.

D. FINDINGS OF FACT

7. Respondent is a company doing business in the State of Indiana and is a "Person" as defined in 329 Indiana Administrative Code (IAC) § 3.1-4- 20 and IC §13-11-2-158.
8. Respondent has been a Generator of hazardous waste, and the Owner/Operator of an Interim Status RCRA Facility at which hazardous waste was generated and stored prior to offsite disposal.
9. **Exhibit A** shows the location of and property boundary for the Facility. Respondent owned/operated the Facility after November 19, 1980 for the generation and storage of hazardous waste for greater than 90 days. For this reason, the Facility is subject to the Interim Status requirements of 329 IAC § 3.1.
10. Pursuant to Section 3010 of RCRA, 42 United States Code ("USC") § 6930, Respondent notified the United States Environmental Protection Agency ("USEPA") of its hazardous waste activity and was assigned USEPA I.D. No. IND006392773. In its Hazardous Waste Part A Permit Application (November 12, 1980), VFC #80465895 ("**Part A Application**"), Respondent identified the Facility as one that treats, stores and disposes of hazardous waste ("**TSD**"). During its various operations over time, Respondent handled materials at the Facility that had the following hazardous waste codes: D001, D002, D007, D008, D009, F001, F002, F003, and F006, 2 (See, amended Part A Applications [September 9, 1983; March 26, 1986, June 22, 1987], VFC's #80465888, 80465302, 80465310, various Generator Biennial Reports, and IDEM Hazardous Waste Inspection Reports). IDEM acknowledged the last of the above amendments on October 21, 1987, VFC #80465891.
11. On April 7, 1987, Respondent notified IDEM of its intent to withdraw its "Interim Status" Part A Application under RCRA and to cease operating as an Interim Status facility. Respondent submitted a full closure plan for the Facility that

² The original Part A Application also listed K054 and F017 wastes, but USEPA subsequently amended the waste code designations in 40 CFR Part 261 to delete these waste streams.

focused on SWMU 34, the Hazardous Waste Storage Area, VFC #80465305 (“**Initial Closure Plan**”). Respondent planned to become a less than 90-day large quantity generator of hazardous waste, exempt from the hazardous waste permitting requirements. IDEM released the Initial Closure Plan for 60-day public notice and comment on May 7, 1987, VFC #80465306.

12. On June 1, 1987, IDEM issued a “Notice of Deficiency” (“**NOD**”) to Respondent identifying additional items to be addressed under the Initial Closure Plan, VFC #80465308. Respondent requested an extension of time to enable its consultant Process Engineering Group, Inc. (“**PEG**”) to respond to the NOD. IDEM granted the extension, VFC #80465883. In a conversation with IDEM on July 15, 1987, PEG asked whether “full closure” was required to continue as a less than 90-day generator. IDEM responded, “Yes... Since it is a start over at the site and closes it out under RCRA – such that it is clean at the end point.” VFC #80465311.
13. On August 5 and 25, 1987, Respondent submitted respectively a revised total closure plan and supplemental information addressing the NOD, VFC #80465885 (“**Total Closure Plan**”). In the Total Closure Plan, Respondent stated:

It is the intent of General Electric to continue to use the Facility after the RCRA closure for the storage of the...wastes listed above for less than 90 days. In no case will the wastes remain in the Facility for ninety (90) days or more. Thus, General Electric would continue as a generator of hazardous waste, but wishes to relinquish its interim status storage operator designation....

The attached RCRA closure plan addresses the requirements of the State and Federal regulations pertaining to interim status closure.”

14. IDEM approved the “Total Closure Plan” for the Facility on October 1, 1987, VFC #80465889.
15. Respondent completed closure activities and certified Total Closure of the RCRA facility on January 12, 1988, VFC #80465893, #80465299. On July 27, 1988, IDEM concluded, “With receipt of this [January 20, 1988] certification, total closure is complete as required by 329 IAC 3-21,” VFC #80465312, #61285225.
16. In June 22, 1987, Respondent also amended several aspects of its Part A Application, including modifying the quantity of waste that it was generating and entirely removing chlorinated solvent waste stream F001, VFC #80465310. IDEM acknowledged the modifications on October 21, 1987, VFC #80465891. By 1989, the other chlorinated solvent waste stream F002 and wastewater treatment waste F006 had been eliminated from the Facility. (See, Biennial Report 1989, VFC #80465289).

17. A contractor for USEPA conducted a Preliminary Assessment/Visual Site Inspection (“PA/VSİ”) at the Facility on February 8, 1993. See VFC #59315620. The executive summary of the PA/VSİ Report describes Respondent’s RCRA status at the time of the inspection:

The Facility’s current regulatory status is that of a large-quantity generator of hazardous waste. GE was originally classified as a hazardous waste treatment, storage and disposal facility because storage of hazardous waste exceeded 90 days....In October 1987, [IDEM] approved the closure plan for the Hazardous Waste Storage Area (SWMU 34)...IDEM approved the closure in October 1988.”

The PA/VSİ Report identified 36 SWMUs and no AOC’s, VFC #59315620. Twenty-six of the SWMUs consisted of satellite accumulation areas for short-term accumulation of hazardous waste. The report states that, except for simple housekeeping measures, no further action was required for SWMUs at the Facility, other than for SWMU 31, which is identified as a “Former Hazardous Waste Storage Area.” The PA/VSİ acknowledges, however, that while SWMU 31 might have been used in the early 1980’s, there was no documentation about the volume or types of wastes that might have been stored there, the duration of that storage, or whether that storage would have been subject to RCRA interim status requirements. For SWMU 31, the PA/VSİ recommends investigating the history of the unit and, “if necessary,” conducting formal RCRA closure. The PA/VSİ did not recommend performing RCRA Facility Investigation.

18. The Facility discontinued manufacturing operations in November 2005. Respondent performed decommissioning through 2006. On February 23, 2007, Respondent notified IDEM of a change in the waste generator status to “Out of Business” (VFC #64356047).
19. In October 1, 2010, Respondent voluntarily performed limited soil sampling at the closed Facility, which identified concentrations of chlorinated solvents and other constituents (“**Oct 1 Sampling**”). Respondent informed IDEM of the sampling results by telephone on October 22, 2010, VFC #63532411. Respondent submitted the Report of Soil Sampling Activities containing the data on December 20, 2010, VFC #60042860, VFC #60439687.
20. Respondent and IDEM met at the Facility on December 3, 2010 to discuss the Oct 1 Sampling. IDEM requested that Respondent submit an investigation workplan to delineate the nature and extent of this contamination. At that time, IDEM also conducted a RCRA Facility Assessment (“**RFA**”). IDEM submitted a draft RFA Report to Respondent on June 14, 2011 (VFC #62647247), incorporated Respondent’s comments (VFC #63216856), and issued a final RFA Report on September 13, 2011 (VFC #63546580). The RFA Report identified the same 36 SWMUs that had been identified in the PA/VSİ, along with one newly designated AOC-1 to address the Release Area identified by the Oct 1 Sampling. The RFA Report also clarified the history of SWMU 31:

The diagram provided with the original Part A identify SWMU 31 as the hazardous waste storage area, not SWMU 34. The amended 1982 Part A diagram identified SWMU 34 as the hazardous waste storage area and SWMU 31 as the empty drum storage area. Facility representatives present during the 1993 and 2010 VSI had no knowledge of any hazardous waste being stored at SWMU 31.

21. The RFA Report drew the following conclusions with respect to SWMUs and AOCs at the Facility:

- SWMUs 1-28, 30, 32-33 and 35 had been closed with “No Further Action” required in 2005 when the Facility discontinued operations.
- As described above, SWMU 34 had been closed in 1988 as a TSD when the Facility surrendered its “Interim Status” designation and was further closed as a storage unit with “No Further Action” in 2005.
- SWMU 36, an Incinerator, was closed in the early 1980’s and removed in 2010, with “No Further Action” required for this unit.
- SWMU 29 required additional soil sampling by means of a RCRA Facility Investigation.
- For SWMU 31, the RFA Report stated that the unit must undergo closure, even though “[n]o documentation has been discovered identifying any hazardous waste being stored in this unit.” IDEM also required Respondent to investigate a drainage trench area near this SWMU.
- For the AOC-1 Release Area, which was identified through the voluntary Oct 1 Sampling, IDEM recommended that Respondent conduct a RCRA Facility Investigation for soil and groundwater.

22. On August 15, 2011, Respondent confirmed that it agreed further to investigate SWMU 29, SWMU 31 and AOC-1, VFC #63216856 (“**8/15 Letter**”). Respondent had already submitted an AOC-1 workplan to IDEM on March 15, 2011, VFC #6132649. IDEM sent separate workplan comments to Respondent (May 5, 2011, VFC #62159862) (“**5/5 Comments**”). After reviewing the RFA and IDEM’s 5/5 Comments, and as part of the 8/15 Letter, Respondent submitted a Revised Investigation Workplan covering SWMU 29 and AOC-1 (“**RIW**”). Respondent also responded separately to IDEM’s 5/5 Comments (August 25, 2011, VCF #63321786). Both in this letter and in the RIW, Respondent proposed handling SWMU 31 separately because IDEM had required full RCRA closure for that unit. IDEM approved this proposal as well as the RIW for SWMU 29 and AOC-1 (September 27, 2011, VCF #63656971).

SWMU 29, AOC-1 and Windy Creek Sampling

23. Respondent performed the RIW and provided the results to IDEM in an Investigation Report (June 22, 2012, VFC # 66338886) ("**InvRpt**"). Based on the data, the InvRpt recommended "No Further Action" for SWMU 29 but suggested additional soil borings and groundwater sampling in the vicinity of AOC-1. IDEM requested further documentation for SWMU 29 and agreed that additional soil and groundwater investigation should be performed near AOC-1 (September 21, 2012, VFC #66840230). IDEM also requested an elevation survey for the bottom of Windy Creek. Respondent replied to IDEM's comments (October 15, 2012, VFC #66970483). Based on Respondent's reply, IDEM approved Respondent's request for closure and "No Further Action" for SWMU 29 (April 18, 2013 VFC #67905105). IDEM also approved Respondent's proposal to perform additional sampling near AOC-1, which Respondent executed (See VFC #67985843, July 18, 2014, #70221198).
24. On August 16, 2016, Respondent submitted comprehensive modifications to its Risk-Based RCRA Closure Plan (VFC #80339098), in which Respondent explained, based on sampling results, that AOC-1 was distinct from the other SWMUs. IDEM requested that Respondent demonstrate this conclusion with additional data (October 19, 2016, VFC#80367866).
25. Respondent provided the additional data in the "AOC-1 Further Site Investigation" on December 23, 2016 (VFC #80396798) ("**FSI Report**"). The FSI Report concluded that additional sampling in the AOC-1 area was required to confirm that constituents were not migrating offsite to Windy Creek. IDEM concurred with this conclusion and requested that Respondent provide a workplan to delineate AOC-1 contaminants (March 10, 2017, VFC #80431260). Respondent provided the AOC-1 workplan (April 13, 2017, VFC #80447886, #80460261), IDEM commented (May 15, 2017, VFC #80461759), Respondent revised the workplan (May 18, 2017, VFC #80463349), and IDEM approved it (May 18, 2017, VFC #80463351).
26. Respondent executed the workplan and provided the data to IDEM, concluding that "groundwater impacts from AOC-1 are not present to the east of Windy Creek." (July 13, 2017, VFC #80487722). IDEM concurred with this conclusion and requested an additional workplan to further delineate AOC-1 "within the Facility's boundaries, along the western side of Windy Creek, and the sediments of Windy Creek." (September 11, 2017, VFC #80517257). Rather than preparing an additional workplan, Respondent performed the requested sampling using methods previously approved by IDEM and submitted a report containing the results (November 21, 2017, VFC #80562427). The report concluded that "no evidence of impacts was seen in the sampling of sediment" (id., at 3). For this reason, Respondent recommended that "the closure of AOC-1 will be part of an overall risk-based solution to the Site..."

SWMU 31

27. As also agreed with IDEM, Respondent submitted a separate RCRA Closure Plan for SWMU 31 on August 27, 2012 (VFC # 66723871). Elements of this plan included cleaning the concrete pad at SWMU 31 and collecting samples in the surrounding soils and trench drain outfall. IDEM approved this Closure Plan with minor modifications on October 25, 2012 (VFC #66990619). Respondent incorporated IDEM's comments into a Revised RCRA Closure Plan, which was submitted on November 27, 2012, (VFC # 67094718). On April 11, 2013, IDEM provided public notice and an opportunity to comment on the Revised RCRA Closure Plan (VFC #68046035, #67763371 & #67763508). After the comment period expired with no comments, IDEM approved the RCRA Closure Plan "for all remaining hazardous waste management units" (SWMU 31) on June 11, 2013 (VFC # 68362171).
28. Upon further review of the data, Respondent requested and received an extension of time to submit further revisions to the Revised RCRA Closure Plan (SWMU 31) (VFC #69514789, #69411483 & #69378103). The revisions, submitted on January 30, 2014, proposed full removal (rather than cleaning) of the concrete pad and excavation of impacted soils (VFC #69574095). IDEM and Respondent discussed the plan in several sets of written comments that requested clarifications and modifications (IDEM-March 31, 2014, VFC #69574095; July 18, 2014 #70221198); (Respondent-(May 20, 2014, VFC #70040218).
29. Respondent submitted comprehensive modifications in its Risk-Based RCRA Closure Plan (August 16, 2016, VFC #80339098). IDEM requested additional modifications (October 19, 2016, VFC #80367866), which Respondent incorporated into its Revised Risk-Based RCRA Closure Plan (November 15, 2016, VFC # 80379381). IDEM further commented on this Revised Plan (January 18, 2017, VFC #80407565). Respondent submitted additional revisions to the Revised Risk-Based RCRA Closure Plan (January 26, 2017, VFC # 80412999). On January 31, 2017 and March 16, 2017, IDEM provided public notice and an opportunity to comment on the Revised Risk-Based RCRA Closure Plan and then extended the comment period (VFC #80413881, #80413366, #80422285, #80431785, #80432785, & #80438841). IDEM received public comments on March 29, 2017 (VFC #80445974). After considering those comments, IDEM approved the RCRA Closure Plan "for all remaining hazardous waste management units" (SWMU 31) on May 26, 2017 (VFC #80466608).
30. Respondent performed the actions set forth in the Revised Risk-Based RCRA Closure Plan and submitted the results of that work to IDEM in the RCRA Closure Report (January 25, 2018, VFC #80605905 and March 6, 2018, VFC #80624139). Respondent requested that IDEM approve closure of SWMU 31 based on the confirmation sampling results. IDEM reviewed the report and requested additional information (May 21, 2018, VFC #82545599). Respondent submitted this information on December 13, 2018 and again requested closure of SWMU 31 (VFC# 82662224).

Off-Site Investigations and Vapor Mitigation

31. In late 2017, Respondent voluntarily performed additional due diligence environmental investigations at the Facility to support sale to a third party. The investigations identified trichloroethylene (TCE) migrating in groundwater beyond the Facility boundary into the adjoining neighborhood to the west of the Facility. Respondent notified IDEM of these sampling results in late 2017.
32. IDEM requested a vapor intrusion sampling plan for the adjacent residences to be performed by Respondent as an Interim Measure. (December 11, 2017, VFC # 80571282). Respondent provided the initial sampling plan on January 19, 2018 (VFC #80596514, VFC #80599919), which IDEM approved (February 7, 2018, VFC #80606218) with comments (March 15, 2018, VFC #80628211). From that time, Respondent has voluntarily conducted numerous rounds of groundwater, soil gas and indoor air sampling in the neighborhood. Respondent has summarized the sampling plans and results in the following documents, which have been provided and reviewed by IDEM:
 - a. Off-Site Investigation Report (March 22, 2018), VFC #80633876.
 - b. GE Tell City Update (May 2, 2018), VFC #82534930.
 - c. Off-Site Investigation Update (May 17, 2018), VFC #82546243.
 - d. Third Off-Site Investigation Report (June 15, 2018), VFC #82561830.
 - e. GE Tell City Groundwater Investigation Plan (July 23, 2018), VFC #82583772.
 - f. IDEM Investigation Plan Response (August 3, 2018), VFC #82509651.
 - g. Fourth Off-Site Investigation Report (August 10, 2018), VFC #82595453.
 - h. IDEM Fourth Off-Site Investigation Response (September 28, 2018), VFC #826223152.
 - i. August-September 2018 Investigation Update Report (October 15, 2018), VFC #82635949.
 - j. Proposed Wells for GE Tell City (October 22, 2018), VFC #82636725.
 - k. IDEM Response to Proposed Wells Locations (October 23, 2018), VFC #82636932.
 - l. IDEM Approval of Proposed Well Locations (November 13, 2018), VFC #82644002.
 - m. Tell City VI Work, additional proposed locations (December 13, 2018), VFC # 82663627.
 - n. GE Tell City-VI Sampling Update and IDEM response (February 4-7, 2019), VFC # 82690840, VFC #82691834.
 - o. Current Conditions Report (May 3, 2019), VCF #82767955.
33. As of the date of this Order, based on the above data, IDEM's Remediation Closure Guide (March 22, 2012, corrected through July 9, 2012), IDEM's Vapor Remedy Selection and Implementation Guidance (February 2014), and after discussions with at and the request of certain property owners, Respondent has installed vapor mitigation systems in 17 structures and is performing ongoing monitoring at 2 structures.

Summary

34. All existing RCRA Facility Investigation data and Corrective Measures that Respondent has performed at the Facility have been summarized in the CCR, in the documents specified in Paragraphs 11-32 above, and in various other documents provided to IDEM.
35. There is or has been a release of hazardous wastes and/or hazardous constituents into the environment from Respondent's Facility. In addition to the documents listed above in Paragraphs 11- 32, the following documents have been used to support this conclusion:
- a. Report of Soil Sampling Activities (December 20, 2010), VFC #60042860.
 - b. RCRA Facility Assessment Report (RFA) (September 13, 2011), VFC #63546580.
 - c. Site Investigation Report (October 15, 2012), VFC #66970483.
 - d. AOC-1 Further Site Investigation (December 19, 2016), VFC #80396798.
 - e. Further Site Investigation-AOC-1 (November 21, 2017), VFC #80562427.
 - f. Off-Site Work Plan (January 19, 2018), VFC #80596514.
 - g. RCRA Closure Report (February 5, 2018), VFC #80605905.
 - h. Those Off-Site Investigation Reports listed in Paragraph 31.
36. Based on the information identified in Paragraph 35, the nature and extent of any releases of hazardous waste and hazardous constituents have been fully defined for the 36 identified SWMUs, and Corrective Measures have been completed for these units. IDEM concludes that RCRA Corrective Action has been completed and No Further Action is required under this Order for these 36 SWMUs.
37. Also based on the above information, the following AOCs remain at the Facility and this Order applies to these AOCs:

AOC-1	Release Area, as identified in the RFA
AOC 2	Release Area, newly identified
AOC 3	Release Area, newly identified
AOC 4	Release Area, newly identified

Exhibit A depicts the area of these AOCs. If any new AOCs are discovered in the future, Respondent shall be reported these AOCs in accordance with Paragraph 46.f. of this Order.

E. CONCLUSIONS OF LAW AND DETERMINATIONS

38. Based on the Findings of Fact set out above, and after consideration of documentation contained in the public file, IDEM has made the following

conclusions of law and determinations.

39. Respondent is a "Person" as defined in Paragraph 7. above.
40. Respondent is or was the owner and/or operator of a facility subject to IC 13-22-13 and 329 IAC 3.1.
41. Until the Facility withdrew its Interim Status Part A Application in 1987, the Facility was authorized to operate under Interim Status under Section 3005(e) of the Solid Waste Disposal Act (42 USC 6925(e)).
42. Certain wastes or constituents of wastes that are found at the Facility are "contaminants," "hazardous wastes," or "hazardous constituents" as defined by IC 13 and 329 IAC 3.1-6 (Section 1004(5) of RCRA, 42 USC Section 6903(5)). They are also "hazardous wastes" or "hazardous constituents" within the meaning of Section 3001 of RCRA, 42 USC § 6921 and Title 40 Code of Federal Regulations (40 CFR).
43. Pursuant to IC 13-22-13- 1:
 - a. If on the basis of any information, the Commissioner determines that there is or has been a release of a hazardous waste or a constituent of a hazardous waste into the environment from a facility authorized to operate under interim status under Section 3005(e) of the federal Solid Waste Disposal Act (42 USC 6925(e)) or under this chapter, the Commissioner may:
 - 1) issue an order requiring corrective action or another response measure that the Commissioner considers necessary to protect human health or the environment; or
 - 2) commence a civil action to compel corrective action as described in subparagraph 1).
 - b. Under subsection a., the Commissioner or a court may order the performance of corrective action beyond the boundaries of the facility from which the release occurs. However, corrective action may not be ordered by the Commissioner beyond the boundaries of the facility if the owner or operator of the facility demonstrates to the satisfaction of the Commissioner that, despite the best efforts of the owner or operator, the owner or operator is unable to obtain the necessary permission to undertake that corrective action. An order issued by the Commissioner under this paragraph:
 - 1) must state with reasonable specificity the nature of corrective action or other response measure required by the order; and
 - 2) must specify a time for compliance.

44. The actions required by this Order are necessary to protect human health or the environment and are authorized or required pursuant to IC 13-22 and IC 4-21.5.

F. ORDER FOR CORRECTIVE ACTION WORK

45. Respondent shall perform the following corrective action work in a manner consistent with, at a minimum, those applicable requirements of this Order, and of any approved or modified-and-approved report, work plan or program plan. Portions of the following guidance documents that IDEM may deem to be applicable, and other documents to which IDEM may direct Respondent, also may assist Respondent in performing the Corrective Action Scope of Work: IDEM's "Remediation Closure Guide" (RCG), "Remediation Program Guide" (RPG), and USEPA's "Test Methods for Evaluating Solid Waste" (SW-846, 3rd edition, or most recent edition, and the most recent updates).

46. RCRA FACILITY INVESTIGATION (RFI)

- a. **RFI Work Plan(s)**. Acknowledging the multiple investigations that have already been performed and the data that has already been collected at the Facility (all as summarized in the CCR), Respondent and IDEM shall prepare an agreed schedule for Respondent to submit one or more supplemental RFI Work Plans to perform any additional investigations as may be necessary for the four AOCs depicted in Exhibit A. When combined with existing data and information about Corrective Measures taken for each AOC, the goal of these supplemental RFI's shall be to delineate the nature and extent of releases of hazardous waste and hazardous constituents remaining to be addressed at each AOC.
- b. Each RFI Work Plan is subject to approval, disapproval, or approval with modifications by IDEM.
- c. For each AOC depicted on **Exhibit A**, the RFI Work Plan shall define the release, presence, magnitude, extent, direction, and rate of movement of any hazardous wastes or hazardous constituents within and beyond the Facility boundary, and be specific to the release and migration of contaminants, in all cases including existing data and identifying data gaps to be filled by supplemental investigations. The RFI Work Plans also shall document the procedures Respondent shall use to perform those gap-filling supplemental investigations necessary to: (1) identify and characterize additional source(s) of contamination; (2) define the degree and extent of such additional contamination; (3) characterize additional potential pathways of contaminant migration; (4) identify additional actual or potential receptors; and (5) support the development of corrective action alternatives to be proposed by Respondent and reviewed by IDEM. Each RFI Work Plan shall contain a specific implementation schedule for all activities under that Work Plan, including a date for submission of an RFI Report documenting investigation results.

- d. **Implementing the RFI Work Plan.** Within 30 days after Respondent's receives notice of approval or approval with **modifications** of the RFI Work Plan, Respondent shall begin implementing the RFI Work Plan as approved or approved with modifications in accordance with the time schedules set forth therein.
- e. **Report Discovery of any New SWMU or AOC.** Within 30 days after discovering any new SWMU or AOC at the Facility, Respondent shall notify IDEM and provide the following information:
 - 1) The location of the unit or area on the site topographic map;
 - 2) Designation or description of the type of unit or area of concern;
 - 3) General dimensions and structural description of the unit or area;
 - 4) When the unit was operated, or the area discovered; and
 - 5) Specifications of all wastes managed at the unit, or the specifics (e.g., products or wastes involved, spill date, volume, etc.) of the area of concern.

Respondent must submit to IDEM, within 30 days of discovery, all available information pertaining to any release of hazardous wastes or hazardous constituents from any new SWMU or AOC. IDEM will review the information provided under this condition and may, as necessary, require further information, investigations and/or Corrective Measures. If IDEM determines that further investigation is necessary, Respondent shall submit a written supplemental RFI Work Plan to IDEM in accordance with a schedule agreed between IDEM and Respondent.

47. INTERIM MEASURES (IM)

- a. Respondent and IDEM acknowledge, as set forth above in Paragraphs 31-32, that Respondent voluntarily has been performing Offsite Sampling and Vapor Mitigation adjacent to the Facility as Interim Measures approved by IDEM. Respondent shall continue to perform such Work as Interim Measures approved by IDEM under this Paragraph 47, on such schedule as may be mutually agreed between IDEM and Respondent.
- b. If Respondent identifies any additional known threat or potentially imminent threat to human health or the environment other than under Paragraph 47.a, Respondent shall notify IDEM immediately by telephone with a follow-up written notice within seven (7) days, summarizing the immediacy and magnitude of the threat to human health or the environment.
- c. Within fifteen (15) days after submitting written notice to IDEM, Respondent shall submit for IDEM's review and approval, an IM Work Plan that identifies Interim Measures to be taken by Respondent to mitigate the additional

known threat or potentially imminent threat. Such Interim Measures shall be consistent with and integrated into any long -term Corrective Measures at the Facility. The IM Work Plan shall document the procedures to be used by Respondent to implement the Interim Measures and shall include, without limitation: the objectives for the Interim Measures; design, construction, operation, monitoring and maintenance requirements; and detailed implementation schedules.

- d. The IM Work Plan shall include: (1) Interim Measure Objectives; (2) a Health and Safety Plan; and (3) Reporting Requirements.
- e. IDEM acknowledges that, as an Interim Measure, Respondent voluntarily has cooperated with the Tell City Water Department to sample Tell City's water supply wells. That sampling will continue as an Interim Measure on such schedule as may be mutually agreed between IDEM, Respondent and the Tell City Water Department. The data from this sampling has not identified any contamination to those water supply wells resulting from Respondent's Facility. If future sampling identifies a contaminated water supply well that resulted from Respondent's release or response actions, Respondent shall:
 - 1) Within five (5) days, provide an alternate water supply to the affected parties.
 - 2) Within seven (7) days, submit a written report to IDEM detailing the activity pursued and an IM Work Plan for further Interim Measures.
 - 3) Within seven (7) days following IDEM's transmission of comments on the IM Work Plan, revise the plan to address IDEM's comments.
 - 4) Within seven (7) days following IDEM's approval or modification and approval of the IM Work Plan, implement the revised plan in accordance with the schedule therein.
- f. At the completion of the Interim Measures or on such other schedule as may be agreed with IDEM, Respondent shall submit to IDEM one or more reports which document the activities taken under the Interim Measures. For avoidance of doubt, the documents listed under Paragraph 32 satisfy this requirement for those Interim Measures described therein and Respondent is not required to prepare additional reports for those activities.

48. CORRECTIVE MEASURES STUDY (CMS)

- a. **CMS Work Plan.** If IDEM accepts the use of presumptive remedies (i.e., remedies that are known to be effective), a formal Corrective Measure Study may not be necessary. However, if IDEM determines a CMS is necessary for the Facility, Respondent shall submit a Corrective Measure Study (CMS) Work Plan to IDEM at such time as may be agreed in writing between Respondent and IDEM, but no earlier than sixty (60) days after

Respondent completes all planned additional sampling activities under those RFI Work Plan(s) approved under Paragraph 46(a). The CMS Work Plan is subject to approval, disapproval or modification and approval by IDEM.

- b. Implement the CMS Work Plan. Respondent shall implement the CMS Work Plan as approved or modified and approved by IDEM, shall comply with the time schedules therein, and shall submit a CMS Report.
- c. Upon conclusion of the CMS, Respondent shall submit a CMS Report that summarizes the findings. The report shall include the cost estimates developed for each corrective measure alternative.

49. PUBLIC COMMENT AND PARTICIPATION

- a. Respondent shall prepare and submit to IDEM for review and approval a Community Relations Plan for the dissemination of information to the public regarding investigation activities and results for offsite activities to be performed under Paragraphs 46-48 above. The plan shall be consistent with "IDEM's Guide for Citizen Participation" and U. S. EPA's "1996 RCRA Public Participation Manual."
- b. Upon approval by IDEM of any final CMS Report that may have been prepared under Paragraph 48, IDEM shall make the following final documents available to the public for review and comment for 45 days: the CCR; any supplemental RFI Reports; the CMS Report; a summary of IDEM's proposed Corrective Measure(s); and IDEM's justification for proposing those Corrective Measure(s).
- c. Following the public review and comment period, IDEM shall notify Respondent in writing of the Corrective Measure(s) that IDEM has selected in the Response to Comments and Final Decision. If the Corrective Measure(s) recommended in the CMS Report are not the Corrective Measure(s) selected by IDEM after consideration of public comments, IDEM shall inform Respondent in writing of the reasons for such decision, and Respondent shall modify the CMS Report based upon public comment if directed in writing to do so by IDEM.
- d. All documentation contained in the public file supporting the selection of the Corrective Measure will be available on IDEM's web-based Virtual File Cabinet at <https://vfc.idem.in.gov/DocumentSearch.aspx>. For hazardous waste files related to this Facility, enter IND006392773 in the "Full Text Search" cell.

50. CORRECTIVE MEASURES IMPLEMENTATION (CMI) PROGRAM PLAN

- a. **CMI Program Plan.** At such time as may be agreed in writing between Respondent and IDEM, but not earlier than thirty (30) days after Respondent receives notification from IDEM of the selected Corrective

Measure or combination of Corrective Measures in the Response to Comments and Final Decision, Respondent shall submit a Corrective Measure Implementation Program Plan (CMI Program Plan). The CMI Program Plan is subject to approval, disapproval, or modification and approval by IDEM.

- b. The CMI Program Plan shall be designed to facilitate the design, construction, operation, maintenance and monitoring of the Corrective Measure at the Facility. The CMI Program Plan shall also include: (1) a Program Management Plan; (2) Design Plans and Specifications, if any; (3) an Operation and Maintenance Plan; (4) a Cost Estimate with any Financial Assurance Instrument that may be necessary in the amount that meets the requirement of 329 IAC 3.1-15-4 (40 CFR 264.143); (5) a Project Schedule; (6) a Health and Safety Plan; and (7) a Construction Quality Assurance Plan.
- c. **Implement the CMI Program Plan.** Respondent shall implement CMI Program Plan as approved or modified and approved by IDEM and shall comply with the time schedules therein and shall submit a CM Implementation Report.
- d. Respondent shall establish financial assurance for the estimated costs of implementing the approved CMI Program Plan. The demonstration of financial assurance shall be in accordance with 329 IAC 3.1-15-4 (40 CFR 264.143).

G. CONDITIONS APPLICABLE TO THE WORK

51. SUBMISSIONS, AGENCY APPROVAL, AND ADDITIONAL WORK

- a. If Respondent submits any work plan(s), program plan(s), or report(s) to IDEM three (3) times without receiving final approval from IDEM, IDEM may elect directly and reasonably to modify and approve such work plan(s), program plan(s) or report(s) in accordance with applicable requirements under RCRA, as may have been interpreted by IDEM in guidance documents that IDEM deems to be applicable rather than disapproving such work plan(s), program plan(s) or report(s) for further revision by Respondent.
- b. Beginning at the end of the first quarter following the Effective Date of this Order, Respondent shall provide IDEM with quarterly progress reports on the tenth (10th) day of the month following the end of the prior quarter.
- c. IDEM will review all draft reports and will notify Respondent in writing of IDEM's approval, disapproval, or modification and approval of the report or any part thereof. If IDEM disapproves, IDEM shall specify in writing the deficiencies and reasons for such disapproval. Within thirty (30) days after receiving IDEM's notice of disapproval of any report or within such longer timeframe as may be agreed in writing with IDEM, Respondent shall amend

the report based on IDEM's comments in accordance with applicable requirements under RCRA and shall submit a revised report to IDEM. The approved report becomes the final report for each activity.

- d. One paper copy and one electronic copy of all documents, including work plans, program plans, reports, progress reports, and other correspondence to be submitted to IDEM pursuant to this Order, by delivery to the Project Manager designated in Paragraph 58 of this Order.
- e. All work performed pursuant to this Order shall be under the direction and supervision of a certified Professional Engineer or certified Professional Geologist with expertise in hazardous waste site investigation and remediation. On or before the Effective Date of this Order, Respondent shall notify IDEM in writing of the name, title, and qualifications of the supervising engineer and/or geologist and of any contractors or subcontractors and their personnel involved in carrying out the terms of this Order.
- f. IDEM may determine that certain tasks, including investigatory work or engineering evaluation, are reasonably necessary in addition to the tasks and deliverables included in this Order when data or findings after the date of this Order indicate that such additional work is necessary in accordance with applicable requirements under RCRA. IDEM shall request in writing that Respondent perform such additional work and shall specify the basis and reasons for IDEM's determination that the additional work is necessary in accordance with applicable requirements under RCRA. Within seven (7) days after the receipt of such request, Respondent shall have the opportunity to meet with IDEM to discuss the additional work IDEM has requested. Unless Respondent can show the work is unnecessary in accordance with applicable requirements under RCRA and does not protect human health or the environment, Respondent shall perform the additional work IDEM requests according to a work plan submitted to IDEM in writing by Respondent, and approved or approved with modifications, and in accordance with Paragraph 46.

52. QUALITY ASSURANCE

Throughout all sample collection and analysis activities, Respondent shall use IDEM -approved quality assurance, quality control, and chain-of-custody procedures. In addition, Respondent shall:

- a. Ensure that laboratories used by Respondent perform sample analyses according to the USEPA methods included in "Test Methods for Evaluating Solid Waste" (SW-846, 3rd edition or most recent edition, and the most recent updates), or other methods deemed satisfactory in writing by IDEM. If methods other than IDEM -approved methods are to be used, Respondent shall submit all protocols to be used for analyses to IDEM for approval within sixty (60) days prior to the commencement of analyses; and

- b. Ensure that laboratories used by Respondent for sample analyses participate in a quality assurance/quality control program equivalent to that followed by the Office of Land Quality (OLQ) of IDEM. As part of such a program, and upon request by IDEM, such laboratories shall perform analyses of samples provided by IDEM to demonstrate the quality of the analytical data.

53. **ON-SITE AND OFF-SITE ACCESS**

- a. Beginning on the Effective Date of this Order, IDEM representatives are authorized to enter and freely move about all property at the Facility during the Effective Dates of this Order. Entry is authorized to allow IDEM to, inter alia: interview Facility personnel and contractors; inspect records, operating logs, and contracts related to the Facility; review Respondent's progress in carrying out the terms of this Order; conduct such tests, sampling or monitoring as IDEM or its Project Manager may deem necessary; use a camera, sound recording, or other documentary type equipment; and verify the reports and data submitted to IDEM by Respondent. Respondent shall permit IDEM representatives to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data that pertain to work undertaken pursuant to this Order. IDEM agrees that its representatives shall acknowledge and comply with such health and safety requirements as may apply to the Facility and the work being performed at the time including, inter alia, wearing appropriate personal protective equipment and following generally applicable health and safety protocols.
- b. If Respondent does not own or control property to which access is necessary to carry out the terms of this Order, Respondent shall use its Reasonable Best Efforts to obtain site Access Agreements from the present owner(s) of such property within thirty (30) days after approval of any work plan or required activity for which off-site access is required. **"Reasonable Best Efforts"** as used in this paragraph shall mean following those procedures identified in Sections 6.1-6.3 of the State Cleanup Agency NonRule Policy Document Waste -0065-NPD, Procedures for Gaining Access to Third Party Properties by Participants Performing Investigation or Remediation, which can be found online at https://www.in.gov/idem/files/nrpd_waste-0065.pdf ("**Access Guide**"). All Access Agreements obtained under this Paragraph 53 shall become part this Order by reference.
- c. If Respondent is unable to obtain site access from necessary third parties despite following the Access Guide, Respondent shall notify IDEM in writing within seven (7) days after taking the final step in section 6.3 of that Guide regarding both the efforts undertaken by Respondent to obtain access and its failure to obtain an Agreement. In such cases, IDEM shall take those steps set forth in section 6.4 of the Access Guide. If access still cannot be obtained, IDEM shall approve modifications to any applicable workplan to

allow Respondent to proceed with any investigation or remediation to the extent reasonably possible without such access. IDEM also shall exercise its discretion set forth in section 6.5 of the Access Guide when evaluating any investigation or remediation conducted in the absence of such access.

Nothing in this section limits or otherwise affects IDEM's right of access and entry pursuant to applicable law, including IC 13-14-2-2.

54. **SAMPLING AND DATA DOCUMENT AVAILABILITY**

- a. Respondent shall submit to IDEM the results of all sampling and/or tests or other data generated by, or on behalf of Respondent, in accordance with the requirements of this Order. Raw data shall be available to IDEM upon request.
- b. Respondent shall notify IDEM at least fourteen (14) days before engaging in any field activities under this Order, such as well drilling, installation of equipment, or sampling. At the written request of IDEM provided a reasonable time before Respondent commences the relevant field activities, Respondent shall provide IDEM or its authorized representative with split samples of all samples collected by Respondent pursuant to this Order. Similarly, at the request of Respondent, IDEM shall allow Respondent or its authorized representatives to take split or duplicate samples of all samples collected by IDEM under this Order.
- c. Respondent may assert a business confidentiality claim covering all or part of any information submitted to IDEM pursuant to this Order. Respondent shall adequately substantiate any assertion of confidentiality when made, and the submission must meet all applicable statutory requirements. Information determined to be confidential by IDEM qualifies for management pursuant to IC 13-14-11 and IC 5-14-3-4. If no such confidentiality claim accompanies the submitted information, or if for any reason the submitted information does not meet all applicable statutory requirements, the submitted information will be available to the public without further notice to Respondent. Respondent agrees not to assert any confidentiality claim with regard to any physical or analytical data.

55. **STOP WORK ORDER**

If IDEM determines that any activities in compliance or noncompliance with the Order have caused or may cause a release of hazardous waste, hazardous constituent, or a pollutant or contaminant, or a threat to the public health or to the environment, IDEM may order Respondent to stop further implementation of this Order for such period of time as may be needed to abate any such release or threat and/or to undertake any action which IDEM determines in accordance with applicable law is necessary to abate such release or threat.

56. **RECORD PRESERVATION**

Respondent shall preserve during the pendency of this Order all data, (including raw data), records, and documents in its possession or in the possession of its divisions, officers, directors, employees, agents, and its contractors which relate in any way to this Order or to hazardous waste management and/or disposal at the Facility ("**Records**"). If within three (3) years after termination of this Order, Respondent seeks to destroy Records, Respondent shall notify IDEM thirty (30) days prior to the destruction of any such records and shall provide IDEM with the opportunity to take possession of any such records.

57. **PROJECT MANAGER**

- a. On or before the Effective Date of this Order, IDEM and Respondent shall each designate a Project Manager. Respondent shall notify IDEM in writing of the Project Manager it has selected. Each Project Manager will be IDEM's designated representative at the Facility. All communications between Respondent and IDEM, and all 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 Managers or through the consultant working on behalf of Respondent and the Project Manager.
- b. Respondent shall provide written notice within thirty (30) days after the date on which Respondent changes its Project Manager.

58. **NOTIFICATION**

Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Order shall be sent to the following Project Managers.

Documents submitted
to IDEM should
be sent to:

cmyer@idem.IN.gov or

Indiana Department of Environmental
Management, Permits Branch
Attention: Chris L. Myer
IGCN 1101
100 North Senate Avenue
Indianapolis, IN 46204-2251

Documents submitted
to Respondent should
be sent to:

Robert.witsell@ge.com or

General Electric Company
Attention: Robert Witsell, P.E.
1935 Redmond Circle
Rome, Georgia 30165

59. DELAY IN PERFORMANCE/STIPULATED PENALTIES

- a. Unless IDEM has modified a compliance date in writing, or Respondent has cured any noncompliance under this Order within five (5) days after receiving written notice thereof from IDEM, Respondent shall pay stipulated penalties set forth below if Respondent fails to meet requirement set forth in the Order. Compliance by Respondent shall include completion of an activity under this Order, or under a plan approved under this Order, in an acceptable manner and within the specified time schedules.
- 1) Failure to commence work as prescribed in this Order: \$100 per day for one to five days of delay, and \$1000 per day for each day of delay, thereafter;
 - 2) For failure to submit any preliminary and final reports, at the time required pursuant to this Order: \$100 per day for the first one to five days of delay, and \$1000 per day for each day of delay thereafter;
 - 3) For failure to submit progress reports, at the time required pursuant to this Order: \$50 per day for the first one to five days of delay, and \$1000 per day for each day of delay thereafter;
 - 4) For failure to submit other material deliverables required by this Order: \$50 for the first one to five days, and \$1000 for each seven-day delay, or part thereof, thereafter; and
 - 5) For other failure to comply with significant and material provisions of this Order after notice by IDEM of noncompliance: \$100 for the first five days, and \$2500 for each seven-day delay, or part thereof, thereafter.
- b. All penalties shall begin to accrue on the date that complete performance is due, unless such date has otherwise been extended in writing by IDEM, or on which a violation occurs, and shall continue to accrue through the final day or correction of noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Order, but only one penalty under a single section shall accrue for any particular nonperformance, noncompliance, or violation.
- c. All penalties owed to IDEM under this Paragraph 59 shall be due within thirty (30) days after Respondent receives a notice of noncompliance from IDEM that describes the noncompliance and indicated the amount of penalties due. Interest shall begin to accrue on the unpaid balance at the end of sixty-days after Respondent receives the notice of noncompliance. Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1-101.
- d. All penalties shall be payable by certified or cashier's check to the Indiana Environmental Special Fund and shall be remitted to:

Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

Attention: Cashier

All payments shall reference the name of the Facility, Respondent's name and address, and IDEM Cause No. H-13874. This Order requires simultaneous copies of the transmittal of payment to be sent simultaneously to the Project Manager.

- e. The stipulated penalties set forth in this Section do not preclude IDEM from pursuing any other remedies or sanctions which may be available to IDEM by reason of Respondent's failure to comply with the requirements of this Order, any applicable law, or regulatory requirements under 329 IAC 3.1; provided, however, that IDEM's election to collect stipulated penalties for a particular instance of noncompliance shall constitute a waiver of IDEM's right to pursue other civil penalties for that same instance of noncompliance.

60. **FORCE MAJEURE AND EXCUSABLE DELAY**

- a. A "**Force Majeure**" event is any event arising from one or more causes that are not foreseen and are beyond the control of Respondent or of any entity controlled by Respondent, including, but not limited, to, Respondent Consultants, that delays or prevents the performance of any obligation under this Order despite Respondent's reasonable efforts to fulfill the obligation. Examples, without limitation, of a force majeure event include: earthquake, flood, tornado, snow or ice, interference by unrelated third parties, failure or inability to obtain required access, consents or regulatory approvals through no fault of Respondent, act of war, insurrection or terrorism, or other such events beyond Respondent's control. The requirement that Respondent exercise reasonable efforts to fulfill the obligation includes using reasonable efforts to identify a probable Force Majeure event and reasonable efforts to address the effects of any actual Force Majeure event: (1) as it is occurring; and (2) after the Force Majeure event to minimize such delay to the greatest reasonable practical extent. A Force Majeure event does not include financial inability to complete the work required by this Order or increases of costs to perform the work.
- b. Respondent shall notify IDEM by calling within five (5) calendar days and by writing no later than seven (7) calendar days after any event which causes a delay, and which Respondent contends is a Force Majeure event. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the reasonable measures taken or to be taken by Respondent to minimize the delay, and the timetable by which these measures will be implemented. Respondent shall include with any notice all available documentation supporting its claim that the delay was attributable to a Force Majeure event. Failure to comply with the above requirements shall preclude

Respondent from asserting any claim of Force Majeure for that event, except to the extent such noncompliance is due to the Force Majeure event itself. Respondent shall have the burden of demonstrating that the event is a Force Majeure.

- c. If a delay is attributable to a Force Majeure event, the time period for performance under this Order shall be extended, in writing, by the amount of time that is attributable to the event constituting the Force Majeure.

H. OTHER LEGAL REQUIREMENTS

61. RESERVATION OF RIGHTS

- a. IDEM expressly reserves all rights and defenses that it may have, including the right both to disapprove work performed by Respondent pursuant to this Order and to request that Respondent perform reasonable and necessary tasks in addition to those stated in the Work Plans, Scopes of Work, and any other plan or activity required by this Order in order to satisfy applicable laws.
- b. IDEM hereby reserves all of its statutory and regulatory powers, authorities, rights, remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of the Order, including without limitation the assessment of penalties under IC 13-30-4. This Order shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers and/or authorities, civil or criminal, which IDEM has, or any other statutory, regulatory or common law enforcement authority of the State of Indiana; provided that IDEM's election to collect stipulated penalties for a particular instance of noncompliance under Paragraph 59 shall constitute a waiver of IDEM's right to pursue civil penalties for that same instance of noncompliance.
- c. Compliance by Respondent with the terms of this Order shall not relieve Respondent of its obligations to comply with IC 13, 329 IAC 3.1 or any other applicable local, state or federal laws and regulations, even if those laws or regulations are more stringent than the requirements or provisions of this Order.
- d. The entry of this Order and Respondent's compliance shall not limit or otherwise preclude USEPA from taking additional enforcement action pursuant to Section 3008(h) (42 USC 6928(h)) RCRA should USEPA determine that such actions are warranted.
- e. This Order is not intended to be nor shall it be construed as a permit. This Order does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permits.
- f. IDEM reserves the right to perform any portion of the work set forth in any work plan that has been approved or approved with modification under this Order, but only after notifying Respondent in writing at least thirty (30) days in advance

that IDEM intends to perform such work and providing Respondent with the opportunity to perform such work. IDEM also reserves the right to perform any additional site characterization, feasibility study, and response/corrective actions as it deems necessary under applicable requirements of RCRA to address an imminent and substantial endangerment to public health and the environment. USEPA and the State of Indiana may, respectively, exercise their authority under CERCLA or state authority, to undertake removal actions or remedial actions at any time in accordance with the standards set forth under this subparagraph f. In any event, IDEM reserves its right to seek reimbursement from Respondent for such reasonable and necessary additional costs incurred by the State of Indiana under this subparagraph f. if Respondent has declined to undertake such work. Notwithstanding compliance with the terms of this Order, Respondent is not released from liability, if any, for the costs of any response actions taken by IDEM in accordance with this subparagraph f. and applicable requirements of RCRA.

- g. Nothing in this Order shall prevent IDEM, or anyone acting as its agent, from communicating with USEPA or any other agency or entity about any matters relating to this Order. IDEM or anyone acting as its agent shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with USEPA or any other agency or entity.

62. OTHER CLAIMS

Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any 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 constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

63. COMPLIANCE WITH OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Order shall be undertaken by Respondent in accordance with the requirements of all applicable local, state and federal laws and regulations, even if those laws or regulations are more stringent than the requirements or provisions of this Order. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

64. INDEMNIFICATION OF THE STATE OF INDIANA

To the fullest extent permitted by law, Respondent shall indemnify and hold harmless the State of Indiana, its agencies, departments, agents, and employees, from any and all liabilities, obligations or claims, whether absolute, accrued, contingent or otherwise and whether a contractual, statutory, tax or any other type of liability, obligation or claim, (including, without limitation, all reasonable costs and expenses, including reasonable attorneys' fees, interest and penalties), caused by negligent acts or omissions of Respondent, its

contractor, subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may held liable or accountable at law.

65. SUBSEQUENT MODIFICATION

- a. This Order may only be amended by mutual agreement of IDEM and Respondent. Such amendments shall be in writing, shall be signed by both parties, shall have as their Effective Date, the date on which they are signed by IDEM and shall be incorporated into this Order by reference.
- b. Any reports, plans, specifications, and schedules required by this Order are, upon written approval by IDEM, incorporated into this Order by reference. Any noncompliance with such IDEM -approved reports, plans, specifications, and schedules, as such may have been modified in writing by IDEM and Respondent, shall be considered a violation of this Order and shall subject Respondent to the stipulated penalty provisions in Paragraph 59 of this Order.
- c. No informal advice, guidance, suggestions, or comments by IDEM regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent will be construed as relieving Respondent of its obligation to obtain written approval, when required by this Order; provided that such written approval may be provided by e-mail when such e-mail message states its intent to provide approval.

66. SEVERABILITY

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 force and shall not be affected thereby.

67. TERMINATION AND SATISFACTION

The provisions of this Order shall be deemed satisfied upon Respondent's receipt of written notice from IDEM (such written notice not to be unreasonably withheld, denied, or delayed) that Respondent has demonstrated, to the reasonable satisfaction of IDEM, that the terms of this Order, including any reasonable and necessary additional tasks determined by IDEM to be required pursuant to this Order under requirements of applicable laws have been satisfactorily completed.


68. EFFECTIVE DATE

The "Effective Date" of this Order shall be the date on which Respondent receives the Notice of Approval of this Order. Because this Order was entered with the consent of both parties, Respondent waives its right to request administrative review pursuant to IC 4-21.5-3-7, and any request for judicial review pursuant to IC 4-21.5-5.

Signature page for Corrective Action Agreed Order, Cause No. H-13874, *IDEM v. General Electric Industrial Systems, Inc.*, Facility at 1412 13th Street, Tell City, Indiana

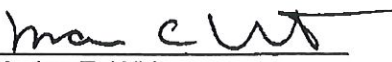
IT IS SO AGREED AND ORDERED:

TECHNICAL RECOMMENDATION

BY: 
Donald W. Stilz, Chief
Hazardous Waste Permit
Indiana Department of
Environmental Management


DATE: 11/8/2019

FOR RESPONDENT

BY: 
Marian E. Whiteman
Delegated Signatory on behalf of
Roger R. Martella, Senior Executive &
General Counsel EHS,
Global Law & Policy
General Electric Company

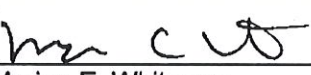
DATE: November 5, 2019

OFFICE OF LEGAL COUNSEL

BY: 
Timothy J. Jank
Office of Legal Counsel
Indiana Department of
Environmental Management

DATE: Nov 7, 2019

ATTORNEY FOR RESPONDENT

BY: 
Marian E. Whiteman
Executive Counsel-Brownfields
Global Law & Policy
General Electric Company

DATE: November 5, 2019

APPROVED BY THE INDIANA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT

this 19th day of December, 2019

, for

Peggy Dorsey, Assistant Commissioner, Office of Land Quality
Indiana Department of Environmental Management

EXHIBIT A

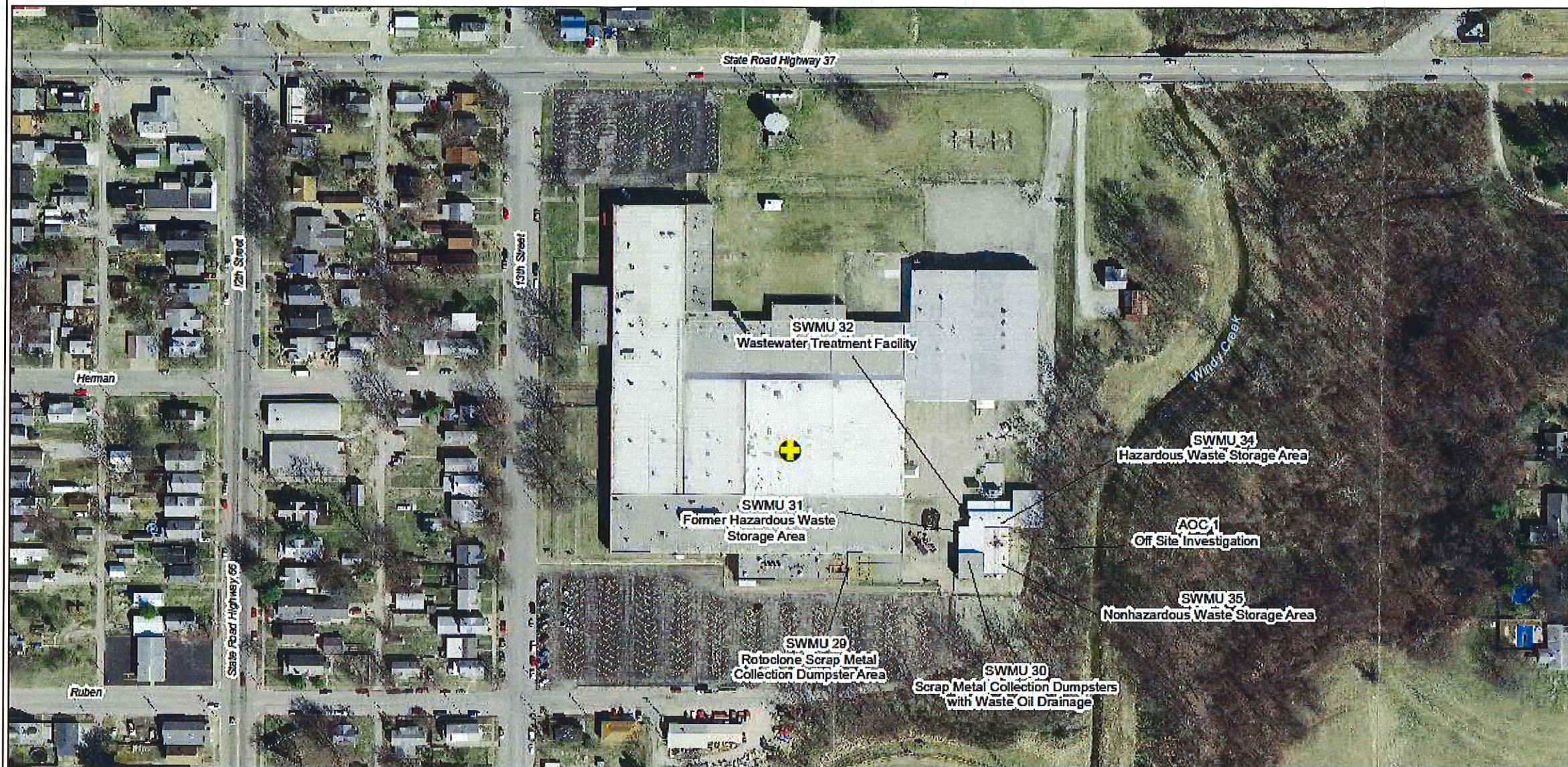
SOLID WASTE MANAGEMENT UNITS and AREAS OF CONCERN
LOCATION MAPS

CAUSE No. H-13874

GENERAL ELECTRIC COMPANY MOTORS AND CONTROLS MANUFACTURING
FACILITY
TELL CITY, INDIANA

EPA ID No. IND006392773

General Electric, Tell City, Perry County, Indiana

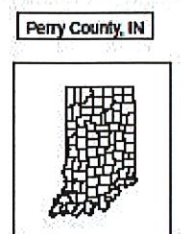
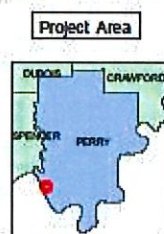
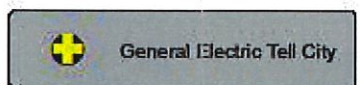
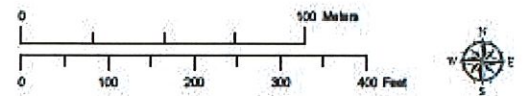


Mapped By: Kevin Miller, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, March 8, 2011

Sources:
 -2005 Indiana Orthophotography (IndianaMap Framework Data www.in.gov/indianamap)
 -Gisdata USA 2007 (The Atlas North America, GDT, ESRI)

Map Projection: UTM Zone 18 N Map Datum: NAD 83

Disclaimer: This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

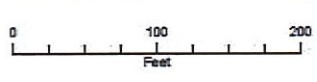



SWMU and AOC Locations



DR. C. J. HARRIS, Manager, Public & Regulatory Affairs, Division of Environmental Health, Indiana Department of Environmental Management

Legend
 Area Of Concern (AOC)



General Electric Tell City Facility 1412 13th Street, Tell City, Indiana	
CORRECTIVE ACTION AGREED ORDER EXHIBIT A	
	EXHIBIT A