

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION II

_____)	
IN THE MATTER OF:)	
)	
Vo-Toys Site)	
Harrison, New Jersey)	
)	
General Electric Company)	AMENDMENT TO
)	ADMINISTRATIVE
)	SETTLEMENT AGREEMENT
)	AND ORDER ON CONSENT
Respondent)	
)	U.S. EPA Region 2
)	CERCLA Docket No. 02-2019-2028
Proceeding Under Sections 104, 106(a), 107)	
and 122 of the Comprehensive)	
Environmental Response, Compensation)	
and Liability Act, as amended,)	
42 U.S.C. §§ 9604, 9606(a), 9607 and 9622)	
_____)	

I. INTRODUCTION AND JURISDICTION

1. The United States Environmental Protection Agency (“EPA”) and General Electric Company (hereinafter referred to as “Respondent”) entered into an Administrative Settlement Agreement and Order on Consent for Removal Action, CERCLA Docket No. 02-2019-2028 (“Settlement”) that became effective on July 19, 2019 (Attachment I) and that provides for Respondent to perform a removal action and pay certain response costs incurred by the United States with respect to the Vo-Toys Site (also known as the Former GE/RCA Facility) generally located at 400 South 5th Street in Harrison, New Jersey (“Site”).

2. The Settlement was issued under the authority vested in the President of the United States by Sections 104, 106(a), 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9604, 9606(a), 9607 and 9622 (“CERCLA”). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14A (Determinations of Imminent and Substantial Endangerment, Jan. 31, 2017), 14-14C (Administrative Actions through Consent Orders, Jan. 18, 2017) and 14-14D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, Jan. 18, 2017). This authority was redelegated by the Regional Administrator of EPA Region 2 to the Director of the Emergency and Remedial Response Division by Order R-1200 and conferred to the Director of the Superfund and Emergency Management Division (“SEMD”)

of EPA Region 2 by Regional Memorandum “Redelegations and the Regional Realignment” (March 27, 2019).

3. Pursuant to Paragraph 114 of Section XXVI (Modification) of the Settlement, this Amendment to Administrative Settlement Agreement and Order on Consent for Removal Action (“Amendment”) is made and entered into by EPA and Respondent. The terms and conditions of the Settlement are neither altered nor affected by this Amendment, except as expressly provided below. Respondent consents to enter into this Amendment and agrees not to contest EPA’s jurisdiction to enter into this Amendment or to implement or enforce its terms.

II. AMENDMENT

4. Section III of the Settlement (Definitions) is amended as follows:

a. The definition of “Future Response Costs” is replaced with the following:

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing deliverables submitted pursuant to this Settlement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section IX (Property Requirements) (including, but not limited to, cost of attorney time and any monies paid to secure or enforce access, including, but not limited to, the amount of just compensation), Section XIII (Emergency Response and Notification of Releases), Paragraph 89 (Work Takeover), Paragraph 111 (Access to Financial Assurance), Paragraph 39 (Community Involvement Plan) (including, but not limited to, the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e)), Section XV (Dispute Resolution), and all litigation costs. Future Response Costs shall also include Agency for Toxic Substances and Disease Registry (“ATSDR”) costs regarding the Site, all Interim Response Costs, and all Interest on those Past Response Costs Respondent has agreed to pay under this Settlement that has accrued pursuant to 42 U.S.C. § 9607(a) during the period from February 1, 2019 to the Effective Date. For purposes of this Settlement, Future Response Costs shall not include costs incurred by the United States later than twelve (12) months after EPA’s approval of the Final Report. However, this shall not limit in any way the costs that the United States may incur with respect to the Work or this Settlement and that it may recover pursuant to any separate agreement, judicial proceeding, or mechanism other than by including such costs in a bill issued for Future Response Costs pursuant to this Settlement.

b. The definition of “Partial Past Response Costs” is replaced with the following:

“Partial Past Response Costs” shall mean \$123,106.00 paid by Respondent on October 16, 2019, in partial payment of Past Response Costs pursuant to the Settlement.

- c. The definition of “Past Response Costs” is replaced with the following:

“Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the Site through January 31, 2019, plus Interest on all such costs through such date. Past Response Costs shall also include Partial Past Response Costs. The amount to be paid by Respondent pursuant to Paragraph 62.a in payment of Past Response Costs, together with Partial Past Response Costs, comprises 100% of EPA’s Past Response Costs.

- d. The definition of “Settlement” is replaced with the following:

“Settlement” shall mean the Administrative Settlement Agreement and Order on Consent, U.S. EPA Region 2 CERCLA Docket No. 02-2019-2028, as amended by this Amendment to Administrative Settlement Agreement and Order on Consent and all appendices listed in Section XXIX (Integration/Appendices). In the event of conflict between this Settlement and any appendix, this Settlement shall control.

5. The following new Paragraph 33-1 is added after Paragraph 33:

33-1. POP Preparation and Approval for Buildings A and B

- a. **Building A and B POP Submission Schedule.** Depending upon Respondent’s Contractor selection, the schedule for Respondent’s submission of the POP for Buildings A and B shall be as follows:

i. Selection of Contractor for Buildings A and B Removal Action.

Within 45 days of EPA’s approval of the Removal Action Design for Buildings A and B, Respondent shall submit for EPA approval the name and qualifications of the Contractor selected to implement the Removal Action Design to EPA for approval.

- ii. POP for Buildings A and B.** Prior to commencement of the removal action, Respondent shall submit, for EPA’s review and approval, a POP for Buildings A and B. The POP shall be developed in accordance with Paragraph 33 of the Settlement and as described in this Paragraph. Dependent upon the Respondent’s Contractor selection, the POP submission schedule shall be as follows:

1. **Respondent Retains Building C Removal Action Contractor for Buildings A and B Removal Action.** If Respondent elects to retain the Building C Removal Action Contractor, Respondent shall submit an amendment to the Building C POP (“POP Amendment”) within 45 days of EPA’s acceptance of the Buildings A and B Removal Action Contractor. The POP Amendment shall include following information:

- a) Revisions to the Site Construction Plan, including as applicable, changes in sequence for completion of building decontamination and demolition,
- b) Updated project schedule, and
- c) Updated Traffic Control Plan (if needed).

2. **Respondent Selects a Different Contractor for Buildings A and B Removal Action.** If Respondent elects to retain a Contractor other than the existing Building C Removal Action Contractor, Respondent shall submit a POP for Buildings A and B to EPA within 90 days of EPA’s acceptance of the Buildings A and B Removal Action Contractor.

b. **POP Implementation.** Within 15 days after EPA’s approval or approval with modifications of the POP Amendment (under subparagraph (a)(ii)(1) or the Buildings A and B POP (under subparagraph (a)(ii)(2)), Respondent shall commence implementation of the Work as described in the EPA-approved POP Amendment or Buildings A and B POP in accordance with the schedule included therein. Once approved, or approved with modifications, the POP Amendment or Buildings A and B POP, the schedule, and any subsequent modifications shall be incorporated into and become fully enforceable under the Settlement.

- 6. Paragraph 42 of the Settlement (Construction Completion Reports) is deleted.
- 7. Paragraph 62.a (Payment for Partial Past Response Costs) is replaced with the following:

62. Payment for Past Response Costs

a. Within 30 days after the Effective Date of this Amendment, Respondent shall pay to EPA \$41,035 for Past Response Costs. Respondent shall make payment to EPA by Electronic Funds Transfer (EFT) through the Pay.gov website using the following link: <https://www.pay.gov/public/form/start/11751879>. The following information shall be included on the payment form:

- i. Amount of Payment
- ii. Name of remitter
- iii. Docket Number: CERCLA Docket No. 02-2019-2028
- iv. Site Name: Former GE/RCA Facility
- v. Site/Spill identifier: A27Q
- vi. Purpose of Payment

8. The first clause of Paragraph 62.c is replaced with “**Deposit of Past Response Costs Payments**”

9. In Paragraph 63.a, “(Payments for Partial Past Response Costs)” is replaced with “(Payments for Past Response Costs)”

10. In Paragraph 64, the two references to “Partial Past Response Costs” are replaced with “Past Response Costs.”

11. The first sentence of Paragraph 86 is replaced with the following:

Except as provided in Section XIX (Reservations of Rights by EPA), EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs, and Future Response Costs.

12. Subparagraph 88.b is replaced with the following:

liability for costs not included within the definitions of Past Response Costs or Future Response Costs

13. Paragraph 90 is replaced with the following:

Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, and this Settlement, including, but not limited to:

14. Subparagraph 90.b is replaced with the following:

any claims under Sections 107 and 113 of CERCLA, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law regarding the Work, Past Response Costs, Future Response Costs, and this Settlement;

15. The last sentence of Paragraph 99 is replaced with the following:

The “matters addressed” in this Settlement are the Work, Past Response Costs, and Future Response Costs.

16. In Paragraph 103, “(Payment for Partial Past Response Costs)” is replaced with “(Payment for Past Response Costs)”

17. Paragraph 108 is amended to increase the amount of financial assurance from \$5,000,000 to \$15,000,000.

18. Paragraph 117 is amended to delete the following sentence: “In no event will EPA require as additional removal actions the removal of Buildings A and B under this Settlement.”

and replace it with the following sentence: “In no event will EPA require additional removal actions beyond the scope of this Settlement.”

III. AMENDMENT TO SETTLEMENT AGREEMENT AND ORDER

19. Based upon the above, it is hereby ordered and agreed that Respondent shall comply with all provisions of this Amendment, including, but not limited to, all attachments and all documents incorporated herein by reference.

IV. EFFECTIVE DATE

20. The effective date of this Amendment shall be the day it is signed by the Director of Region 2’s Superfund and Emergency Management Division.

In the matter of U.S. EPA Region 2 CERCLA Docket No. 02-2019-2028

It is so ORDERED and AGREED this _____ day of _____, 2020.

By: Evangelista, Pat
Pat Evangelista
Director, Superfund and Emergency Management Division
United States Environmental Protection Agency, Region 2

Digitally signed by
Evangelista, Pat
Date: 2020.12.21
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THE UNDERSIGNED Respondent enters into this Amendment to Administrative Settlement Agreement and Order on Consent, U.S. EPA Region 2 CERCLA Docket No. 02-2019-2028, relating to the Vo-Toys Site located in Harrison, New Jersey.

GENERAL ELECTRIC COMPANY

By: Buck de Wolf
(Signature)

12/11/20
(Date)

Buck de Wolf
Vice President, Environment, Health & Safety
General Electric Company