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June 20, 2007

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*Via E-mail and Federal Express*

James Charles, Esq.  
New York State Department of Environmental Conservation  
Division of Environmental Enforcement  
270 Michigan Avenue  
Buffalo, NY 14203-2999

Re: Response to May 31, 2007 Letter from DEC  
Emerson Power Transmission Facility, Ithaca, New York  
Order on Consent #A7-0125-87-09

Dear Mr. Charles:

This is a response to the Department of Environmental Conservation ("DEC") letter, dated May 31, 2007, which proposes various modifications to the *Supplemental Remedial Investigation Work Plan* for the Emerson Power Transmission Corporation facility in Ithaca, New York. This letter states that Emerson has 15 days from receipt to provide written notice of our decision to (1) revise the *Supplemental Remedial Investigation Work Plan* to incorporate your modifications or (2) invoke dispute resolution. Per your instructions, we are submitting our response in the allotted timeframe and are addressing each of the comments raised in your letter.

*Comment 1: Textual and Scope Modifications (pp. 1-2)*

The May 31, 2007 letter identifies eight (8) revisions that should be made to the text of the *Supplemental Remedial Investigation Work Plan*, dated May 3, 2007. Further the letter provides that the *Supplemental Remedial Investigation Work Plan* be revised to integrate "other issues that are being addressed (with varying degrees of success) on an independent basis" (i.e., other environmental work being conducted at or near the site). The underlying goal is to ensure that "a single, comprehensive document is developed to provide a more effective means of investigation and, ultimately, remediation of all on-site and off-site impacts associated with the site."

Emerson will make the suggested revisions and will submit the revised *Supplemental Remedial Investigation Work Plan* to NYSDEC, by June 30, 2007, as requested. Emerson has expanded the *Supplemental Remedial Investigation Work Plan* to include the following scopes of work:

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- Investigation of on- and offsite areas of concerns (AOCs) described in the May 3, 2007 version of the Work Plan;
- Investigation of the fire water reservoir as a potential source of contamination;
- Evaluation of on- and offsite groundwater migration pathways within bedrock,
- Expansion of the Phase VI indoor air study area, as defined by NYSDEC in the May 31, 2007, correspondence; and
- Investigation of potential groundwater discharge areas north of the facility.

The expanded Work Plan will cover all on- and offsite investigative and remedial activities currently conducted at or near the facility.

*Comment 2: Fire Water Reservoir (pp. 2-3)*

DEC's letter indicates that contamination may still be present beneath the fire water reservoir, as well as in the reservoir's concrete floors and walls. As such, DEC requires Emerson to evaluate the potential for this contamination by, among other things, drilling through the base of the reservoir. In addition, for each B-zone monitoring well installed in the fire water reservoir investigation, DEC requires field screening or laboratory analysis of the material removed from the borehole.

Emerson agrees with DEC's assessment that the fire water reservoir represents an area of concern warranting further investigation. To this end, Emerson has re-evaluated the scope of the proposed investigation at the fire water reservoir. In addition to the three B-zone wells and six exploratory borings provided for in the November 15, 2006 and May 3, 2007 versions of the work plan, Emerson proposes to evaluate conditions beneath the reservoir by installing two directional borings rather than drill through the base of the reservoir. For the B-zone well locations Emerson will conduct field screening and laboratory analysis of materials removed from the boreholes. However, Emerson does not plan, at this time, to drill through the floor of the fire water reservoir or conduct any other activities that could potentially jeopardize the integrity or use of the reservoir. After all, an operational fire water reservoir is essential to the safety of the plant's employees. Emerson would like to highlight the results of concrete core samples previously taken from the fire water reservoir before DEC approved its reuse, as stated in the 1994 Record of Decision.

*Comment 3: Intermittent Stream Channel/Conductive Zones Evaluation (p. 3)*

The May 31, 2007 letter provides that the *Supplemental Remedial Investigation Work Plan* should include the proposed scope of work for evaluating the intermittent stream channel beneath Building 34 and the five major subsurface conductive zones. Emerson does not object to this comment and has developed a scope of work to evaluate the intermittent stream channel beneath Building 34 and the identified structural features, which will be incorporated in the Supplemental Remedial Investigation Work Plan.

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*Comment 4: Vapor Mitigation/Intrusion – Phase V Report (p. 3)*

In the May 31, 2007 letter, DEC provides that Emerson should have submitted the report for the Phase V Indoor Air Sampling in February 2007. In DEC's opinion, Emerson's failure to do so constitutes a violation. As such, Emerson must submit the report within 15 days of receiving the May 31, 2007 letter.

Emerson submitted the Phase V Indoor Air Sampling report to DEC on June 15, 2007, well within the 15-day time period. Furthermore, Emerson maintains that the February date for the submission of the Phase V Indoor Air Sampling Report was not a firm date due to the uncertainties of obtaining the required access. Emerson maintained regular contact with the Department of Health ["DOH"] concerning the delays in obtaining access to homes. In fact, a footnote to the schedule referenced that submittal of the report was contingent on obtaining access to homes. The Phase V sampling was not completed until April, 2007 and the final data was not received until May 2007. The Department of Health ["DOH"] was aware of the ongoing attempts to obtain access as well as the actual sampling.

In the past DOH had the direct supervisory role with Emerson on the indoor air sampling efforts, and Emerson communicated directly with DOH on these efforts. Emerson has no objection to communicating with DEC on these issues if this is now the preference of the DEC and DOH.

*Comment 5: Vapor Mitigation/Intrusion – Phase VI Expansion (p. 3)*

Based on its review of the vapor intrusion studies completed to date, DEC has demanded that Emerson expand the Phase VI study area to include a number of new properties to the northeast of the facility. Although Emerson disagrees with DEC's assessment that the study area should be expanded, it is willing to undertake additional work in the expansion area specified in the May 31, 2007 letter. Specifically, Emerson proposes to investigate the potential for soil vapor intrusion in this area in stages. Accordingly, Emerson will include a scope of work for a soil vapor study in the Phase VI Expansion area to determine whether the potential for vapor intrusion exists. If the results of this study indicate a potential for soil vapor intrusion as a result of environmental conditions at the EPT property, Emerson will be prepared to discuss with DEC and DOH the details of indoor air sampling at potentially affected properties in the Fall of this year and be prepared to conduct indoor air sampling during the next heating season. Under the direction of the New York State Department of Health, all of the indoor air sampling Emerson has performed to date was conducted during heating seasons and never during the Summer. Consequently, Emerson believes that this approach addresses the issue of potential soil vapor intrusion in the Phase VI Expansion area and will provide a better basis for comparison with the results of sampling at other properties.

*Comment 6: Vapor Mitigation/Intrusion – Potential Groundwater Discharge Area (p. 3)*

In the May 31, 2007 letter, DEC raised concerns that contaminated groundwater emanating from the plant may be discharging or migrating through a fracture to the northeast of the EPT property. As such, DEC requires (1) soil vapor sampling along East Spencer Street, upper South Hill Terrace, and

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Turner Place, (2) air and water sampling in any storm or sanitary sewer manholes located in this vicinity, and (3) the installation of at least three monitoring wells with screen intervals in the B-zone.

Emerson agrees with the need for further investigation of the above concerns and will, for this reason, include a scope of work for a soil vapor survey in the revised *Supplemental Remedial Investigation Work Plan*. Emerson will collect vapor and water samples from the storm and sanitary sewer manholes in accordance with your request. As for the installation of monitoring wells in the B-zone, Emerson will perform this task once it has fully evaluated the condition of bedrock fractures in this area.

*Comment 7: Vapor Mitigation/Intrusion – NCR Sewer (p. 4)*

DEC's letter requires Emerson to sample the NCR sewer line at a location upgradient from the EPT facility to determine whether the source of elevated soil vapor readings along the portion of the line traversing the eastern end of the EPT property is located off-site. Emerson agrees with this comment and will provide a scope of work for additional soil vapor sampling as requested in the *Supplemental Remedial Investigation Work Plan*.

*Comment 8: Feasibility Study (p. 4)*

DEC's letter provides that Emerson should (1) conclude all of the investigative activities performed under the *Supplemental Remedial Investigation Work Plan* by August 31, 2007, (2) include the scope of the Feasibility Study in the *Supplemental Remedial Investigation Report*, due on October 31, 2007, and (3) submit the *Feasibility Study* by December 31, 2007.

Emerson does not believe that it can complete all of the field work associated with the *Supplemental Remedial Investigation Work Plan* by August 31, 2007. The Work Plan has not yet been approved, and we anticipate that, once it has been approved, it will take approximately twelve (12) weeks to complete the field work required therein and another eight (8) weeks for laboratory analysis, data evaluation, and report preparation. The Remedial Investigation must be completed before the Feasibility Study can be prepared. The scope of the Feasibility Study will not be known until the Remedial Investigation is completed. Based on prior experience, Emerson expects that the Feasibility Study could be submitted eight (8) weeks after the Supplemental Remedial Investigation Report is approved.

Emerson cannot agree to the timeline set forth in your letter. Emerson recommends that further discussions, perhaps a face-to-face meeting, with the DEC and DOH (maybe even under the guidance of the respective parties' attorneys) be held in order to review the details of the work and its scheduling so that the parties can reach agreement on an aggressive, but realistic timeline for the work. It is the intent of Emerson to proceed as quickly as possible with all of the activities required for the Supplemental Remedial Investigation as well as the Feasibility Study. Based on Emerson's understanding of the DEC's requirements, we do not believe it is physically possible to meet the deadlines in the specified timeline.

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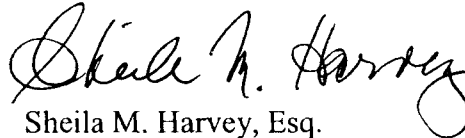
*June 19, 2007 Letter*

In addition to comments set forth in the May 31, 2007 letter, Emerson has received a second letter, dated June 19, 2007, from DEC concerning the sampling of the South Hill Elementary School property located on Hudson Street. Although Emerson believes that it is not possible that contamination emanating from its facility could affect this school, Emerson is willing to undertake the sampling of the Aurora Street sewer and the school property and will submit a work plan to DEC by June 28, 2007 in accordance with the June 19, 2007 letter.

\* \* \*

Emerson believes that the preceding constitutes a full and satisfactory response to your comments to the May 3, 2007 *Supplemental Remedial Investigation Work Plan*. To the extent you find any of the above to be inconsistent with the requirements set forth in your letter, we invoke dispute resolution pursuant to 6 NYCRR §§ 375-1.6(d)(3) and 375-1.5(b)(2). As always, please do not hesitate to contact us with any questions you may have. Emerson has had a cooperative and proactive relationship with the DEC and DOH on this matter since its inception, and Emerson seeks to continue to work with the state on this basis.

Regards,



Sheila M. Harvey, Esq.

cc: Gregg A. Townsend  
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