SDMS DocID 000200619

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF CONNECTICUT :
V. :
HAMILTON SUNDSTRAND CORPORATION :

CONSENT ORDER

A. With the agreement of Hamilton Sundstrand Corporation ("Respondent"), the Commissioner of the Department of Environmental Protection ("the Commissioner") finds:

1. This Consent Order concerns certain real property located at Brookside Drive and 110-112 Main Street in East Windsor ("the Site").

2. The Respondent engaged in one or more of the following activities at the Site:

   a. storage of material and equipment;
   b. operation of a machine shop;
   c. manufacture of printed circuit boards;
   d. operation of a wastewater treatment plant to treat electroplating wastewater;
   e. operation of a paint spray booth;
   f. operation of a boiler;
   g. manufacture of boron filament and boron composites;
   h. operation and maintenance of petroleum under ground storage tanks, and
   i. operation of plastic injection molding equipment.

3. On February 10, 1997 and May 1, 1998, Respondent submitted reports describing the investigations performed documenting the extent and degree of soil, surface water and ground water pollution ("the Remedial Investigation Reports"). The reports summarize in detail the investigations performed; identify the type, quantity and location of all wastes on Site; and define the existing and potential extent and degree of soil, surface water and ground water pollution which is on, is emanating from or has emanated from the Site. These reports were shared with the owners of the Site and any interested parties at public meetings. These reports were approved by the Commissioner on May 13, 1999.

4. By virtue of the above, Respondent has created a facility or condition which reasonably can be expected to create a source of pollution to the waters of the state.

5. On December 1, 2000, the United States Environmental Protection Agency (EPA) proposed the listing of the Site on the National Priorities List (NPL) as the Broad Brook Mill Superfund Site.

6. In May 2002 and November 2002, EPA and the Commissioner provided Hamilton Sundstrand a list of applicable or relevant and appropriate Federal and State requirements and other criteria, advisories, or guidance to be considered (collectively known as "ARARs").

7. On or about the date of entry of this Consent Order, EPA and the State of Connecticut have entered or will enter into a Deferral Agreement for the Site. This agreement designates the State as the lead agency for this Site, allowing the Site to be addressed under State law.

8. By agreeing to the issuance of this Consent Order, the Commissioner and Respondent make no admission of fact or law with respect to matters asserted herein.

B. Contingencies.

1. If any or all interests in the Site, including ownership interests of the twenty-one condominium units and these units' mill building and associated common property, fail to be transferred by September 1, 2004, then this Consent Order is voidable at the sole discretion of any Signatory and the terms of this Consent Order may not be used as evidence in any litigation concerning any of the Signatories. Should the transfer of all interests in the Site be completed subsequent to the date referenced herein, the right of any Signatory to void this Consent Order shall expire upon the completion of such transfer.

2. In the event that the Respondent, or any affiliated person, sell or rent some or all of the Site, to the extent the State has funded the remedial actions as provided in paragraph C.1.e., the Respondent shall ensure that any proceeds of the sale or rental, minus reasonable expenses, shall first be used to reimburse the State for the State's contribution pursuant to paragraph C.1.e. to the remediation of pollution on the Site that was not created by Respondent. This reimbursement obligation shall not apply to any subsequent purchaser of all or part of the Site, provided such purchaser is not and has not been in any way affiliated with any person responsible for such pollution or source of pollution, including the Respondent, through any direct or indirect familial relationship or any contractual, corporate or financial relationship.

C. With the agreement of the Respondent, the Commissioner, acting under Section 22a-6, 22a-424, and 22a-432 of the Connecticut General Statutes, orders Respondent as follows:

1.

a. Respondent has retained Loureiro Engineering Associates, Inc. ("LEA") to prepare the documents and oversee the actions required by this Consent Order. Respondent shall retain LEA or other qualified consultants acceptable to the Commissioner until this Consent Order is fully complied with, and, within ten days after retaining any consultant other than LEA, Respondent shall notify the

Commissioner and EPA in writing of the identity of such other consultant. Respondent shall submit to the Commissioner and EPA a description of a consultant's education, experience and training which is relevant to the work required by this Consent Order within ten days after a request for such a description. Nothing in this paragraph shall preclude the Commissioner from finding a previously acceptable consultant unacceptable.

b. On or before 30 days from the effective date of this Consent Order, Respondent shall submit for the Commissioner's review and approval a plan for allowing any other interested party to provide comments on the proposed Remedial Action Plan in a manner consistent with the public involvement requirements under CERCLA ("Community Involvement Plan"). Such Community Involvement Plan shall include a description of the roles and responsibilities of Respondent and the Commissioner as well as a schedule for conducting public involvement activities prior to the Commissioner's decision regarding the Remedial Action Plan submitted pursuant to paragraph C.1.c. Respondent shall perform the requirements of the Community Involvement Plan as part of this Consent Order.

c. On or before 60 days from the effective date of this Consent Order, Respondent shall submit for the Commissioner's review and written approval a report which: summarizes the results of the remedial investigation described in paragraph A.4.; evaluates the alternatives for remedial actions to abate the ground water, soil and sediment pollution on or emanating from the Site in accordance with the Remediation Standard Regulations (Regulations of Connecticut State Agencies, Sections 22a-133k-1 to k-3) and ARARs, including but not limited to any alternative specified by the Commissioner; states in detail the most expeditious schedule for performing each alternative subject to paragraph C.1.e. below; identifies any permits under sections 22a-32, 22a-42a, 22a-342, 22a-361, 22a-368 or 22a-430 of the Connecticut General Statutes that would be required to implement each alternative; and proposes a preferred alternative for the Site (i.e., the proposed Remedial Action Plan) with supporting justification therefor.

d. On or before 60 days from the date the Commissioner approves a final Remedial Action Plan for the Site, Respondent shall submit for the review and approval of the Commissioner a detailed plan and schedule to perform the approved remedial actions for ground water pollution only, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions, a schedule for the construction of such remedial measures, a schedule for the submission of a thorough and comprehensive report documenting that the remedial measures for ground water pollution only have been implemented as approved, and a schedule for performing any operation, inspection, or maintenance programs for such remedial measures. Such detailed plan shall also include a monitoring program (the "Ground Water Remediation Monitoring Plan") to determine the effectiveness of the approved remedial actions for ground water pollution only, and a schedule for performing the approved Ground Water Remediation Monitoring Plan.

e. On or before 60 days from the date when $3,900,000 in state funding towards the cost of remediating soil pollution on the Site that was not created or maintained by Respondent becomes available to Respondent, Respondent shall submit for the review and approval of the Commissioner a detailed plan and schedule to perform the approved remedial actions for soil and sediment pollution, including but not limited to a schedule for applying for and obtaining all permits and approvals required for such remedial actions, a schedule for the construction of such remedial measures, a schedule for the submission of a thorough and comprehensive report documenting that the remedial measures for soil and sediment pollution have been implemented as approved, and a schedule for performing any operation, inspection, or maintenance programs for such remedial measures. Such detailed plan shall also include a soil and surface water monitoring program (the "Soil and Surface Water Remediation Monitoring Plan") to determine the effectiveness of the approved remedial actions, and a schedule for performing the approved Soil and Surface Water Remediation Monitoring Plan.

f. Respondent shall perform the approved Remedial Action Plan in accordance with the detailed plans and schedules submitted and approved pursuant to paragraphs C.1.d., C.1.e. and C.5.

g. Respondent shall perform the approved Monitoring Plans to determine the effectiveness of the remedial actions in accordance with the approved schedule. If the approved remedial actions do not result in the prevention and abatement of soil, surface water and ground water pollution to the satisfaction of the Commissioner, additional remedial actions and measures for monitoring and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval following implementation of the Remedial Action Plan and the approved Monitoring Plans and on or before thirty days after written notice from the Commissioner that they are required.

h. Respondent shall perform the work and other actions specified in any supplemental plan submitted and approved pursuant to paragraphs C.1.g. and C.5. in accordance with the approved schedule. Within 45 days after completing all remedial actions, Respondent shall provide a thorough and comprehensive report documenting and certifying to the Commissioner that the remedial actions have been completed as approved, and that the remedial actions have achieved compliance with the Remediation Standard Regulations and all requirements of this Consent Order.

2. Progress reports. On or before the last day of even numbered months following the effective date of this Consent Order, and continuing during remedial activities required under paragraphs C.1.d., C.1.e. and C.5., until one year after the construction of all remedial activities has been completed as submitted and approved by the Commissioner pursuant to paragraphs C.1.d., C.1.e. and C.5., Respondent shall submit a progress report to the Commissioner and EPA describing the actions which Respondent has taken to comply with the Consent Order to date, including the results of the monitoring program to determine the effectiveness of the remedial actions, when implemented. Additional reporting concerning the effectiveness of the remedial measures, including whether the remedy is protective of human health and the environment, shall be submitted in accordance with the schedule approved pursuant to paragraphs C.1.d., C.1.e., C.1.g., and C.5. The frequency of such reporting shall not be less than every 5 years, if the remedial action results in hazardous substances, pollutants, or contaminants remaining at the Site above levels that allow for unlimited use and unrestricted exposure.

3. Full compliance. Respondent shall not be considered in full compliance with this Consent Order until the remedial actions have been completed as approved and to the satisfaction of the Commissioner, and all soil, surface water and ground water pollution which is on, is emanating from or emanated from the Site and their sources have been abated to the satisfaction of the Commissioner, in accordance with the Remediation Standard Regulations, ARARs and all other applicable Statutes and Regulations.

4. Sampling and sample analyses. All sampling and sample analyses that are required by this Consent Order and all reporting of such sample analyses shall be done by a laboratory certified by the Connecticut Department of Public Health for such analyses. All sampling and sample analyses performed under this Consent Order shall be performed in accordance with procedures specified or approved in writing by the Commissioner, or, if no such procedures have been specified or approved, in accordance with 40 CFR Part 136. Unless otherwise specified by the Commissioner in writing, the value of each parameter shall be reported to the Analytical Detection Limit as defined in R.C.S.A. § 22a-133k-1(a)(1).

5. Approvals. Respondent shall use best efforts to submit to the Commissioner and to EPA all documents required by this Consent Order in a complete and approvable form. If the Commissioner, after reasonable opportunity for review and comment by EPA, notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this Consent Order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Consent Order. Nothing in this paragraph shall be deemed to excuse noncompliance or delay.

6. Definitions. As used in this Consent Order, "Commissioner" means the Commissioner or an agent of the Commissioner. "EPA" means the US Environmental Protection Agency, or a duly authorized employee or agent of the US Environmental Protection Agency.

7. Dates. The date of submission to the Commissioner of any document required by this Consent Order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Consent Order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Consent Order, the work "day" as used in this Consent Order means calendar day. Any document or action which is required by this Consent Order to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

8. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Consent Order or of any document required hereunder, Respondent shall immediately notify the Commissioner and EPA and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner and EPA, Respondent shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval specifically so stated by the Commissioner in writing.

9. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Consent Order shall be signed by a responsible corporate officer of the Respondent or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense in accordance with applicable laws and regulations."

10. Noncompliance. This Consent Order is a final order of the Commissioner with respect to the matters addressed herein, and is non-appealable and enforceable subject to section B. of this Consent Order. Failure to comply with this Consent Order may subject Respondent to an injunction and penalties under Chapters 439, and 445 or 446k of the Connecticut General Statutes.

11. False statements. Any false statement in any information submitted pursuant to this Consent Order may be punishable as a criminal offense under Section 22a-438 or 22a-131a of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157b of the Connecticut General Statutes.

12. Commissioner's powers. Nothing in this Consent Order shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this Consent Order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or future action to prevent or abate pollution.

13. Access to Site. If the Site, or any other property where access is needed to implement this Consent Order, is owned or controlled by persons other than Respondent, Respondent shall use best efforts, including the payment of reasonable sums of money in consideration of securing access, to secure access to the Site from such persons for Respondent, the State and EPA.

14. Respondent's obligations under law. Nothing in this Consent Order shall relieve Respondent of other obligations under applicable federal, state and local law.

15. No assurance by Commissioner. No provision of this Consent Order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this Consent Order will result in compliance or prevent or abate pollution.

16. No effect on rights of other persons. This Consent Order shall neither create nor affect any rights of persons who or municipalities which are not parties to this Consent Order, including, but not limited to, the following activities: (1) verifying the data or information submitted to the State and EPA; and (2) assessing Respondent's compliance with this Consent Order or the approved Remedial Action Plan.

17. Notice to Commissioner of changes. Within fifteen days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this Consent Order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner and to EPA.

18. Submission of documents. Respondent shall submit any document required to be submitted to the Commissioner under this Consent Order simultaneously to the U. S. EPA. Such documents shall, unless otherwise specified in writing by the Commissioner, be directed to:

    Mr. Maurice Hamel
    Department of Environmental Protection
    Waste Management Bureau
    Remediation Section
    79 Elm Street
    Hartford, Connecticut 06106-5127

    and

    Ms. Anni Loughlin
    Office of Site Remediation and Restoration
    US Environmental Protection Agency - New England Region
    1 Congress Street
    Suite 1100 (HBT)
    Boston, Massachusetts 02114-2023

19. The effective date of this Consent Order, once fully executed, is the date of transfer of all interests in the Site, including ownership interests of the twenty-one condominium units and these units' mill building and associated common property. The Respondent shall provide the Commissioner and EPA with copies of the deeds evidencing the transfer of all interests in the Site.

20. Respondent consents to the issuance of this Consent Order without further notice. The undersigned Signatories certify that they are fully authorized to enter into this Consent Order and to legally bind the Respondent to the terms and conditions of the Consent Order.

RESPONDENT

November 4, 2003
Date

Michael A. Monts
Vice President and General Counsel
Hamilton Sundstrand Corporation

Issued as a final order of the Commissioner of the Department of Environmental Protection.

November 19, 2003
Date

Arthur J. Rocque, Jr.
Commissioner

ORDER NO. SRD-154
DISCHARGE CODE H
TOWN OF EAST WINDSOR
LAND RECORDS

HAMILTON SUNDSTRAND CORPORATION

ASSISTANT SECRETARY'S CERTIFICATE

THE UNDERSIGNED, Antonio Braz, Assistant Secretary of HAMILTON SUNDSTRAND CORPORATION, a corporation duly organized and existing under the laws of the State of Delaware (the "Corporation"), hereby certifies as follows:

1. Pursuant to a Unanimous Consent of Directors of the Corporation dated September 3, 1999 (the "Consent"), Michael A. Monts, acting in his capacity as Vice President, General Counsel & Secretary of the Corporation, is authorized to execute certain contracts, agreements, instruments and documents (including modifications thereto) as he may deem necessary and proper to carry-out the business of the Corporation.

2. Pursuant to the aforesaid Consent, Michael A. Monts, in his capacity as Vice President of the Corporation, has authority to execute that certain Consent Order in the matter of the State of Connecticut v. Hamilton Sundstrand, a subsidiary of United Technologies Corporation, concerning certain real property located at Brookside Drive and 110-112 Main Street, East Windsor.

IN WITNESS WHEREOF, the undersigned has executed the Certificate as of the 10th day of November, 2003.

Antonio Braz, Assistant Secretary