

IN THE COURT OF COMMON PLEAS  
PICKAWAY COUNTY, OHIO

FILED-COMM. PLEAS

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SHARON K. COLLINS  
CLERK OF COURTS  
PICKAWAY COUNTY

STATE OF OHIO,  
*ex rel.* LEE FISHER  
ATTORNEY GENERAL OF OHIO,

*Plaintiff,*

vs.

GENERAL ELECTRIC COMPANY,

*Defendant.*

CASE NO. 90-CI-77

JUDGE WILLIAM AMMER

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CONSENT ORDER

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The State of Ohio, by its Attorney General Lee Fisher, at the written request of the Director of Environmental Protection, has filed a Complaint seeking injunctive relief and civil penalties from the Defendant for violations of Revised Chapter 3704. and the regulations adopted thereunder. With regard to these issues, the parties have reached agreement on the terms of permanent injunctive relief and civil penalties. This Consent Order supercedes the Agreed Preliminary Injunction previously entered by the parties and this Court on May 7, 1990.

**NOW THEREFORE**, without trial or admission by Defendant of any issue of fact or law, and upon consent of the parties hereto, it is hereby **ORDERED, ADJUDGED, and DECREED:**

## I. DEFINITIONS

1. As used in this order, the following terms are defined as follows:

a. "Facility" means Defendant General Electric's property located at 559 East Ohio Street, Circleville, Ohio.

b. "Ohio EPA" means the Ohio Environmental Protection Agency.

c. "CDO" means the Central District Office of the Ohio EPA.

d. "Air Contaminant Source" or "source" has the same meaning as set forth in OAC Rule 3745-31-01(D).

e. "Permit to Install" or "PTI" has the same meaning as set forth in OAC Chapter 3745-31.

f. "Permit to Operate" or "PTO" has the same meaning as set forth in OAC Chapter 3745-35.

g. "Agreed Preliminary Injunction" or "API" means the order entered by the parties and this Court on May 7, 1990.

## II. JURISDICTION AND VENUE

2. The Court has jurisdiction over the parties and the subject matter of this case. Venue is proper in this Court.

## III. PERSONS BOUND

3. The provisions of this Consent Order shall apply to and be binding upon the Defendant, its officers, agents, servants, employees, successors and assigns, and those persons in active concert or participation with it who receive actual notice of the order whether by personal service or otherwise,

but only with respect to its operations at its Facility as defined herein.

4. The Defendants shall provide a copy of this Consent Order to each contractor employed to perform the work itemized herein, and each general contractor shall provide a copy of this Consent Order to each of its subcontractors for such work.

**IV. SATISFACTION OF LAWSUIT AND RESERVATIONS OF RIGHTS**

5. Entry of this Consent Order and compliance with Sections VI, IX, AND XIII of this Consent Order shall constitute full satisfaction of any civil liability by Defendant for the claims alleged in the Plaintiff's Complaint, and any other claims for violations of the API or of ORC Chapter 3704. which are identified from facts submitted by the Defendant in the Air Assessments submitted by the Defendant pursuant to the API.

6. This Consent Order shall not be construed to limit the authority of the State of Ohio to seek relief for claims or conditions not satisfied by paragraph 5 of this Consent Order, nor shall this Consent Order bar the State from bringing any action against the Defendant for any violations or conditions which occur after this Order is entered. Nothing in this Consent Order shall be construed to relieve Defendant of its obligation to comply with applicable federal, state or local statutes, regulations or ordinances.

**V. PERMANENT INJUNCTION**

7. Defendant is hereby permanently enjoined from installing or modifying at its Facility any source without

obtaining a PTI prior to commencement of such proposed installation or modification. Except as provided in paragraph 11, Defendant is hereby permanently enjoined to comply with OAC Chapter 3745-35 at the Facility. Defendant is hereby enjoined to submit complete renewal applications for any PTO's which expire for sources which Defendant continues to operate at the Facility.

8. Except as provided in paragraph 11, Defendant is hereby permanently enjoined to comply at the Facility with ORC Chapter 3704. and the rules promulgated thereunder, and Defendant is hereby permanently enjoined to fully comply with all air PTI's and PTO's issued to the Defendant for sources at the Facility by the Ohio EPA, including any and all terms and conditions associated with those permits.

#### **VI. FACILITY EMISSION TESTING**

9. Defendant is hereby enjoined to perform the emission testing described below:

- (a). Defendant is enjoined to test Coater 6 within 60 days of the entry of this Consent Order in order to generally verify the presumptions made in modeling emissions from Coaters 6, 10, and 12 while operating at maximum production levels and in order to quantify outlet emissions for monoethanolamine (MEA) and ammonia. The testing must be performed as follows: Defendant is to conduct emission testing for MEA and ammonia on the oven stack and the two roof vent stacks for Coater 6. The test shall consist of three one hour runs and shall be performed in accordance with approved methodologies. The coating line shall be operated at maximum production levels during the testing runs, and shall utilize those standard coating formulations normally used in production operations which represent the probable worst case emission

scenario. If the test is run while the coating line is at less than 80% of the maximum production level, the tests must be repeated. The coater mix tanks for Coater 6 should be at least temporarily covered prior to the tests being performed. Emission test results for coater 6 shall be submitted to Ohio EPA within ten days of Defendant's receipt of the test results but in no event later than sixty days after completion of the test.

Emission testing is not required for coaters 10 and 12. However, in order to generally verify the coating consumption levels and air flow rates for coaters 10 and 12, GE must measure coating consumption levels and air flow rates for coaters 10 and 12 while operating at maximum production levels over a three hour period while utilizing those standard coating formulations normally used in production operations which represent the probable worst case emission scenario. Such verification shall be conducted as soon as practicable but in no event later than October 15, 1991. Defendant shall provide Ohio EPA with notice of the time and method of verifying coating consumption and production levels and air flow rates at least 30 days before verification. Coating formulation data, usage data, and air flow rates for coaters 10 and 12 must be provided no later than November 15, 1991.

- (b). Defendant is enjoined to test for total hydrocarbons or 2-ethoxyethanol on the outlet stack for the Hitachi Coater within 90 days of the entry of this Consent Order in order to generally verify the presumptions made in modeling emissions from the Hitachi coater. The test shall consist of two runs of four hours each and shall be performed in accordance with approved methodologies. The coating line shall be operated at maximum production levels during the testing runs, and shall utilize those standard coating formulations normally used in production operations which represent the probable worst case emission scenario. If the test is run while the coating line is at less than 80% of the maximum production level, the tests must be repeated. The coater mix tanks for the Hitachi coater

should be at least temporarily covered prior to this test being performed. Coating formulation and usage data for the testing period must be provided with the emission test report for the Hitachi coater. The test report and coating data shall be submitted to Ohio EPA within ten days of Defendant's receipt of the test results but in no event later than sixty days after completion of the test.

#### VII. AIR PERMITS

10. If the Ohio EPA notifies Defendant in writing that any permit application submitted pursuant to this Order or pursuant to the API is not complete, accurate and in full compliance with all relevant statutes and regulations, Defendant shall cure any deficiencies of which it receives written notice within thirty (30) days of receiving such notice. In addition, if Ohio EPA notifies Defendant that there are any sources at the Defendant's Facility which are not properly permitted, Defendant shall submit complete and approvable permit applications within thirty (30) days for those sources; provided, however, that if Ohio EPA advises Defendant that its permit application as originally submitted is not complete and/or approvable, Defendant shall supplement its application to the satisfaction of Ohio EPA pursuant to paragraph 12 of this Consent Order so as to make the application complete and/or approvable. Defendant may request additional time to submit permit applications on the basis that more time is necessary to submit complete and/or approvable applications. However, no additional time for the submission of permit applications may be utilized by Defendant without the prior written approval of Ohio EPA.

11. Except as otherwise provided for in this Consent Order, Defendant may continue to operate those sources for

which permit applications or renewals have been submitted pursuant to the API and/or this Consent Order pending the Ohio EPA's action on the applications or renewals. Nothing in this Consent Order shall interfere with or alter Defendant's appeal rights under ORC Chapter 3745. Additionally, nothing in this Consent Order shall be construed to restrict the authority of the Director, under ORC Chapters 3745 and 3704, to take any actions relating to Permits to Operate or Permits to Install for Defendant's facility which may impose obligations different from those specified in this Consent Order. In the event different obligations are imposed through the issuance of such permits, such obligations shall supersede those obligations in the Consent Order which are rendered inconsistent.

**VIII. RESPONSE TO OHIO EPA COMMENT LETTERS**

12. If the Ohio EPA sends any comment letters regarding air permit applications submitted by Defendant, or the air assessments submitted pursuant to the API, the Defendant shall fully respond to all comments within thirty (30) days of receiving the comments, or within such longer time frames specified in Ohio EPA's letter.

**IX. ENGINEERING PLANS AND CONSTRUCTION SCHEDULES**

13. Defendant is hereby enjoined to install on or before November 1, 1991, in accordance with this section of the Consent Order, and thereafter maintain and operate carbon adsorption mercury vapor emission control equipment on the Central Vacuum System ("Central") and Lamp Assembly Group 14 Vacuum System ("Group 14") pump exhausts that will reduce the

total combined mercury vapor emission rates from these sources. Defendant is hereby enjoined to operate and maintain the control equipment installed pursuant to this paragraph in such a manner as to ensure that the control efficiency of that equipment (i.e., the percentage of mercury emissions removed by the carbon adsorption equipment) is not less than 90% at any time. Defendant shall also by that date install on the following units and thereafter continue to operate and maintain the following equipment capable of operating at the following flow rates:

<u>Unit</u>	<u>Equipment</u>	<u>Flow Rate</u>
Central Vacuum System and Lamp Assembly Group 14 Vacuum System	single eight inch inside diameter stack venting at least 50 feet above the ground	≥ 1000 ACFM
Lamp Assembly Group 15 Vacuum System	eight inch inside diameter stack venting at least 46 feet above the ground	≥ 1000 ACFM
Lamp Assembly Group 21 Vacuum System	six inch inside diameter stack venting at least 32 feet above the ground	≥ 0.83 ACFM
Bulb Crusher	twelve inch inside diameter stack venting at least 53 feet above the ground	≥ 2333 ACFM

14. No later than December 31, 1991, Defendant is enjoined to conduct mercury emission tests on the control equipment installed on Central and Group 14 and the stacks for Group 15, Group 21, and the Bulb Crusher in order to generally verify the presumptions made in modelling mercury emissions from these



sources. Additionally, testing of the uncontrolled mercury emissions from Central and Group 14 shall be conducted to ensure that the control efficiency of the equipment installed for those sources is not less than 90%. The tests on these sources shall be conducted while the sources are operating at a level as close to maximum production rates as possible while still allowing Defendant to maintain quality and production schedules and rates. To the extent practical during the emission testing, Defendant will schedule production to include lamp types which require, per engineering design specifications, the highest volume of mercury per lamp. The emission test results shall be scaled up to maximum production levels and maximum mercury dose per lamp (per engineering design specification) in order to determine if the test results generally verify the presumptions made in modeling mercury emissions from these sources. The Central system control equipment shall be tested with at least 12 groups operating, plus Group 14. The combined actual production rates shall be equal to or greater than 80% of the maximum production rate for those groups.

15. The emission tests required by Paragraph 14, above, shall consist of two test runs following USEPA Reference Methods 1 through 4 and 101 ("Methods 1-4 and 101"), modified as necessary to compensate for factors involved in the operation of the controlled systems such as but not limited to the fact that there may be a pulsing rather than a constant air flow. Each test run shall be of at least four hours duration.

If Defendant seeks to use modifications to methods 1-4 and 101, Defendant shall not use such modifications until receiving prior written approval from OEPA. The emission test report shall be submitted to Ohio EPA within ten (10) days of its receipt by Defendant, but in no event later than sixty days after completion of the test. Defendant shall thereafter operate Central, Group 14, Group 15, Group 21, and the Crusher either:

- (a). under conditions calculated to be essentially equivalent to those existing during the emission tests, or during subsequent similar emission tests, all of which demonstrate compliance with the allowable flow rates and the control efficiency set forth in paragraph 13, or
- (b). in a manner that will emit less mercury than would be emitted under subparagraph 15(a), above.

16. By no later than September 1, 1991, Defendant is hereby enjoined to modify its PTI and PTO applications for Groups on Central, Group 14, Group 15, Group 21, and the Crusher so as to reflect the installation of controls and other modifications to such sources described in paragraph 13.

17. By no later than December 1, 1991, Defendant is hereby enjoined to reduce volatile organic emissions from the upflush room so that such emissions do not exceed 32.85 tons/year unless a different emission limit is incorporated into a Permit to Install issued to Defendant for the upflush room.

18. Defendant is hereby enjoined to install and maintain tightly fitting covers on the mix tanks at the coaters and mix rooms at the Facility in accordance with the May 21, 1991 letter from Barry J. Hallock of Defendant to David Newsad of

Ohio EPA, which is attached hereto (Attachment "A") and incorporated by reference, except that no hose opening shall have a diameter more than 1.5 inches greater than the outside diameter of the hose to be situated in the opening. The covers shall be installed no later than September 1, 1991.

**X. POTENTIAL FORCE MAJEURE**

19. In any action to enforce any of the provisions of this Consent Order Defendant may raise at that time the question of whether it is entitled to a defense that its conduct was caused by reasons beyond its control such as, by way of example and not limitation, Acts of God, unusually severe weather conditions, strikes, acts of war or civil disturbances, or conflicting orders of any regulatory agencies or courts. While Plaintiff does not agree that such a defense exists, it is, however, hereby agreed upon by the parties that it is premature at this time to raise and adjudicate the existence of such a defense and that the appropriate point at which to adjudicate the existence of such a defense is at the time that an enforcement action, if any, is commenced. Acceptance of this Consent Order without a force majeure clause does not constitute a waiver by Defendant of any rights or defenses it may have under applicable law or equity.

**XI. TRADE SECRET STATUS**

20. Nothing in this Consent Order shall be construed to alter or waive the ability that the Defendant would otherwise have to obtain confidential treatment for trade secret information submitted pursuant to these Orders.

XII. SUBMITTAL OF DOCUMENTS

21. Documents which must be submitted under this Order shall be submitted as follows:

a. All documents submitted to the Ohio EPA shall be sent to:

Ohio Environmental Protection Agency  
Attention: James Orlemann  
Central Office, Division of Air Pollution Control  
P.O. Box 1049  
1600 WaterMark Drive  
Columbus, OH 43266-0149

and to:

Ohio Environmental Protection Agency  
Attention: David Newsad  
Central District Office  
P.O. Box 2198  
Columbus, Ohio 43266-2198

b. All documents submitted to General Electric shall be sent to:

General Electric Company  
Attention: General Manager,  
Environmental Health and Safety  
Nela Park, Noble Road  
Cleveland, Ohio 44112

and to:

General Electric Company  
Attention: General Counsel  
Nela Park, Noble Road  
Cleveland, Ohio 44112

22. Defendant's obligations to respond to Ohio EPA comments or notices shall be deemed to begin on the business day following actual receipt by Defendant of said comments or notices.

XIII. PAYMENT PURSUANT TO ORC 3704.06

23. Pursuant to ORC 3704.06, Defendant shall pay one million six hundred thousand dollars (\$1,600,000.00), to the State of Ohio. Payment shall be made by delivering a check or money order, payable to the "Treasurer of the State of Ohio" for the above stated amount to counsel for Plaintiff, Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street - 25th Floor, Columbus, OH 43266-0410, within sixty (60) days of the entry of this Order.

XIV. ENFORCEMENT OF THIS ORDER

24. If Defendant fails to comply with this Consent Order, Defendant is liable for and shall immediately pay stipulated penalties according to the following schedule:

a.) Defendant shall pay twenty thousand dollars (\$20,000.00) for each new source installed at the Facility after the date of entry of this Consent Order without a PTI, and shall pay two thousand dollars (\$2000.00) per day for that source for each day after it is installed at the Facility until a permit to install is issued or the unpermitted source is removed or rendered incapable of operation;

b.) Defendant shall pay seven thousand dollars (\$7,000.00) for each source at the Facility modified after the date of entry of this Consent Order without a PTI, and shall pay one thousand dollars (\$1000.00) per day for that source for each day after it is modified at the Facility until a permit to install is issued or the modification is eliminated;

c.) Defendant shall pay two thousand dollars (\$2000.00) per day per source for each day that source at the Facility is operated after the date of entry of this Consent Order without a PTO or registration status or without a proper renewal application pending for it before Ohio EPA, or is operated in violation of an existing PTO ("existing" means issued and effective on or before the date of entry of this Consent Order) or is operated in violation of the terms and conditions of an existing PTO; and

d.) Defendant shall pay one thousand dollars per day for the first thirty days and five thousand dollars for each day thereafter for each day of each violation of the schedules and deadlines required by and/or set forth in Section IX.

25. Stipulated penalties due under this Consent Order shall be paid by check or money order, payable to "Treasurer, State of Ohio", and mailed to counsel for Plaintiff at the Office of the Attorney General, Environmental Enforcement Section, 30 East Broad Street - 25th Floor, Columbus, OH 43266-0410 within ten days of the occurrence of the failure to comply with this Order as described above.

26. The provisions of this Consent Order set forth in paragraph 24 requiring the payment of stipulated penalties shall terminate if Defendant has complied with this Order for a period of two years and all penalties required by this Order have been paid. Termination of stipulated penalties shall only be by Order of this Court upon application of any party and only after a demonstration that the conditions set forth in

this paragraph have been met. Defendant reserves any rights it has pursuant to Ohio Rule of Civil Procedure 60.

**IT IS SO ORDERED.**

8-30-97  
DATE

William Ammer  
JUDGE WILLIAM AMMER  
Court of Common Pleas  
Pickaway County

*By the signatures below each of the parties named consents to this Order:*

**GENERAL ELECTRIC COMPANY**

Daniel R. Hebert  
DANIEL R. HEBERT, Plant Manager  
Circleville Lamp Plant  
Authorized Representative of  
Defendant General Electric  
Company

**LEE FISHER  
ATTORNEY GENERAL OF OHIO**

Ch. Korleski  
CHRISTOPHER KORLESKI  
GERTRUDE KELLY  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street - 25th Floor  
Columbus, Ohio 43266-0410  
Telephone: (614) 466-2766

*Counsel for State of Ohio*

John W. Hoberg  
JOHN W. HOBERG  
DAVID W. HARDYMON  
*Vorys, Sater, Seymour & Pease*  
52 East Gay Street  
P.O. Box 1008  
Columbus, Ohio 43216-1008  
Telephone: (614) 464-6213

*Counsel for General Electric  
Company*

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kmh



ATTACHMENT A

FILED-COMM. PLEAS  
GE Lighting

Circleville Lamp Plant  
General Electric Company  
Box 31, E. Ohio St., Circleville, OH 43113

91 AUG 30 PM 1:41  
CHARLES CLINE  
CLERK OF COURTS  
MAY 21 1991

Ohio Environmental Protection Agency  
Attention: David Newsad  
Central District Office  
P.O. Box 2198  
Columbus, OH 43266-2198

Dear Mr. Newsad:

The proposed coater tank lid design has been revised to enclose as much open area as possible. The attached drawing shows the proposed design with three openings, one for the coater sump return line, one for the coating tank pump bypass line and one for the fill hose when coating is added to the tank. (The drawing is of the coating tank inside of coater #6. The coater tanks inside of the other coaters vary in size and shape, however, the design would be basically the same with as much enclosure as possible.)

If you should have any questions concerning this letter or the enclosed information please do not hesitate to call.

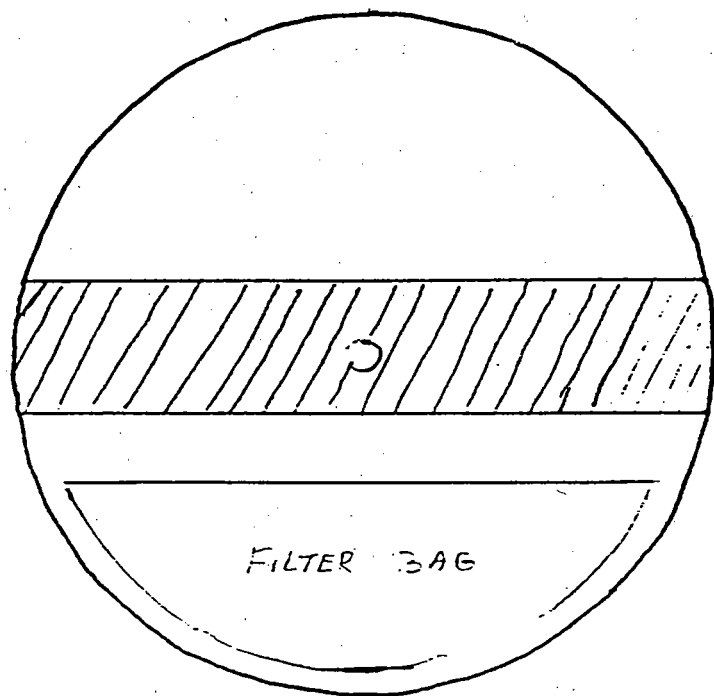
Sincerely,

Barry J. Hallock  
Environmental Engineer  
Circleville Lamp Plant

cc: Mr. James Orlemann



Top View  
Coating Tank



↑  
10 1/4"  
↓

↑  
4"  
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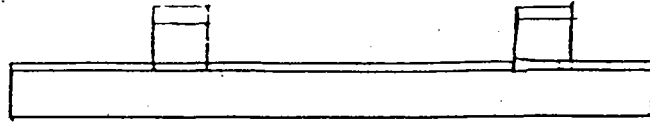
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7 1/2"  
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← 36" →

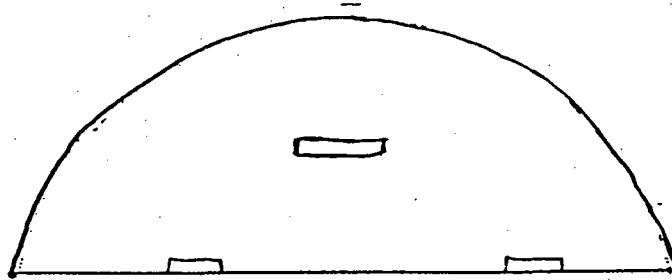
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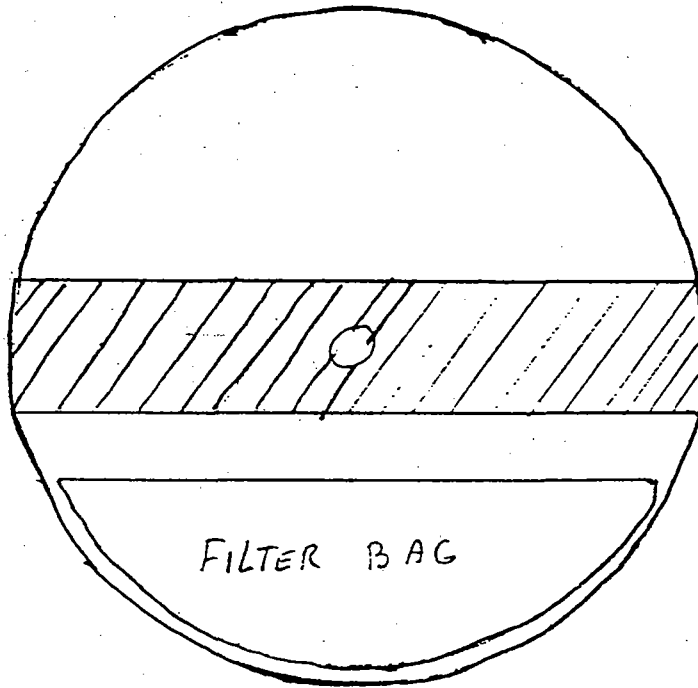
Handles



Top View  
of Lid

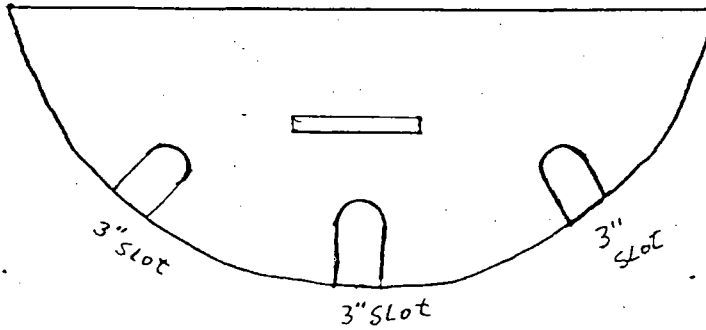


13"



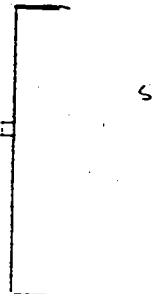
18"

TOP VIEW



13"

side view



8"



front view