

STATE OF NEW YORK : DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of the Modification of  
the Closure Plan and of a Remedial  
Investigation and Feasibility Study for  
the Blydenburgh Landfill (New York  
State Registry of Inactive Hazardous  
Waste Disposal Sites #152002) by the

ORDER  
ON  
CONSENT

TOWN OF ISLIP AND THE ISLIP  
RESOURCE RECOVERY AGENCY

Case # RI-0667-87-05  
(Index #1-0667-A)

Respondents

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RECITALS:

R-1. The New York State Department of Environmental Conservation ("the Department") is responsible for the enforcement of Article 27, Title 13, of the Environmental Conservation Law of the State of New York ("the ECL"), entitled "Inactive Hazardous Waste Disposal Sites" and Section 27-0703 of the New York State Environmental Conservation Law of the State of New York, gives the New York State Department of Environmental Conservation, hereinafter referred to as the "Department", the power to adopt and promulgate, amend and repeal rules and regulations governing the operation of solid waste management facilities.

R-2. The Town of Islip ("the Town") is a municipal corporation organized and existing under the laws of the State of New York. The Islip Resource Recovery Agency is a public authority organized and existing under the laws of the State of New York.

R-3. The Town and Agency are collectively called the "Respondents".

R-4. The Agency owns and the Town operates pursuant to an agreement with the Agency an 87-acre Landfill at Blydenburgh Road, north of Motor Parkway, Hauppauge, Town of Islip, New York (the "Landfill" or the "Site"). The Landfill has been in operation since 1927; approximately 47 acres of the Landfill have been filled.

R-5. The Landfill is listed as an inactive hazardous waste disposal site, as that term is defined in ECL §27-1301(2). The site has been designated as Site No. 152002 and has a Classification of 2. The Landfill has been nominated for inclusion on the National Priority List of Federal Superfund Sites under the Federal Comprehensive Environmental Response, Compensation, and Liability Act.

R-6. By an Order on Consent dated August 5, 1980, the Town agreed to the capping and closure of the Landfill in accordance with a plan to be approved by the Department. As of the date of this Order, such plan for capping and closure has been submitted by the Town but has not been approved by the Department.

R-7. This Order is an interim Order. The Department and Respondents acknowledge that another Order will specifically provide for a remedial investigation and feasibility study and remediation of any present or potential future threat to the environment and/or public health at the Landfill and at affected off-Site areas, if necessary.

R-8. The Department, by executing this Order, in no way waives its rights, authority or obligations to require the Town, Agency, or any other responsible party, to perform additional investigation and remediation.

R-9. Respondents, having consented to the issuance and entry of this Order in lieu of a hearing in this matter to which they are entitled by law, agree to be bound by the provisions, terms and conditions hereof.

NOW, having considered this matter and being duly advised,

IT IS ORDERED THAT:

I. As set forth in Appendix A, the Town shall modify the closure plan previously submitted by the Town in accordance with Paragraph 7 of the Consent Order referenced in Paragraph R-6 above, to allow the immediate use of those areas identified as areas "B", "C," and "D" for municipal solid waste. The slope of all areas shall not exceed one foot vertically to three feet horizontally. The final elevation of area "D" shall not exceed 300 feet above sea level. The continued use of the Landfill as set forth herein is conditioned upon Respondents' compliance with all terms and conditions of this Order on Consent.

II. Within ninety days of the date of this Order, Respondents shall enter into a further Order on Consent with the Department, which shall require Respondents to undertake a Remedial Investigation and a Feasibility Study of Remedial Options ("RI/FS") as well as remediation of the Landfill in

accordance with such RI/FS, as approved by the Department. Such Order shall include a Work Plan for the RI/FS as approved by the Department and shall contain interim milestones for completion of all facets of such work conducted in accordance therewith, as approved by the Department. The work plan shall be in compliance with all requirements as set forth in the National Contingency Plan as established by the United States Environmental Protection Agency ("EPA"). The Department and Respondents agree that the Order shall be modified in any manner as required by EPA.

III. Within thirty days of the date of this Order, the Respondents shall provide to the Department a summary of all information and data which they possess regarding the use of the Landfill for disposal of hazardous wastes, including the identity of all generators and transporters who have utilized the Landfill as set forth in any documents possessed by either of the Respondents.

IV. Respondents shall undertake all reasonable efforts to obtain from their insurance carriers indemnification of all costs associated with remediation of the Landfill. In this regard, Respondents shall provide to the Department within 30 days of the execution of the Order, copies of all documents which it possesses regarding such insurance coverage. It is further agreed that any settlement which Respondents may enter with any of its insurance carriers shall be subject to the review and approval of the Department.

V. Respondents shall pay to the Department a sum not to exceed \$125,000 per year (in 1987 dollars as shall be adjusted for pay increases and inflation) for the employment by the Department of full-time monitors at the Landfill. Such monitors shall assure that (1) the Landfill is used exclusively for non-hazardous waste from generators located within the Town; (2) such waste is deposited at the Landfill in accordance with applicable rules and regulations, and (3) the terms of this Order are adhered to. Within 30 days of the execution of this Order, the Department shall provide to Respondents a detailed description of the titles, duties, and projected costs of such monitors.

VI. The Respondents shall install a leachate barrier and collection system subject to the approval of the Department to mitigate leachate percolation into those existing fill areas underlying Area "C" as set forth in the plan view of Appendix A. The Respondents shall also construct a leachate barrier and collection system in the northwest portion of the Landfill, designated as Area "F" in Appendix A, in which the Respondents shall deposit only ash from its resource recovery facility until December 18, 1990. It is understood that the Respondents shall file an application for a variance from the provisions of 6NYCRR §360.8(b)(2)(iii).

VII. The Respondents shall modify the existing gas collection system at the Landfill by no later than six months

from the execution of this Order to insure that no off-site migrations of toxic or explosive gases shall occur.

VIII. Upon the execution of this Order the Town shall immediately enter into an action program aimed at the recycling of the Town's municipal waste to the maximum extent practicable and consistent with the goals and timetables set forth in the New York State Solid Waste Management Plan, dated March 31, 1987.

IX. It is understood that pursuant to 6NYCRR Part 360 the Respondent may file an application for the construction and operation of a clean fill landfill to be located in the area designated as Excavation Area (E) on Appendix A. The use of this area for the proper disposal of the inert portion of the municipal solid waste stream may be appropriate with proper precautions, including but not limited to the installation of an approved liner system, completion of appropriate ground water investigations, and the imposition of conditions such as security and monitoring, to insure that no non-inert materials are deposited therein. For purpose of such an application, the completion of the Remedial Investigation as described in Paragraph II as approved by the Department, shall constitute sufficient ground water investigation and background data to enable the Department to consider the application complete as to hydrogeologic data.

X. Nothing herein shall be construed as barring, diminishing, adjudicating or in any way affecting any legal or equitable rights or claims, actions, suits, causes of

action or demands whatsoever that the Department and/or the Respondents may have against anyone not a party hereto.

XI. Respondents shall permit any duly designated officer, employee, consultant, contractor or agent of the Department to enter upon the Site or areas in the vicinity of the Site which may be under the control of Respondents, and any areas necessary to gain access thereto, for inspection purpose and for the purpose of making or causing to be made, such sampling and tests as the Department deems necessary and for ascertaining Respondents' compliance with the provisions of this Order.

XII. The failure of Respondents to comply with any provision of this Order may be deemed by the Department to constitute a default and a failure to perform an obligation under this Order.

Nothing in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting: (1) any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Department may have against anyone other than Respondents, their directors, officers, employees, servants, agents, successors and assigns; or (2) the Department's right to enforce, at law or in equity, the terms and conditions of this Order against Respondent.

XIII. The effective date of this Order shall be the date this Order is signed by the Commissioner or his designee.

XIV. If, for any reason, Respondents desire that any provision of this Order be changed, Respondents shall make timely written application therefor to the Commissioner, setting forth reasonable ground for the relief sought.

XV. In the event that Respondents propose to convey the whole or any part of its ownership interest in the Landfill, Respondents shall, not less than thirty (30) days prior to the consummation of such proposed conveyance, notify the Department in writing of the identity of the transferee and of the nature and date of the proposed conveyance. In advance of such proposed conveyance, Respondents shall notify the transferee in writing, with a copy to the Department, of the applicability of this Order.

XVI. A. All communications required hereby to be made between the Department and Respondents shall be made in writing and transmitted by United State Postal Service return receipt requested or hand delivered to the addresses as listed hereunder:

B. Communication to be made from Respondents to the Department shall be as follows:

1. One (1) copy to the Regional Attorney, Region One NYSDEC, Building 40 - SUNY, Stony Brook, NY 11794.
2. One (1) copy to the Regional Solid Waste Engineer Region One NYSDEC, Building 40 - SUNY, Stony Brook, New York 11794
3. One (1) copy to the Division of Environmental Enforcement, Attn: Director, New York State



Department of Environmental Conservation, 50 Wolf Road,  
Albany, New York 12233.

4. One (1) copy to the Division of Solid and  
Hazardous Waste Attn: Director, New York State Department  
of Environmental Conservation, 50 Wolf Road, Albany, New York  
12233.

C. Communication to be made from the Department  
to the Respondents shall be made as follows:

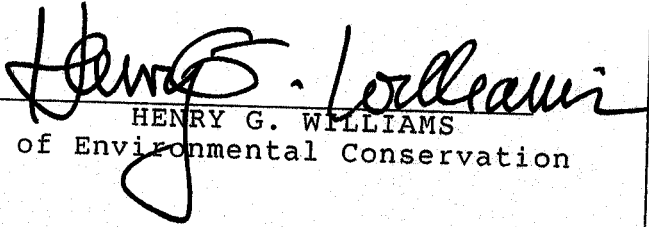
1. One (1) copy to Mr. Frank R. Jones,  
Supervisor, Town of Islip, Town Hall, 655 Main Street, Islip,  
New York 11751, and

2. One (1) copy to Islip Resource Recovery  
Agency, 40 Warsaw Avenue, Islip, New York 11721.

D. The Department and Respondents respectively  
reserve the right to designate other or different addresses  
on notice to the other.

XVII. The provisions hereof shall constitute the  
complete and entire Order between Respondents and the  
Department concerning the Landfill. No terms, conditions,  
understandings or agreements purporting to modify or vary the  
terms hereof shall be binding unless made in writing and  
subscribed by the parties to be bound.

Dated: Albany, New York  
May 12, 1987

  
HENRY G. WILLIAMS  
Commissioner of Environmental Conservation



TOWN OF ISLIP  
RESOURCE RECOVERY AGENCY

By: *Frank R. Jones*  
Title: *Chairman*

STATE OF NEW YORK    )  
                                  )    s.s.:  
COUNTY OF            )

On the *12<sup>th</sup>* day of *May* 1987, before me  
personally came *Frank R. Jones* to me known,  
who being duly sworn, deposed and said that he resides at  
*Sayville N.Y.* that he is the *Chairman of the Board of Directors*  
of the Town of Islip Recovery Agency, the public  
authority pursuant to the laws of the State of New York  
described in and which executed the foregoing instrument, and  
that he signed his name for and on behalf of said public  
authority with full authority so to do.

*Michael J. [Signature]*  
NOTARY PUBLIC

APPENDIX A

