



*76 copy each  
cc: to J&I*

*Com Ron Traumontano J.C.I.  
F&I plus Smith*

RECEIVED  
DEC 26 1985  
BUREAU OF ENVIRONMENTAL ACTION  
DIVISION OF LAND AND  
HAZARDOUS WASTE

New York State Department of Environmental Conservation

MEMORANDUM

TO: Commissioner Williams  
FROM: David Engel  
SUBJECT: Orders on Consent for Fort Edward and Kingsbury Landfills  
DATE: October 29, 1985

Attached for your signature are Orders on Consent regarding the above-referenced inactive hazardous waste sites. Each site is contaminated with a variety of waste solvents including trichloroethylene and methylisobutyl ketone as well as PCB's.

These sites were previously the subject of the so-called General Electric Seven Sites Agreement executed in 1980. By that Agreement, GE agreed to bear approximately 50% of the costs associated with remediation of the two sites. Remediation at each site will cost about \$4,000,000. Since that time, the Department, working with the Attorney General, has sought to obtain contributions from other responsible parties including the Towns of Kingsbury and Fort Edward and the DECORA Division of United Merchants and Manufacturers - located in Fort Edward. DECORA has agreed to pay approximately \$500,000 as its contribution to remedial costs at the two sites.

The Orders provide that each Town acknowledges that its landfill is an inactive hazardous waste site which constitutes a significant threat to the environment. Each Town further acknowledges that it is a responsible party for the hazardous wastes located at the respective sites within the meaning of ECL Section 27-1313. The Orders provide that a remedial program shall be developed and implemented for each site. To this end, each Town will be responsible for a portion of the costs associated with each site which will not be borne by other parties; specifically, each Town will pay to the State a sum of \$10,000 per year for thirty years. In addition, each Town will be responsible for routine maintenance at the respective sites after closure, i.e., lawn mowing and fence repair. The actual remedial programs will be undertaken by the Department. The expenses of those programs which are not covered by GE, DECORA or the Town will be covered by State Superfund.

Each Town's responsibility is limited to the duties described above on the basis of the Department's determination that neither Town has sufficient financial resources to bear all the costs not heretofore assumed by other responsible parties.

Finally, the Fort Edward Order provides that by October 1, 1988, the Town will either send its waste to a new Washington County Resource Recovery Project or have filed an application for a new solid waste management facility to replace the existing landfill.

DE/jp

Attachments

cc: D. Banks  
J. Greenthal  
N. Nosenchuck  
J. Corr  
L. Marsh  
J. Iannotti ✓  
T. Monroe  
D. Munro

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Remedial Program  
for an Inactive Hazardous Waste  
Disposal Site, Under Article 27,  
Title 13, of the Environmental  
Conservation Law of the State of  
New York (the "ECL") for the  
Town of Kingsbury Landfill.

AGREEMENT  
AND  
DETERMINATION

Index #T091985-K

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WHEREAS,

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".

2. The Town of Kingsbury (the "Town") is a municipality organized and existing under the laws of the State of New York.

3. The Town operates a municipal landfill in the Town of Kingsbury with access thereto from Burgoyne Avenue via Feedertow Road (the "Site"). A map of the Site is attached hereto and is hereby incorporated into this Agreement and Determination as Appendix "A". The owner of the land on which the Site is located is reputed to be Jeanne Murphy.

4. Beginning in approximately 1930 and continuing to 1985, a landfill was operated at the Site at which certain hazardous and industrial wastes were disposed.

5. The Site is an inactive hazardous waste disposal site, as that term is defined in ECL Section 27-1301(2).

6. The hazardous and industrial wastes, hazardous waste

constituents and toxic degradation products thereof at and in the vicinity of the Site and those migrating and/or threatening to migrate from the Site constitute a significant threat to the environment.

7. Pursuant to ECL Section 27-1313(3)(a), whenever the Commissioner of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the department, at such site, and (ii) to implement such program within reasonable time limits specified in the order."

8. The Town acknowledges that it is a responsible person for the hazardous wastes at the site within the meaning of ECL Section 27-1313.

9. The Department and Respondent acknowledge that the goals of this Agreement and Determination shall be that a remedial program shall be developed and implemented for the Site to control certain environmental hazards in connection with the Site.

10. Other persons responsible for the disposal of hazardous wastes at the Site have been identified. Those responsible persons include the General Electric Company and United Merchants and Manufacturers.

11. The cost for remediation of the Site is estimated to

be approximately 4.0 million dollars [1985]. The Department has found that the Town is without the financial resources to bear all those costs associated with the remedial program which have not been borne by other responsible parties.

12. The Town, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Agreement and Determination, agrees to be bound by provisions, terms and conditions hereof.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Upon the completion of the remedial program which the Department shall undertake with respect to the Site, for a period of 30 years from the date on which the Department provides written acknowledgment that elements of the Remedial Program have been implemented, the Town shall pay to the State of New York a sum of Ten Thousand Dollars (\$10,000.00) on or before October 1 of each of said 30 years, without interest. In addition, the Town agrees to mow the lawn at the site and to make minor fence repairs when needed. It is specifically understood between the parties that the Town shall have no active or passive responsibilities arising out of the existence of the Town of Kingsbury landfill, and, that the aforescribed monetary settlement and duties of lawn mowing and fence repair are in full satisfaction of any and all claims which may be brought by the State of New York or any agency thereof.

II. Upon its subscription to this Agreement and

Determination, the Town shall be released from each and every claim, demand, remedy or action whatsoever, which the Department has or may have pursuant to Article 27, Title 13 of the ECL relating to or arising from the disposal of hazardous and industrial wastes at the Site. Such release, however, shall in no way relieve the Town of those responsibilities described and set forth in Paragraphs I, IV, V and VIII hereof nor diminish the right of the Department to enforce the provisions of said paragraphs.

Furthermore, 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 may have against anyone other than the Town.

III. The effective date of this Agreement and Determination shall be the date on which it is signed by the Commissioner or his designee.

IV. If, for any reason, the Town desires that any provision of this Agreement and Determination be changed, the Town shall make timely written application therefor to the Commissioner, setting forth reasonable grounds for the relief sought.

V. The Town shall enter into such contractual relationships with the current owner(s) of the land upon which the landfill is located, as may be necessary, in order to assure that the following be undertaken and shall enforce compliance with such contractual provisions:

A. Within 30 days after the effective date of this Agreement and Determination, the owner(s) shall file a Declaration of Covenants and Restrictions with the real property records of the Washington County Clerk's Office, for the purpose of providing notice of this Agreement and Determination to all potential future purchasers of any portion of the Site. Said Declaration must indicate that any successor in title to any portion of the Site shall be responsible for implementing the provisions of this Agreement and Determination.

B. In the event that the owner(s) propose(s) to convey the whole or any part of his, her or their ownership interest in the Site, the owner(s) shall, not less than 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, the owner(s) shall notify the transferee in writing, with a copy to the Department, of the applicability of this Agreement and Determination.

VI. A. All communication required hereby to be made between the Department and the Town shall be made in writing and transmitted by United States Postal Service return receipt requested, or hand delivered to the address as listed hereinunder.

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

1. Two copies to the Director, Division of

Solid and Hazardous Waste, Room 209, 50 Wolf Road, Albany, New York 12233.

2. Two copies to the Division of Environmental Enforcement, Room 105, 50 Wolf Road, Albany, New York 12233.

3. Two copies to the Regional Director, Region 5, Ray Brook, New York 12977.

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

1. Two copies to the Supervisor of the Town of Kingsbury, 210 Main Street, Hudson Falls, New York 12839.

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

VII. The provisions of this Agreement and Determination shall be deemed to bind the Town, its agents, servants, employees, successors and assigns.

VIII. The provisions hereof shall constitute the complete and entire Agreement and Determination between the Town and the Department concerning the Site. 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 party to be bound. No informal advice, guidance, suggestions or comments by the Department regarding reports, proposals, plans, specifications, schedules or any other writing submitted by the Town shall be construed as



relieving the Town to its obligations to obtain such formal approvals as may be required by this Agreement and Determination.

DATED: *Oct 30*, New York, 1985

HENRY G. WILLIAMS  
Commissioner  
New York State Department of  
Environmental Conservation

*Henry G. Williams*

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STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Remedial Program  
for an Inactive Hazardous Waste  
Disposal Site, Under Article 27,  
Title 13, of the Environmental  
Conservation Law of the State of  
New York (the "ECL") for the  
Town of Fort Edward Landfill.

AGREEMENT  
AND  
DETERMINATION

Index #T091985 -F

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WHEREAS,

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".

2. The Town of Fort Edward (the "Town") is a municipality organized and existing under the laws of the State of New York.

3. The Town owns property in the Town of Fort Edward with access thereto from John Street Extension (the "Site"). A map of the Site is attached hereto and is hereby incorporated into this Agreement and Determination as Appendix "A".

4. Beginning in approximately 1969 and continuing to the present time, a municipal landfill was operated at the Site at which certain hazardous and industrial wastes were disposed.

5. The Site is an inactive hazardous waste disposal site, as that term is defined in ECL Section 27-1301(2).

6. The hazardous and industrial wastes, hazardous waste

constituents and toxic degradation products thereof at and in the vicinity of the Site and those migrating and/or threatening to migrate from the Site constitute a significant threat to the environment.

7. Pursuant to ECL Section 27-1313(3)(a), whenever the Commissioner of Environmental Conservation (the "Commissioner") "finds that hazardous wastes at an inactive hazardous waste disposal site constitute a significant threat to the environment, he may order the owner of such site and/or any person responsible for the disposal of hazardous wastes at such site (i) to develop an inactive hazardous waste disposal site remedial program, subject to the approval of the department, at such site, and (ii) to implement such program within reasonable time limits specified in the order."

8. The Town acknowledges that it is a responsible person for the hazardous wastes at the site within the meaning of ECL Section 27-1313.

9. The Department and Respondent acknowledge that the goals of this Agreement and Determination shall be that a remedial program shall be developed and implemented for the Site to control certain environmental hazards in connection with the Site.

10. Other persons responsible for the disposal of hazardous wastes at the Site have been identified. Those responsible persons include the General Electric Company and United Merchants and Manufacturers.

11. The cost for remediation of the Site is estimated to

be approximately 4.0 million dollars [1985]. The Department has found that the Town is without the financial resources to bear all those costs associated with the remedial program which have not been borne by other responsible parties.

12. The Town, having waived its right to a hearing herein as provided by law, and having consented to the issuance and entry of this Agreement and Determination, agrees to be bound by provisions, terms and conditions hereof.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. The Town shall operate its municipal landfill at the Site only until such time as the Department determines that an alternative permitted facility is available for use by the Town. Such determination by the Department must find that said alternative permitted facility is within a reasonable distance of the Town of Fort Edward's involvement in the Washington County Resource Recovery Project, that said project will not be available for a period of up to three years from this date, and that the solid waste of the Town of Fort Edward has been committed to said project. The Department, therefore, agrees that the Town may operate its municipal landfill during that period of time within which the Washington County Resource Recovery Project proceeds in a reasonable manner to operational status. In any event, on or about October 1, 1988, the Town will have a fully operational resource recovery facility available for its use or have filed with the Department an

application for a new solid waste management facility.

II. Upon the completion of the remedial program which the Department shall undertake with respect to the Site, for a period of 30 years from the date on which the Department provides written acknowledgment that elements of the Remedial Program have been implemented, the Town shall pay to the State of New York the sum of Ten Thousand Dollars (\$10,000.00) on or before October 1 of each of said 30 years, without interest. In addition, the Town agrees to mow the lawn at the Site area and to make minor fence repairs when needed. It is specifically understood between the parties that the Town shall have no active or passive responsibilities arising out of the existence of the Town of Fort Edward landfill, and, that the aforedescribed monetary settlement and duties of lawn mowing and fence repair are in full satisfaction of any and all claims which may be brought by the State of New York or any agency thereof.

III. Upon its subscription to this Agreement and Determination, the Town shall be released from each and every claim, demand, remedy or action whatsoever, which the Department has or may have pursuant to Article 27, Title 13 of the ECL relating to or arising from the disposal of hazardous and industrial wastes at the Site. Such release, however, shall in no way relieve the Town of those responsibilities described and set forth in Paragraphs I, II, V, VI and IX hereof nor diminish the right of the Department to enforce the provisions of said paragraphs.

Furthermore, 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 may have against anyone other than the Town.

IV. The effective date of this Agreement and Determination shall be the date on which it is signed by the Commissioner or his designee.

V. If, for any reason, the Town desires that any provision of this Agreement and Determination be changed, the Town shall make timely written application therefor to the Commissioner, setting forth reasonable grounds for the relief sought.

VI. A. Within 30 days after the effective date of this Agreement and Determination, the Town shall file a Declaration of Covenants and Restrictions with the real property records of the Washington County Clerk's Office, for the purpose of providing notice of this Agreement and Determination to all potential future purchasers of any portion of the Site. Said Declaration must indicate that any successor in title to any portion of the Site shall be responsible for implementing the provisions of this Agreement and Determination.

B. In the event that the Town proposes to convey the whole or any part of its ownership interest in the Site, the Town shall, not less than 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, the Town shall notify the transferee in writing, with a copy to the Department, of the applicability of this Agreement and Determination.

VII. A. All communication required hereby to be made between the Department and the Town shall be made in writing and transmitted by United States Postal Service return receipt requested, or hand delivered to the address as listed hereinunder.

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

1. Two copies to the Director, Division of Solid and Hazardous Waste, Room 209, 50 Wolf Road, Albany, New York 12233.

2. Two copies to the Division of Environmental Enforcement, Room 105, 50 Wolf Road, Albany, New York 12233.

3. Two copies to the Regional Director, Region 5, Ray Brook, New York 12977.

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

1. Two copies to the Supervisor of the Town of Fort Edward, Town Hall, Upper Broadway, Fort Edward, New York 12828.

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

VIII. The provisions of this Agreement and Determination





