

Copy: Ed Baltimore
Bob Schick

Tab 21

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



Thomas C. Jorling
Commissioner

M E M O R A N D U M

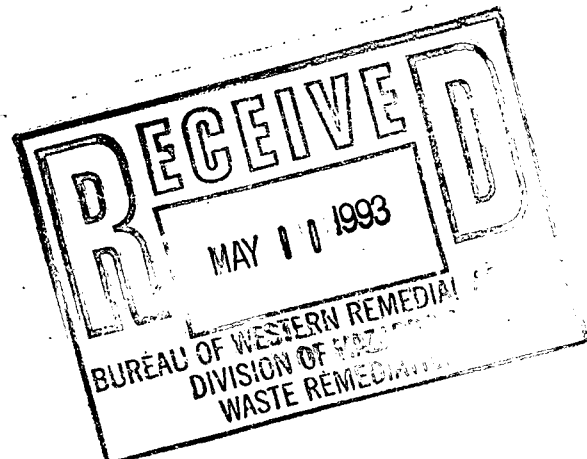
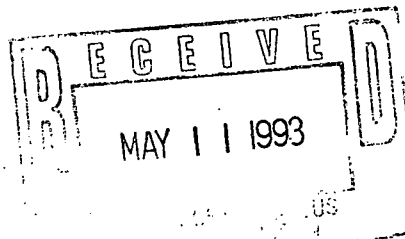
TO: Commissioner Jorling
FROM: Craig Wilson (SW)
SUBJECT: May 12 Meeting with I.B.M. Re: Endicott Site
DATE: May 10, 1993

Attached is an April 30 memorandum from Marc Gerstman for the above-referenced meeting.

I checked with Marc and he has no additional information for this briefing.

Attachment

cc: L. Marsh
R. Cross
M. Gallo
M. Gerstman
J. Lacey
M. O'Toole



MEMORANDUM FROM
MARC GERSTMAN, Deputy Commissioner and General Counsel

New York State
Department of Environmental Conservation

April 30, 1993

TO: Commissioner Jorling

RE: Endicott Landfill - Background for May 4, 1993 meeting

Landfill operation - The Endicott landfill is located along the banks of the Susquehanna River on approximately 68 acres of land. The landfill is owned by the Village of Endicott and was jointly operated by the Village of Endicott and the Town of Union from the 1950's to 1977, when it was closed.

Waste disposal - IBM admitted to having disposed of approximately 12-15 truckloads per day of industrial sludges and other industrial wastes and refuse at the landfill. IBM denies disposing of any volatile organic compounds ("VOCs") or vinyl chloride but does admit use of such compounds at its facilities. In the attached memorandum DHWR staff have reviewed and analyzed the available information concerning possible linkage between the IBM Endicott facility and the contaminants at the Endicott landfill. It appears that there is a striking similarity between contaminants at the two sites.

- Endicott Johnson admitted to having disposed of approximately 4-6 truckloads per day of industrial wastes at the landfill. Endicott Johnson denies disposing of any volatile organic compounds ("VOCs") but does admit use of such compounds at its facilities.

- Department staff have estimated, based on the size of the population served by the landfill, that the municipalities would have disposed of approximately 20 truckloads per day of refuse at the landfill.

Impact on Village Water Supply and Interim Remedial Measures ("IRMs")

Focus on the landfill came about as a result of discovery in 1981 that the Village of Endicott's water supply (the "Ranney Well") was contaminated with vinyl chloride and other VOCs. Testing in 1983 indicated that the source of the contamination was to the west or northwest of the Ranney well and in 1984 the Village installed the first Purge well between the Ranney Well and the landfill. In June of 1986 EPA put the entire site, the landfill and the wellfield, on the NPL. In early 1988 EPA commenced an enforcement action requiring the construction of an air stripper at the Ranney Well and the commencement of an RI/FS at the landfill. The municipalities undertook installation of the air stripper and IBM undertook the RI/FS. In March 1991 EPA issued a ROD which required a second purge well to be installed to intercept the plume between the landfill

and the wellfield. Endicott Johnson funded the installation of the second purge well.

The Village and Town constructed the air stripper and installed the first purge well with the assistance of the EQBA funding at a cost of \$1.2 million (Municipal share \$.3/State share \$.9).

IBM conducted the RI/FS at the landfill at an estimated cost of approximately \$1.5 million.

Endicott Johnson Corporation has funded the installation of the second purge well at an estimated cost of approximately \$225,000.

Remedial Program

On September 30, 1992, after discussions with the State of New York, EPA issued a ROD for the Endicott landfill which required capping of the landfill, installation of a gas venting system, collection and treatment of a leachate seep, installation of a fence and monitoring at an estimated cost of \$16 million. Department staff believe that actual costs may be substantially lower (\$9 - 12 million range).

Present status

On January 14, 1993 EPA sent a special notice letter to the Village of Endicott, the Town of Union, IBM, Endicott Johnson, George Industries and Midstate Litho in which EPA requested the parties to sign a Consent Decree in which they agreed to undertake the remedial program set forth in the September 30, 1992 ROD. EPA has offered George Industries and Midstate Litho a de minimis settlement. If a Consent Decree is not signed by the parties by May 21, 1993 EPA has stated its intention of issuing a unilateral Order to the parties requiring remediation of the landfill site.

Issues under discussion

Discussions between the parties have centered on the issue of allocation of costs.

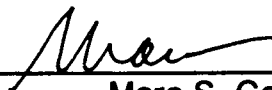
IBM's and Endicott Johnson's joint position on the issue of cost allocation at the negotiating table has been that 80%-90% of the cost of remediation of the Endicott landfill is attributable to a standard Part 360 closure of a municipal landfill and only 10%-20% is attributable to extra costs above the typical municipal landfill closure due to the hazardous wastes disposed of at the landfill. IBM and Endicott Johnson claim that they are being more than fair to the municipalities and the State by offering to share the costs of remediation 50% / 50% with the municipalities/State. IBM and Endicott Johnson also cite previous EQBA settlements where the State has allowed private parties to pay anywhere between 15% to 50% of the total remediation costs as well as a large number of EQBA settlements where the municipality has been responsible for 100% of the costs of remediation (All EQBA Orders require the municipalities to assist the Department in the pursuit of other responsible parties but the Department has not acted to include other parties under most of the existing EQBA Orders).

Department staff refute IBM's and Endicott Johnson's position on cost allocation

attributable to the typical municipal landfill closure by citing the actual facts in this case. This landfill ceased operation in 1977 and was closed soon thereafter in accordance with standard procedures at the time. If vinyl chloride and other VOCs had not been discovered in the Ranney Well in 1981 neither EPA nor this Department would have had any reason to proceed against the municipalities to re-close an already closed municipal landfill. But for the hazardous waste contamination that migrated out of the landfill and towards the Ranney Well the Endicott landfill would not be the subject of an enforcement action today. Therefor 100% of the cost of remediation of the landfill is rightfully placed on the parties that disposed of industrial and hazardous wastes that have migrated towards and are found at the Ranney Well. In addition, while the estimated volume of waste disposed of by IBM and Endicott Johnson (16-21 truckloads per day) at the landfill is roughly equal to the estimated volume of waste disposed of by the municipalities (20 truckloads per day) the toxicity of the industrial wastes and industrial sludges would be much greater than the toxicity of municipal refuse. Based on this criteria of volume/toxicity IBM and Endicott Johnson are several times over more responsible than the municipalities. Department staff have offered to accept a 25% allocation for the municipalities/State and 75% private costs. This is a fairly generous offer since Department staff can reasonably argue that the parties primarily responsible for disposal of the hazardous wastes found in the landfill should pay 100% of the remediation costs.

Previous EQBA Order negotiations did not focus clearly on rational cost allocation with private parties. With the EQBA fund shrinking more emphasis is being placed on ascertaining appropriate cost allocation with private parties before the EQBA Order is signed rather than simply reserving our rights, and assuring the municipality's assistance, to pursue private parties in the future.

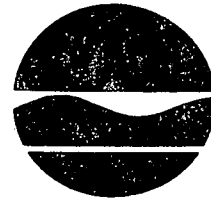
At the April 8, 1993 meeting of representatives from IBM, Endicott Johnson, the Village of Endicott, the Town of Union and the Department these positions were discussed without resolution. Department staff were also informed that the municipalities and the companies were discussing ways to cooperate and work together to address the landfill in a joint effort with the municipalities in the lead (The municipalities will have to be in control of the project in order to qualify for EQBA funding). There have been no significant developments since the April 20, 1993 briefing memorandum I sent to you and Executive Deputy Commissioner Marsh regarding Endicott Landfill - State/Municipal Share (attached).



Marc S. Gerstman

cc: C. Wilson
J. Lacey
C. Sullivan
F. Bifera
N. Parratt

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



Thomas C. Jorling
Commissioner

M E M O R A N D U M

TO: Marc Gerstman
FROM: Craig Wilson (20)
SUBJECT: Briefing Request - Commissioner's May 4 Meeting with
I.B.M. Re: Endicott Site
DATE: April 26, 1993

Please provide me with your input for the above-referenced meeting by **c.o.b. Friday, April 30**, so it can go into the Commissioner's weekend briefing packet. Thanks.

cc: N. Sullivan
M. Gallo

COMMISSIONER MEETING

cc: C. Wilson
M. Gabel
M. Gustman
J. Lacey
M. O'Toole
A. DeBarberis-FBI

DATE: 5/4/93

ORGANIZATION:

Mtg. w/ I. B. M.
re: Endicott Site

TIME: 5:00 P.M.

ATTENDEES:

A) ORGAN.: IBM

Art Hedge, VP Envt'l. Affairs
Tom Budge, Corporate Counsel
Tom Morris, Program Mgr.

PLACE:

Commissioner's
Conference Room or Office
(as preferred)

B) DEC:

TCJ
M. Gustman
J. Lacey
M. O'Toole

REQUESTED BY:

IBM
Art Hedge, Jr.
(203) 973-7776

AGENDA ITEMS:

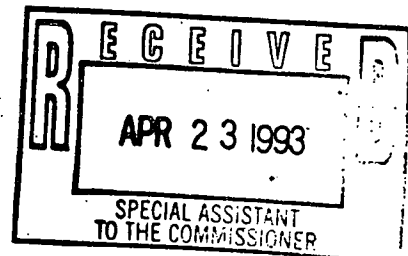
as above

CONTACT:

Evelyn
(203) 973-7776

OTHER INFORMATION:

Craig - Secure
briefing from Marc
Gustman



International Business Machines Corporation

Office of the IBM Vice President
Environmental Affairs

20a Harbor Drive, P.O. Box 10511, Stamford, CT 06904

April 19, 1993

Thomas C. Jorling, Commissioner
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, NY 12233-5501

Dear Tom:

IBM, Endicott Johnson, the Village of Endicott and the Town of Union have been working together to develop a global settlement for the remediation of the Endicott Wellfield Superfund Site. We raised with your staff recently a proposed solution which we believe has the potential of satisfying the sometimes competing needs of industry, state and local governments and, beyond this, will serve the public interest. This approach may be particularly important given our understanding from your staff that policies concerning EQBA reimbursement are evolving.

We need your assistance to move forward. This site provides a unique opportunity to demonstrate the benefits of municipality/industry cooperation, self-help and innovative staffing/(re)training for local employees. I would like to meet with you and representatives of the other parties within the next two weeks to fashion an innovative partnership between the municipalities and industry which we believe can become a model for the cooperative clean up of potentially hundreds of municipal landfills in New York.

I will call your office so that we can arrange a meeting and the delivery of additional information.

Sincerely,


A. J. Hedge, Jr.

/cw

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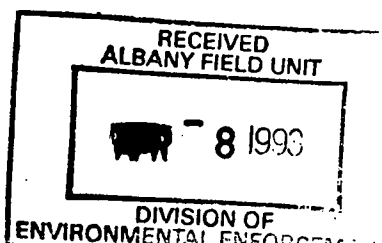
ENDICOTT LANDFILL SITE
ANALYSIS OF INDUSTRIAL CONTRIBUTION

This analysis reviews the available data to determine if the PRP assertion that the problems associated with the landfill are attributable to municipal operations and would be present regardless of the documented and substantial hazardous waste contribution of the PRP's.

The shallow groundwater at the site due to the high water table is the best indicator of leachate quality, although, due to the large volume of groundwater present this is expected to be dilute. The groundwater displays elevated levels of a number of chlorinated organics, notably TCE and its breakdown products DCE and VINYL CHLORIDE, in addition to CHLOROETHANE. The levels of these compounds present are similar to the mean levels of these compounds identified in an EPA study of mixed industrial/municipal waste landfills and significantly higher than the same compounds identified in what were termed municipal waste landfills. The levels of conventional landfill metals, iron, calcium and magnesium, which typically comprise the plume from MSW facilities are noticeably lower in the Endicott groundwater than would be anticipated, likely attributable to the expected dilution. Therefore, while dilution has lowered the typical municipal landfill signature metals from what could be expected, the chlorinated organic levels remain elevated when compared to expected MSW levels and are in fact comparable to industrial landfill levels, not factoring in dilution. This supports the conclusion that the presence of the PRP waste has in fact significantly increased the adverse impact which a strictly municipal would have had in this setting.

1-Municipal landfill indicator metals (iron, calcium and magnesium) are lower than typically encountered in MSW leachate, attributable to the significant dilution anticipated in this high yield, high transport aquifer, while chlorinated organic levels are significantly higher than mean values anticipated from MSW facilities and are comparable to those reported for co-disposal (mixed MSW and industrial) landfills. These levels, even with the dilution evidenced by the metals data, show the impact of the disposal by the PRPs and support the contention that the resultant problems are not the result of the disposal of municipal waste.

2-A signature compound, Freon 113, which is typically used in the electronics industry as a degreasing and flux removal solvent, has been identified in the groundwater contamination at the IBM Endicott facility. This compound has also been identified in sampling of the purge well which is currently operating to intercept the plume heading toward the Ranney Well as well as at other locations in the landfill.



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3- A pump and treat system currently operating at the IBM plant is reported to date to have recovered approximately 100,000 gallons of pure product consisting of the various chlorinated organics identified in the attached groundwater monitoring well report for the facility. This system was originally installed to recover a reported spill of about 4000 gallons of methyl chloroform. Once in operation a significant pool of chlorinated solvents was discovered under the site. This clear factual discrepancy illustrates that IBM is without question a significant source of chlorinated organic chemical contamination at its own facility and that these are the same contaminants that are emanating from the landfill it used, and secondly, IBM has an inaccurate assessment of its past chemical handling and disposal activities. *

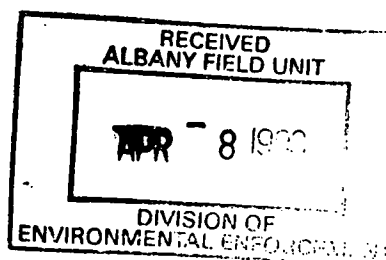
4- Based on available information from the Solid Waste program it is unlikely that the Department would have pursued Endicott for further closure of the landfill had not the subsequent problems been identified. Since these appear attributable to the hazardous waste disposal which has been documented, there should be no incremental cost of the closure attributable to the municipal landfill operation. *

1- Municipal landfill
2- Lower than the lower site
3- The significant amount of
4- Hazardous waste disposal
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MEMORANDUM FROM
MARC GERSTMAN, Deputy Commissioner and General Counsel
New York State
Department of Environmental Conservation

April 20, 1993

TO: Commissioner Jorling and Executive Deputy Commissioner Marsh
RE: Endicott Landfill - State/Municipal Share

Representatives of the Village of Endicott, Town of Union, Endicott Johnson Corporation and IBM met with Department staff April 8, 1993 to discuss allocation of remedial costs between the private parties and the municipalities, including state EQBA funding for 75% of the municipalities share.

IBM and Endicott Johnson reiterated their proposal to split the remediation costs between the private parties and the municipalities 50/50. Department staff informed IBM and Endicott Johnson representatives that past allocations under the EQBA program were coming under more scrutiny and that without a rational basis for allocation from the private parties the state was only willing to agree to a 25% state/municipal share. A representative of the municipalities observed that there may be room to consider a compromise between 50% and 25%. A figure of \$3 million state EQBA monies with \$1 million from the municipality for a total of \$4 million state/municipal share, which would be 33% of IBM's estimate of \$12 million, was discussed but no changes in the positions of the parties took place.

The four PRPs were scheduled to meet with EPA on April 9, 1993 to discuss the private parties' letter to EPA in which they committed to undertaking the remediation required at the Endicott Landfill contingent on reaching an agreement with the municipalities and the state regarding split funding for the Site. EPA is seeking to determine the likelihood of the parties reaching an agreement and signing a Consent Decree by May 21, 1993.

The municipalities, IBM and Endicott Johnson will be discussing possible compromise positions and will undertake to send us a proposal in writing by April 16, 1993. The municipalities, IBM and Endicott Johnson have also discussed working together and using combined resources to keep actual outlay costs down by using employees and services from within the PRP group.

In conclusion, the Department's negotiating position was that it will accept a state/municipal share of only 25%. We will of course, maintain some degree of flexibility in order to facilitate a negotiated solution. The private PRPs stuck with 50/50 but seemed to indicate that they might be able to go along with a compromise along the lines suggested by the municipalities of a \$4M state/municipal share (\$3M state EQBA/\$1M municipal) and have agreed to send a proposal to us in writing. IBM General Counsel Earl Wunderli informed me today that IBM Vice President for Environmental Affairs, A. J. Hedge, Jr., will soon be sending a letter to Commissioner Jorling requesting that a meeting be scheduled to discuss a proposed innovative partnership between the private parties and the municipalities to address the Endicott landfill. I have no objection to such a meeting but negotiations between the Central Field Unit and the parties should continue without delay. EPA has a deadline of May 21, 1993 for the parties to agree with EPA's proposed Consent Decree.


 Marc S. Gerstman.

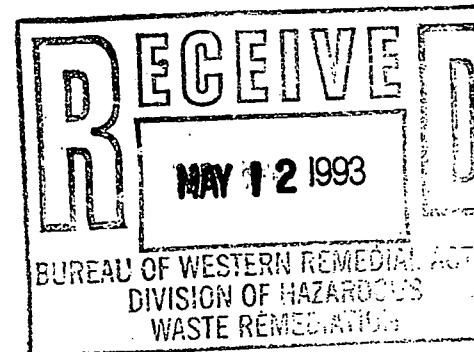
cc: J. Lacey
 C. Sullivan
 F. Bifera
 N. Parratt

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MSG/NP:tak

bcc: M. Gerstman (2)

April 12, 1993		
To: Marc S. Gerstman <i>SILBA</i>		
The attached is submitted for your signature by: <i>FWB</i>		
Frank V. Bifera <i>FWB</i> <i>4/12/93</i>		
It has been checked and approved by		
NAME	INITIAL	DATE
J. Lacey <i>61</i>	<i>[Signature]</i>	<i>4/13</i>



ENDICOTT WELLFIELD

May 12, 1993

ENDICOTT WELLFIELD

BACKGROUND

The Endicott Wellfield superfund site is located at the western end of the Village of Endicott, New York on property owned by the Village. It is bounded by Main Street, the En-Joie Golf Course, the Susquehanna River and the Tri-Cities Airport. It consists, generally, of the Endicott Landfill and the Ranney Well, which provides 50% of Endicott's municipal water supply. It covers approximately 60+ acres.

Trace amounts of volatile organic compounds (VOCs) were detected in the Ranney Well in 1981. The Village of Endicott, Town of Union and IBM began working cooperatively to address the situation. Subsequently, an air stripper was installed at the Ranney Well and a purge well was installed to intercept the flow of VOCs towards the well. These actions were effective and the municipal water supply is not currently impacted. The NYSDEC provided 75%, or approximately \$750K out of the Environmental Quality Bond Act (EQBA) monies, of the cost of these installations.

Various studies of the sites and remediations have been performed, the last, a supplemental RI/FS was completed at a cost to IBM of \$1.7M. The RI prepared by the parties' consultant recommended Alternative 3, a native soil cap, gas migration monitoring, leachate seep collection and treatment, fencing and deed restrictions. The present worth cost of this recommendation is approximately \$5M.

Because closure of a municipal landfill is involved, the NYSDEC strongly preferred Alternative 5A, a low permeability soil cap with synthetic liners, partial bituminous cap, gas venting

leachate seep collection and treatment, fencing and deed restrictions. The present worth cost of this alternative is approximately \$16.8M. *high*

The EPA issued a Record of Decision (ROD) in September, 1992, which found that both alternatives 3 and 5A would provide "permanent overall protection of human health and the environment." At the urging of the NYSDEC, the ROD selected alternative 5A.

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The EPA issued special notice letters on January 14, 1993, to the Village of Endicott, Town of Union, Endicott Johnson Corporation, George Industries, Inc., IBM and Midstate Litho, requesting a good faith proposal to finance or undertake remedial action at the Site.

The Village, the Town, Endicott Johnson and IBM submitted cooperative good faith offers to EPA to undertake remedial action at the Site, dependent upon continued EQBA funding. The fact that the parties were able to make cooperative offers, represents significant compromise from all sides in the interest of achieving a global settlement. The industrial parties felt that the facts would support a substantially higher municipal share.

EXECUTIVE SUMMARY

The Village of Endicott, the Town of Union, Endicott Johnson and IBM have been working together to develop a global settlement for the remediation of the Endicott Wellfield Superfund Site. Our joint proposal has the potential of satisfying the sometimes competing needs of industry, state and local governments and, more importantly, serving the public interest by assuring prompt and efficient closure of a municipal landfill.

We propose to form an innovative partnership among municipalities, industry, and NYSDEC, which we believe can become a model for the cooperative remediation of municipal landfills in the State of New York.

Superfund remediation and transaction costs are escalating at an alarming rate and too much money goes to third party overhead, profit and contingency. We propose through cooperative efforts by all of the parties to reduce costs substantially through "in-kind" contributions. The Village would take the role of supervising contractor. In a difficult economy where both municipalities and industry are *downsizing* "right-sizing," our proposal would utilize trained employees of the parties to do much of the design, oversight and other work, from contract administration to site security. These are qualified employees who otherwise would likely become surplus and lost to the local economy. In a limited job market, it provides the opportunity to (re)train some individuals to give them environmental consulting skills, which we believe will be in growing demand.

We plan to engage a qualified environmental consulting firm to provide an independent quality control function, to perform certain specific engineering tasks and to support the partnership as required. However, the more work the partnership is able to do itself, the greater the cost savings.

The success of our proposal is dependent on the NYSDEC being willing to fund the project from EQBA funds in the amount of \$3.29 million. Benefits to NYSDEC would include: (1) funding would be "capped" at that amount, even if the remediation costs escalate; (2) NYSDEC would share in the municipalities' insurance proceeds; (3) such a partnership can provide a guide for cooperative remediations at other sites; and (4) in this difficult economic time, it provides an opportunity for the State of New York to support local government and industry in cooperatively solving environmental problems while enhancing local employment opportunities.

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TOWN OF UNION

The ("Town") of Union was established in 1791 and is classified as a Suburban Town. The Town is located in Broome County, adjacent to and west of the City of Binghamton, the Town encompasses 35.1 square miles and has a population of 59,786 as established by the 1990 U.S. Census. It makes up approximately one-third of the County of Broome, based on property valuations. There are two incorporated Villages, the Villages of Endicott and Johnson City, located within the Town, both of which have their independent form of government. Their 1990 populations were 13,531 and 16,578, respectively. There are three independent school districts, all of which have properties in neighboring Towns as well as Union. The school districts utilize the Town's assessment roll as the basis for taxation of the apportioned levy in the Town.

The Town enjoys a significant diversified industrial economic base in addition to its residential and commercial land use.

Major employers located within the Town are as follows:

Employer -----	Business -----
International Business Machine Corp.	Data processing equipment
Endicott Johnson Corporation	Shoe, Boots
New York State Electric & Gas	Utility
Oakdale Mall	Shopping Center
Osolid	Duplicating machines and microfilm equipment
General Electric Company	Aircraft electronic equipment

Bunker Ramo Corporation

Connectorized,
interconnection
systems

Azon Corporation

Manufacturing

Endicott Forging & Mfg. Company, Inc.

Drop and upset forgings

Endicott Machine & Tool Company

Production machinery
and metal fabricating

Microflite

Flight Training

Simulation

New York Telephone Company

Utility

Union Forging Company

Steel drop forgings

Employees:

The Town employees approximately 175 full-time and elected employees.

The Town and the Village of Endicott propose to provide various "in-kind" services for the project. The Village of Endicott will provide project oversight as supervising contractor. Both the Town and Village will supply cover material such as topsoil and vegetation. The Town and Village will provide trucking and operators for hauling of material and graders/operators for project site grading.

VILLAGE OF ENDICOTT

The Village of Endicott was incorporated in 1906. The Village is a part of the Town of Union, located in western Broome County, and has a population of approximately 13,000 people. While occupying a relatively small area (3.14 Square miles), the Village is critical to the region in that it supplies water service and sewage treatment service for nearly 50,000 people in the Village and part of the Town of Union, as well as a portion of the Town of Vestal.

The Village itself has an annual budget of \$17 million and employs nearly 300 people.

The Village intends to participate in the landfill project to the fullest extent possible. This includes project management services, engineering services, supplying cover materials where possible, and supplying equipment such as trucks, graders, and dozers with qualified operators.

ENDICOTT JOHNSON CORPORATION

Endicott Johnson Corporation was founded in the late 1800's and during the first half of this century became the major employer in the New York Triple Cities region. In the 1950's, Endicott Johnson was among the top five shoe manufacturers in the United States, with over 20 plants employing approximately 20,000 people and producing in excess of 50 million pairs of shoes annually. However, during the next three decades, due to the continuing escalation of foreign footwear imports, coupled with other factors, Endicott Johnson's New York State operations have been reduced to one manufacturing plant with about 300 employees, one warehouse, and corporate offices. Over the past three years, the number of the Company's retail stores have decreased nationwide from 433 to 213, with an even more drastic reduction in New York State during the same period from 85 to 36. Endicott Johnson's rubber footwear plant in Johnson City was closed in 1992 resulting in a loss of more than 300 local jobs.

As part of this downsizing, Endicott Johnson has, during the same period, focused its emphasis on marketing consumer-oriented footwear products consisting of finely-tuned balance of domestically made products and imported items. By concentrating on its core businesses, Endicott Johnson has stemmed the former downward trend and has emerged a stronger and more viable (albeit smaller) business entity with a stabilized employment base in the Town of Union of approximately 1500 people. Achievement of this plateau has been difficult and at times wrenching. On the positive side, the future can hold brighter prospects both for our employees and the community.

However, to be disproportionately burdened by an unfair allocation of the landfill remediation costs will only serve to cast a shadow on this expectation.

Endicott Johnson's contributions to the Triple Cities and its environs are well known to the citizens of our community and, while the Company is no longer in a position to do such things as build parks, provide workers homes, or sponsor major community events, it remains integral to the New York's Southern Tier Region. In that context, we have worked closely with IBM, the Village of Endicott and the Town of Union in an effort to find a fair and equitable means to effect the remediation of the Endicott Landfill, a former community-wide facility. With respect to the landfill, it is important to note that non-municipal (industrial) waste amounted to a minor percentage of the total volume of the deposited waste.

Endicott Johnson has participated in underwriting interim remedial measures and it is prepared to participate in a comprehensive settlement provided the allocation of remedial costs can be equitably apportioned. The approach of self help and in-kind services, coupled with industry dollars and greater State funding, is the correct formula for accomplishing a cooperative partnership between the municipalities, community-based industries and the State for implementation of a remedy that could serve as a state-wide model.

IBM ENDICOTT

IBM opened its development laboratory and manufacturing facility in Endicott in 1914. IBM has been both a landmark and an integral part of the Endicott community from that time. IBM Endicott's early products included punched card and tabulating machines and time clocks. IBM developed a skilled cadre of machinists and product developers. In the mid-sixties, IBM Endicott evolved into IBM's premier provider of printed circuit cards, substrates, printers and processors. IBM's work force evolved as well and the staff became weighted more towards professional skills. IBM grew to a maximum population of 12,000 in 1989.

IBM has developed an award-winning environmental team to help IBM's plant run efficiently and minimize any effect on the environment. IBM has developed state-of-the-art processes to minimize the volume of virgin chemicals required through innovative technology including sophisticated closed loop and chemical recovery systems. Spent materials are rendered effectively non-toxic at IBM's high-tech industrial waste treatment facility or are sent to specialized treatment facilities. IBM was recently awarded the Stratospheric Ozone Protection Award by USEPA in 1992 and the 1993 Environmental Quality Award by USEPA Region II. The IBM team is experienced in pollution clean-up.

Although IBM plans to remain in Endicott, competition and a mixed worldwide economy has caused IBM to report a \$5B loss in 1992 and a \$285M loss in the first quarter of 1993. IBM Endicott's population has gone down to approximately 7,000 and will drop further.

IBM is excited about the prospect of a cooperative municipal/ industrial effort to remediate the Endicott Wellfield. IBM believes that substantial cost savings can be achieved by self help and is prepared to augment the Village of Endicott's engineering staff by loaning skilled employees to the Village and providing other skills, services and equipment to maximize the opportunity to minimize the cost of the remediation through "in kind" services from all parties. IBM believes this process will help provide local employment for some employees whose jobs might otherwise be lost.

FINANCIAL PROPOSAL

The Town of Union, the Village of Endicott, Endicott Johnson and IBM have cooperatively developed the following financial proposal that we believe is fair to and benefits all of the parties and will enable them to begin the final remediation efforts at the Endicott Landfill and wellsite promptly. None of the parties believe it is in their best interest, or in the public interest, to delay cleanup while their individual responsibilities are subjected to a protracted and costly judicial review.

Several historical precedents would support at least a 50% state/muni share of closure costs for a municipal landfill that has also received industrial waste. However, we recognize NYSDEC's concern that EQBA funds are finite, and this proposal accordingly is based on a 33% state/muni share and incentives for the parties to minimize the costs of remediation and maximize the insurance proceeds.

The parties have incurred or have committed to incur \$4.325M in costs to date:

RI/FS (IBM)	\$1.7M
Well (muni) (EQBA = \$.75M)	1.0M
EPA	1.4M
Well (EJ)	.225M

	\$4.325M

With ARG EPA
Costs Included?

Although EPA's ROD places a present value cost of \$16.9M on the remaining remedial action, the NYSDEC staff have informally indicated that \$12M would be more reflective of their experience.

Using the \$12M figure, and adding past costs, yields a total cost of \$16.325M. The State's share would be $\$16.325M \times .33$ (State/muni share) $\times .75$ (State share) = \$4.04M (EQBA funds). Since the State has already advanced \$.75M for prior work, this would leave \$3.29M required for the remaining work.

\$4.325

36%
1.14

Note that if only EPA's available "official" costs were used, i.e., $\$16.9M + \$4.325M = \$21.225M$, and the State/muni share were set at 25%, the State's share would be essentially the same, i.e., $\$21.225M \times .25$ (State/muni share) $\times .75$ (State share) = \$4M (EQBA funds).

The parties propose that the NYSDEC become a "limited partner" in this remediation, in that the EQBA contribution would be "capped" at \$3.29M. Unlike historical remediations where the NYSDEC has committed to a percentage of total costs, and has run the risk costs exceeding the initial estimates, the parties here are willing to run the risk of higher costs with the incentive to reduce costs being reflected in the existence of the "capped" contribution.

To make sure that all parties share in cost savings generated by this novel approach, and to insure that the State's share remains within historical norms, the parties will return to the NYSDEC \$.375 for each \$1 by which the total cost is less than \$10.6M.

3 Remedy
UP
1 - E+D
2 - J Rem

The parties propose that the NYSDEC also share in the recovery of insurance proceeds by the Town and Village and that the Town and Village have incentives to maximize the insurance recovery and apply their share to the remediation. Therefore, the NYSDEC will receive 25% of the insurance proceeds, after expenses; and 100% of the net excess proceeds should the State/muni share reach 50%.

75/25 MINIMUM

The following examples are illustrative:

1. Assume that total costs are \$4.325M + \$8.5M (RA) = \$12.825M, and net insurance recovery is \$4.0M.

State:	\$ 4.04M	(\$.75M previously advanced)
Munis:	2.3725M	(from insurance recovery)
EJ/IBM:	6.4125M	

	\$12.825M	

The NYSDEC would receive 25% of insurance proceeds (\$1.0M) plus \$.6275 to limit the State/muni share to 50%.

2. Assume that total costs are \$11M, and net insurance recovery is \$2.0M.

State:	\$ 4.04M
Munis:	1.46M
EJ/IBM:	5.5M

	\$11.0M

The NYSDEC would receive \$.54M of the insurance proceeds.

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Polling _____ Yes _____ No _____
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