

Toby Vigod

Linda Kurdydyk
Regional Director General's Office
Environment Canada

SECURITY - CLASSIFICATION - DE SÉCURITÉ
OUR FILE / NOTRE RÉFÉRENCE
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DATE

SUBJECT / OBJET
Diplomatic Notes Concerning Pollution
of the Niagara River

The following is a summary of the diplomatic notes sent to the U.S. government and its responses, after December 1979, concerning the pollution of the Niagara River.

Note of Canadian Embassy - December 14, 1979

The note informed the U.S. government of the text of a motion passed on December 10, 1979 by the House of Commons. The Canadian Government expressed its concern that the SCA company of the U.S. had been dumping thousands of gallons of PCBs and other harmful chemicals into the Niagara River on a daily basis, and it urged the U.S. government to look directly into the matter and take what action was necessary so as to alleviate the potential danger of such a continued disposal method of harmful chemicals.

The note mentioned the IJC's Sixth Annual Report on the Great Lakes Water Quality which specifically referred to the problems experienced in Niagara Falls, New York. The Canadian government was of the view that the present concern about environmental and public health effects of the proposed direct discharges by SCA was symptomatic of a much larger problem of continuing degraded water quality in the Niagara River.

Note of Canadian Embassy - February 15, 1980 (No. 70)

The note referred to the concern of the Canadian government about possible consequences to the health or property of Canadians arising from the present condition of the Niagara Falls Sewage Treatment Plant and when remedial action would be undertaken. There was particular concern about the problems with the carbon filtration system at the plant. Canadian officials were informed by New York State officials that the projected time to complete the repairs to the plant would be at least one year following the granting of the necessary funds. It was noted that this time frame was far

longer than that indicated in the Great Lakes Water Quality Board's 1978 Annual Report to the IJC and that it was dependent upon the granting of the required funds. The Canadian government indicated that it would be grateful if steps could be taken to resolve any administrative or funding difficulties and the necessary repairs to the plant be effected expeditiously. Information about when repairs might be completed and the plant rendered fully operational were requested.

Note of Canadian Embassy - April 15, 1980 (No. 141)

The diplomatic note referred to the failure of the carbon filtration system at the Niagara Falls Sewage Treatment Plant. The continued discharge of effluent and the continued stress to the Niagara River were considered to make even more timely the resolution of the funding difficulties delaying the repair to the filtration system.

Concern was expressed about the action to implement the discharge permit approved for SCA Chemical Waste Services Inc. into the Niagara River at Porter, New York. This would allow a further increase in the total pollutant loading to the river and particularly so when seen against the background of the long term problems of pollutant loadings and the stress to the river through the failure of the Niagara Falls Plant to process the effluent it receives.

The note indicated that the Department of Environment and Ontario Ministry of Environment had reinforced their regular water quality surveillance and monitoring programs with special efforts designed to look at a broader range of parameters for general water quality in the Niagara River. After the data from the programs was examined and analyzed, Canadian officials wanted an opportunity to discuss it with their U.S. counterparts.

The Canadian Government sought assurances from the U.S. Government that in any and all activities permitted on the U.S. side of the river by any U.S. jurisdiction it would respect the obligations undertaken in Article IV of the Boundary Waters Treaty 1909, that boundary waters shall not be polluted on either side to the injury of health or property or the other.

Note of U.S. Department of State - May 21, 1981

The note was a response to the Canadian Embassy's note of April 15, 1980. It stated that the EPA and the New York State Department of Environmental Conservation (DEC) had been conducting studies on the water quality situation on the Niagara River and they would continue to study the problem and consult with Canada.

The note addressed the operational problems with the carbon absorption beds at the Niagara Falls Sewage Treatment Plant. The EPA, beginning in December 1979, had been consulting with Niagara Falls officials to develop safeguard measures which would make the plant eligible for federal grants so that rehabilitation work could proceed. An agreement on these measures was expected shortly and the EPA advised that construction could begin within eight months after the agreement. EPA estimated that the actual time necessary to perform the rehabilitation work would be from 12 to 18 months and that half the system could be operational in 12 months.

The Department of State indicated that it was confident that the SCA Company facility was under strict federal and State scrutiny and it complied with all applicable environmental requirements. It was noted that there were statements by a number of Canadian federal and provincial environmental and health officials, that provided the SCA plant was operated pursuant to the conditions contained in its permit there would be no injury to health or property in Canada.

The State Department believed that it was to the mutual advantage of both countries that chemical waste be disposed of in an environmentally sound manner and it believed this would be the case with the SCA operations. It also understood that SCA treated wastes from firms located both in the U.S. and Canada.

The State Department assured the Canadian Embassy that the U.S. would respect the obligations undertaken in Article IV of the Boundary Waters Treaty of 1909 "that boundary waters shall not be polluted on either side to the injury of health or property on the other".

Note of Canadian Embassy - November 28, 1980

The Environmental Baseline Report of the Niagara River was discussed in the note. The following data gave rise to concern:

1. Concentrations of total DDT, PCBs, Aldrin/Dieldrin, Endosulfan (Lhisdan), Lindane and Cadmium exceeded the specific objectives of the Great Lakes Water Quality Agreement at certain stations in the Lower Niagara River on at least one occasion during 1979.
2. Other synthetic chemicals, for which no specified water quality objectives have been developed, were also detected. Many of the chemicals detected are frequently found in association with incompletely treated waste from industries operating in the vicinity of the Niagara River.

The Canadian government was concerned that serious operational problems were still being experienced at the Niagara Falls Wastes Treatment Plant and that agreement did not appear to have been reached between EPA and the Niagara Falls Officials to proceed with rehabilitation of the plant. The Canadian government sought assurances that urgent steps would be taken to resolve any administrative difficulties which might further delay the rehabilitation of the plant.

§ The Canadian authorities requested further information regarding the operations of SCA Chemical Waste Service Incorporated.

Note of U.S. Department of State - April 17, 1981

The note was a response to the Canadian Embassy's note of November 28, 1980 and subsequent communications concerning water quality problems in the Niagara River, including operation of the SCA plant.

The Department of State stated that it continued to believe it was to the mutual advantage of both the U.S. and Canada that effluents resulting from the treatment of chemical and hazardous wastes be disposed of in an environmentally sound manner.

The Department indicated that SCA intended to discharge treated effluent into the Niagara River, beginning on or about April 27, under permit from New York State. The effluent had been thoroughly tested by the DEC and it satisfied all applicable standards. The most recent tests were carried out the week of March 30. State Officials would be monitoring preparations for the discharge and carrying out continuing tests at SCA during the discharge. EPA Officials

would also participate. The EPA and DEC welcomed the participation of Canadian Officials and scientists in arrangements to monitor the discharge.

The pending judicial and administrative proceedings involving the SCA facility and New York State permits would not affect the limited and controlled discharge planned for April 27. The present permit authorizes SCA to discharge treated effluents into the Niagara River at a rate not to exceed one million gallons per day. SCA has permission to discharge a total of about seven million gallons. The DEC and the EPA assured the State Department that the permit adequately assures protection of the water quality of the Niagara River.

Note of U.S. Department of State - April 30, 1981

The Department of State indicated that it had been advised by the EPA and New York State DEC that a full report, recommending methods of rehabilitation and repair to the Niagara Falls Wastewater Treatment Plant would be completed in May. The Department Officers would consult with the Embassy staff as soon as the report was available.

The Department stated that it intended to continue its efforts to speed the rehabilitation of the Niagara Falls Plant and it would continue to keep the Embassy informed of any developments.

Linda Kurdydyk

DIPLOMATIC NOTES CONCERNING
POLLUTION OF THE NIAGARA RIVER (N.R.)

Notes of Canadian Embassy

- Dec. 14/79 House of Commons motion expressing concern about the SCA dumping of PCBs and other harmful chemicals into N.R.
- Feb. 15/80 Possible consequences from present condition of Niagara Falls Sewage Plant and when remedial action would be undertaken.
- Apr. 15/80 1) Delay of Repair to carbon Filtration System at the Niagara Falls Plant;
- 2) Discharge permit approved for SCA facility.
- 3) Sought assurances from U.S. that U.S. would respect obligations B.W.T. 1909.

Notes of U.S. Dept. of State.

- May 21/80 1) Expected agreement between EPA and Niagara Falls to develop safeguard measures would make plant eligible for federal grants. EPA advised construction would begin within 8 months after agreement.
- 2) SCA under strict federal and State scrutiny and it complied with all applicable environmental requirements.
- 3) Assured Canadian Embassy that U.S. would respect obligations in ART. IV B.W.T. 1909.

Nov. 28/80 1) Data giving rise to concern in Environmental Baseline Report.

2) Serious operational problems still being experienced at Niagara Falls plant. Sought assurances that administrative difficulties delaying rehabilitation would be resolved.

Apr. 17/81 SCA intended discharge into N.R. beginning April 27. Effluent satisfied DEC standards. Discharge would be monitored by State officials. Pending legal actions involving SCA would not effect discharge. Under present permit SCA can not exceed 1 million gallons/day or a total of 7 million gallons. Assurances by EPA and DEC that water quality adequately protected.

Apr. 30/81 Report recommending methods of rehabilitation and repair to the Niagara Falls Sewage Plant would be completed. in May.