



Pollution Probe at the University of Toronto
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STATEMENT BY: ANNE WORDSWORTH, RESEARCHER

May 12, 1981

We have called this press conference today because we are unwilling to stand by and quietly witness the destruction of the Niagara River and Lake Ontario. The political posturing, the threats to pursue legal action and the hand-wringing over the Niagara River on the part of the federal government have all led to raised hopes that action might be taken to reverse the damage. However, all these theatrics have not reduced by one drop the amount of toxic chemicals either leaching or being poured daily into the Niagara River. The Great Lakes Water Quality Agreement is invoked sanctimoniously by both Canada and the United States; yet, neither government has been able to curb the flow of toxics to the Great Lakes.

Certainly the real sources of the problems afflicting the Great Lakes in general, and Lake Ontario in particular, are never directly addressed. Instead, our governments occupy themselves with documenting the degree of damage and placating the public with promises. We believe that the single greatest threat to the safety of the Niagara River, Lake Ontario, and everyone who takes their drinking water from these two sources, is the Hyde Park landfill site in Niagara county, New York. No other landfill is as large, as leaky and as lethal as this particular site. It contains four times the volume of chemicals buried in the Love Canal.

Many of you are familiar with the contents of Hyde Park. Over 80,000 tons (by Hooker's own conservative estimates) of the most hazardous blend of toxic chemicals ever mixed are buried there in Niagara, close to the brink of the lower Niagara Gorge. Mirex, benzene, lindane, mercury, C-56, have all been disposed of in this site. But the most disturbing of all the chemicals buried there is the dioxin. According to several calculations, Hyde Park is the resting place of almost 2,000 pounds of dioxin. That is the TCDD isomer (tetrachlorodibenzo-paradioxin) of dioxin, the most toxic chemical ever synthesized by man. This deposit of dioxin is believed to be the largest in the world.

To put this figure in perspective, in all of Vietnam during the entire war, it is estimated that only 130 pounds of dioxin were sprayed as a part of the defoliant called Agent Orange. Another figure that has been given to me -- again, keep in mind that 2,000 pounds may be in Hyde Park -- in all of Lake Ontario right now, there is

probably less than half a pound (according to Environment Canada). And yet that very tiny amount of dioxin has already made its presence felt throughout the Lake. It has been discovered in herring gull eggs and in fish in the parts per trillion range. And if the dioxin secreted in Hyde Park were to reach Lake Ontario, we would no longer have a viable drinking water supply.

While the federal government has been brooding over the presence of dioxin in Lake Ontario, lawyers for Hooker Chemical and the U.S. Environmental Protection Agency have devised an out-of-court settlement over Hyde Park that would leave the door open for the further contamination of Lake Ontario by dioxin. Under the terms of the settlement Hooker Chemical is not obliged to destroy the wastes buried at this site, and furthermore, after 35 years or \$5 or \$10 million dollars, whichever comes first, they are free to walk away from the site regardless of the danger.

Although the provisions of this agreement represent a completely unacceptable risk for 5 million of us downstream from this site, this settlement will be setting the precedent for all future attempts to deal with landfill sites. There are at least two areas that we find appallingly inadequate. First, there is the whole ~~misguided~~ approach to controlling these chemicals by attempting to contain them, rather than to destroy them. The containment strategy amounts to no more than glorified storage, at best. For chemicals with such a potential for damage, we need a long-term solution that will permanently remove them from the environment. The second area, which we find disturbing in the Hyde Park settlement agreement is the paltry sum of money that Hooker is required to spend on the containment.

The description of the containment procedures as they are set out in the agreement are not sufficient to prevent the migration of wastes from this landfill. Bloody Run Creek is the natural drainage stream from this landfill. It runs down into the Niagara River. Dioxin has already been found on its way to the Niagara in the 200 parts per billion range. Even if the passage to the Niagara River through Bloody Run Creek is blocked, however, other routes that have never been thoroughly investigated exist that have the potential to carry chemicals to the river. In 1953 when Hooker switched from a filled-up Love Canal to Hyde Park, there was no preparation of the land and excavations at the site were down apparently to the bedrock.

This bedrock beneath the site is a unique geological formation known as Lockport Dolomite. The dolomite contains significant amounts of groundwater that move in vertical fractures and through horizontal bedding plains. These bedding plains can extend for miles, and act as virtual pipelines able to move contaminated groundwater

long distances. Prior to signing the settlement agreement, no determination of the extent or complexity of these underground cracks and fissures was made. Therefore, we cannot assume that the leachate collection system proposed by the agreement will intercept these wastes. Capping the landfill and collecting the leachate is comparable to giving the landfill site a top and sides, while ignoring the need for a bottom.

Technically speaking, there is no way to refit a leaky landfill site with a bottom. There are only two reasonable alternatives. The first is to remove the chemicals and the contaminated ground, and store them in a well-prepared and well-constructed box, as Hooker is required to do in Montague, Michigan. The second alternative, and the only one that we feel is acceptable, is to remove the wastes and to destroy them through high-temperature incineration. This would mean Hooker would have to build a new incinerator. We cannot afford to lose Lake Ontario because Hooker refuses to spend the money on a decent method of destruction. ²

Our second concern with the proposed agreement is the limited liability that Hooker is being asked for at Hyde Park. According to the terms of the agreement, Hooker Chemical will be able to walk away after 35 years, or after paying \$5 or \$10 million dollars, whichever comes first, with very few obligations other than cutting the lawn on the site. This settlement is less than a single malpractice suit in the U.S. in cases where the health of only one person is involved.

Given that Hooker is supposed to contain the wastes on the site, it is ridiculous to suppose that this responsibility will be expendable in 35 years. With wastes like dioxin that have an indefinite hazard life, there is no estimate for how long these chemicals will remain a threat in the environment. It is unlikely, anyway that Hooker would ever be obliged to stay on the site for 35 years, since it is far more likely their financial obligations will be finished much sooner. Already the leachate collection systems operating at the site cost Hooker approximately \$300,000 per year. With the additional collection system proposed by the agreement, Hooker's obligation to spend \$10 million dollars would quickly be finished. In fact, Hooker could be "off the hook", so to speak, in as little as 5 years.

In summary, we feel the strategy being suggested for Hyde Park is short-sighted and will be disastrous in the long run. The agreement, which requires just one final approval before it becomes law, is presently sitting before a judge in the U.S. Court in Buffalo. Final approval for the agreement could be given any day now, unless the Judge is convinced that other interests will be damaged.

We believe that substantial changes must be made in order to protect both the Niagara River and Lake Ontario from contamination by this dumpsite. We feel the federal government and the provincial government should be concerned enough to try to protect international interests in these waters. We have sent a letter to the federal Minister of the Environment, John Roberts, today asking him to take immediate action and to intervene in this settlement agreement before it is too late. These two levels of government have stood by impotently while the volume of toxic chemicals flowing into the Niagara River has escalated. The federal government has held up the work of the International Joint Commission by delaying in the appointments to the Commission. It is time to restore public confidence in their concern for our well-being by acting to stop this agreement from going through in its present form.

This is not the first time that Hooker Chemical's activities have jeopardized Lake Ontario. The commercial and sports fisheries were dealt an almost mortal blow by Hooker's intentional discharge of mirex into the Lake. This was clearly in violation of the Boundary Waters Treaty; yet Hooker has never been called to task for this problem, and the contamination lingers on in the fish and sediments. Now we are being asked to take an even greater risk -- the possibility that dioxin will take Lake Ontario and the Niagara River out of commission permanently.

We believe the Canadian government has a moral responsibility to defend our interests this time, and we find it shocking that they have not even been reviewing the case. However, given the repeated indifference that we have run up against, we feel we cannot afford to rely on the government. Pollution Probe and Operation Clean Niagara are preparing to take legal action on our own. With the help of the Canadian Environmental Law Association, and lawyers in the United States, we are seeking standing in the U.S. Court as *amicus curiae*, friend of the court. If we are allowed this standing, we will have the opportunity to make our objections to this agreement known to the Judge who must make the final decision. If no one speaks up for our interests, they will be ignored.

We do not feel an agreement of such critical importance to both Americans and Canadians should be decided behind closed doors, as it has been. The agreement was worked out privately without giving the public or independent experts the chance to review the data or the information on which the terms were decided. Clearly, the secrecy with which such a settlement has been negotiated, only feeds our fears that Hooker Chemical whose record on waste disposal can only be regarded as criminal should not be trusted with the responsibility of safeguarding our future.

May 12, 1981

Hon. John Roberts
Minister
Environment Canada
Ottawa, Ontario
Canada

Dear Mr. Roberts:

We wish to bring to your attention the catastrophic implications of the proposed settlement agreement between Hooker Chemicals and Plastics Corp. and the U.S. Environmental Protection Agency that is on the verge of ratification. We are asking you, on behalf of Canadian citizens who are dependant on the Great Lakes for their water supply, to intervene in the United States Court and to press for much more stringent financial and technical conditions in the agreement.

The settlement agreement attempts to provide controls on the hazardous wastes buried at the Hyde Park landfill site in Niagara, New York. This site contains over 80,000 tons of highly toxic chemicals, including an estimated almost 2,000 pounds of dioxin (the TCDD isomer) according to documents filed in U.S. Court.

After reviewing the settlement agreement, Pollution Probe has come to the conclusion that the containment systems and the liability provisions placed on Hooker Chemical Company are appallingly inadequate. We do not believe that the Niagara River or Lake Ontario under the terms of this agreement would be successfully protected from the eventual migration of highly toxic chemicals, especially dioxin, known to be deposited at the site. In fact, implementation of the agreement as it now stands may substantially increase the risk to the environment and to public health, particularly as it affects those Canadians downstream from the site who take their drinking water from the Niagara River and Lake Ontario.

We are concerned that ratification of this agreement will allow Hooker Chemical to absolve themselves of responsibilities to public and environmental health that will arise in the future from this site. Certainly the Canadian

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government should oppose the acceptance of this agreement without significant modifications, and without detailed scrutiny of the technical arrangements by Canadian experts in the fields of law, hydrogeology and engineering.

Since your government recently expressed considerable distress over the dioxin contamination in the Great Lakes, we feel it is imperative that the government examine the pathways for contamination that are left open by the agreement.

The two most disturbing aspects of the agreement that we feel are potentially injurious to Canadian interests are: 1.) the appropriateness and viability of the containment technology, and 2.) the duration and financial obligations placed on Hooker Chemical Company.

1.) We have serious doubts about the capabilities and the effectiveness of the containment program as it is set out in the agreement. We believe the whole approach of relying on containment as a strategy to protect the environment is ill-advised. Where chemicals of such serious toxicity are involved, we believe that the only viable and reasonable method of dealing with these wastes is complete destruction.

Given that containment has been chosen as a strategy, the attempt to control and contain these wastes must be accompanied by a commitment to the indefinite monitoring and treatment of leachate collected at the site. This is not even being suggested by the agreement. In addition, even if containment did offer some promise of limiting the migration of chemicals from this site, the Hyde Park landfill has no bottom that could reasonably be expected to contain the wastes. The Barrier collection system as it has been designed certainly will not guarantee the interception of wastes at this site.

There is a lack of clarity surrounding the provisions for the treatment of the leachate collected by the containment system. These provisions could result in the further distribution of hazardous chemicals, such as dioxin, into the environment.

First, the incinerator at Niagara Falls owned by Hooker Chemical Company cannot meet efficiency regulations and should not be accepted as an option for destruction. Its use in the past is already suspected of distributing airborne contaminants into the atmosphere which have come to rest in the Great Lakes.

Secondly, the agreement seems to allow Hooker the option of treating leachate at the Niagara Falls Sewage Treatment plant. This plant, as your Department well knows, has been incapable of properly treating chemical wastes since the breakdown of its carbon bed system. Its use in its present condition would be an imminent hazard to both public health and the environment.

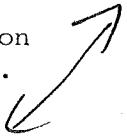
Thirdly, the agreement does not provide for the storage of leachate at the site beyond the two lagoons already in use. The safety and ability of these lagoons to handle the volumes of leachate currently being collected at the site has never been proven, and with an expanded collection system, its capacity could be strained to a dangerous level.

2.) The duration and amount of financial responsibility imposed on Hooker Chemical are not adequate for the degree of care and the time period that relying on containment will entail. It appears that liability for treatment and monitoring expires after 35 years or 5 or 10 million dollars, whichever comes first. Yet the cost of treating the leachate currently generated on the site, even without the addition of the new collector system, is estimated at \$300,000 per year.

Hooker's financial commitment would be expended quickly at this rate just on the present system, thereby consuming the limited funds available for the treatment and monitoring necessary for containment. Hooker should not be given an expiry date for its obligations since there is no guarantee that the problems would not become even more costly and unmanageable after these obligations are finished.

In short, we urge you to take the issues raised in this letter very seriously, and to consider the possible consequences of not acting at a time when it is still possible to create safeguards for the future.

We believe the Canadian government has a responsibility to act in this particular matter, and we believe intervention is the only possible action that could be effective in protecting the integrity of the Niagara River. If you wish any further information or support from us, please call.



Yours truly,

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on behalf of Pollution Probe
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c.c. Dr. Robert Slater