

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
THE STATE OF NEW YORK,

Plaintiffs,

- vs -

HOOKEE CHEMICAL & PLASTICS CORP.;
OXY CHEMICAL CORPORATION; HOOKEE
CHEMICAL CORPORATION; OCCIDENTAL
PETROLEUM INVESTMENT CO.; OCCIDENTAL
PETROLEUM CORPORATION; THE TOWN OF
LEWISTON; THE TOWN OF NIAGARA,
(Hyde Park Landfill),

Defendants.

AFFIDAVIT IN SUPPORT
OF REQUEST FOR
AMICUS CURIAE STATUS

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:
CITY OF BUFFALO)

I, MARGHERITA HOWE, a resident of the Town of Niagara-on-the-Lake, Province of Ontario, Canada, hereby swear as follows:

1. I am President of Operation Clean-Niagara, Niagara-on-the-Lake, Ontario.
2. Operation Clean-Niagara, founded in June, 1979, is a charitable foundation registered with the Department of National Revenue (Registration No. 0566349-59-16).
3. Operation Clean-Niagara is a non-profit corporation formed for educational and scientific purposes and to prevent pollution of the environment by hazardous chemicals and radioactive waste. Operation Clean-Niagara is committed to protecting the quality of the Niagara River.

4. Operation Clean-Niagara, based in Niagara-on-the-Lake, represents residents of the Niagara region, and has 600 members.

5. The Town of Niagara-on-the-Lake, with a population of 3,500 people, is the only community downstream from Niagara Falls that takes its water supply directly from the Niagara River.

6. Operation Clean-Niagara has established a Technical Committee that includes representatives from the academic, business and scientific communities, with expertise in engineering, biology and hydrogeology. This committee serves pro bono and advises Operation Clean-Niagara on technical and scientific matters related to water pollution.

7. Operation Clean-Niagara appeared as a Party-in-the-Interest at both Phase I and Phase II of the State of New York Department of Environmental Conservation hearings into the application of a major waste disposal company for permission to discharge toxic chemicals into the Niagara River, for renewal of their license to operate and for permission to build an additional landfill on their site under the New York State Pollutant Discharge Elimination System ("SPDES").

8. After consultation with Pollution Probe and members of Operation Clean-Niagara's Technical Committee, it is Operation Clean-Niagara's position that the proposed settlement agreement will not prevent the migration of toxic chemicals from the Hyde Park Landfill into the Niagara River. Leachate from this site presently enters Bloody Run Creek which drains into the Niagara River.

9. The Town of Niagara-on-the-Lake is approximately 8 to 10 miles downstream from the point at which Bloody Run Creek runs into the

Niagara River. The community of Niagara-on-the-Lake is therefore the segment of the Canadian public immediately affected by the proposed settlement.

10. This Affidavit is made in support of an Application to appear as amicus curiae.

MARGHERITA HOWE

Sworn to before me this
19th day of May, 1981.

Barbara Morrison

BARBARA MORRISON
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1983