

# Reject Hooker clean-up plan, lawyers ask

By RAE TYSON

A plan to clean up the massive Hyde Park chemical landfill near Niagara Falls, N. Y., should be rejected because of questions about the credibility of a key Government adviser, a U. S. district judge has been told.

Lawyers for three U. S. and Canadian environmental groups also are opposing a Nov. 30 request by U. S. Government lawyers to delete the testimony of the adviser, David B. Twedell.

Lawyers Barbara Morrison and Toby Vigod, in court papers filed in Buffalo, have asked Judge John Curtin to leave Mr. Twedell's testimony on the court record despite questions about his academic background.

Mr. Twedell's testimony is relevant, the lawyers argue, "since it sets forth the opinions offered by the individual who acted as a hydrogeological

adviser to the negotiating team, and provides a measure of the ability with which data (from the Hooker Chemicals and Plastics Corp.) was scrutinized and the mediation strategy developed."

U. S. lawyers filed a lawsuit against Hooker in December, 1979, charging that hazardous chemicals from the dump were leaking into the surrounding environment and the nearby Niagara River. New York State filed a similar suit against Hooker in 1980 and a proposed out-of-court settlement — outlining a clean-up plan — was announced in January, 1981.

That agreement was immediately opposed by environmentalists in both the United States and Canada, who claimed the plan would not stop the flow of toxic chemicals into the Niagara River, which is less than 700 metres from the dump.

Hooker used the Hyde Park dump, north of Niagara Falls, to dispose of

about 80,000 tons of chemical waste between 1953 and 1975. Canadian experts say the dump contains the world's largest concentration of the toxic chemical dioxin.

Miss Morrison, of Buffalo, and Miss Vigod, of Toronto, represent the Ecumenical Task Force of Niagara Falls, N. Y., Operation Clean-Niagara of Niagara-on-the-Lake, Ont., and Pollution Probe of Toronto.

Judge Curtin allowed the groups to enter the case after the proposed settlement was announced.

U. S. Justice Department lawyers filed court briefs Nov. 30, asking Judge Curtin to remove Mr. Twedell's written and oral testimony from the court record. They made the request after inquiries to the University of Houston failed to verify Mr. Twedell's academic credentials.

According to documents filed in court by the environmentalists, Mr.

Twedell's former employer, JRB Associates Inc. of McLean, Va., also checked his credentials in July, but apparently failed to inform the U. S. Environmental Protection Agency before he testified as a Government witness in September.

Mr. Twedell, the Government's sole hydrogeology expert during negotiations with Hooker, claimed, in written and oral testimony, to have a doctorate in geology from the Texas university.

In the Nov. 30 brief, Government lawyers said an investigation revealed that Mr. Twedell apparently possessed only a bachelor's degree in physical science. Mr. Twedell resigned from JRB in October, shortly after testifying in federal court, although the EPA renewed his contract in November.

Since Mr. Twedell was the only hydrogeologist among the 21 experts advising state and federal lawyers during negotiations with Hooker, Miss Morrison and Miss Vigod said, "We believe that a direct correlation exists between Twedell as witness, Twedell as technical adviser and the end product, a settlement whose very terms defeat its most basic goals."

It was Mr. Twedell's hydrogeological testimony — involving the movement of groundwater through bedrock toward the Niagara River — that Miss Morrison and Miss Vigod disputed during fall hearings on the proposed settlement.

In an affidavit accompanying the environmentalists' brief, Markham, Ont., hydrogeologist Grant Anderson said: "The studies under the terms of the agreement will never ferret out the pathways of chemicals migrating from the Hyde Park landfill and, if such, the agreement is doomed to failure in achieving its most basic and fundamental goal — to protect public health and the environment."

Mr. Tyson is an environmental reporter