

Toby: For your information

Toby
RECEIVED MAR 18 1982

March 12, 1982
714 Buffalo Avenue
Niagara Falls, New York 14303

Honorable John T. Curtin, Chief Judge
United States District Court for the
Western District of New York
United States Court House
Court Street
Buffalo, New York 14202

Re: United States v Hooker
Chemical and Plastics Corp.,
et al. (Hyde Park)

Dear Judge Curtin:

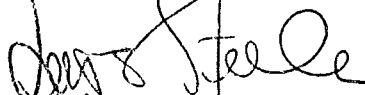
By Order dated March 4, 1982, the Court granted Amici in the above captioned matter the opportunity to file responsive papers on or before March 12, 1982 regarding the geological survey by Messers. Maslia and Johnston entitled Simulation of Groundwater Flow in the Vicinity of Hyde Park Landfill, Niagara Falls, New York.

The College Heights Property Owners Association and the Niagara County Citizens Alliance, two Applicants for Intervention in this proceeding, have not requested an opportunity to respond to the Maslia and Johnston report since for the most part it deals with major concerns of other competently represented parties.

At this time, however, the College Heights Property Owners Association wishes to call to the Court's attention that the sampling results filed on February 19, 1982 should not be understood to represent the entirety of the federal government's October 22, 1981, Hyde Park-area sampling program. In particular, the samples taken on October 22, 1981 along the landfill's historical drainage areas have as yet to be reported either to the Court or to any of the participants at the Fall 1981 Court Hearings.

The College Heights Property Owners Association continue to believe that the results of the October 22, 1981 sampling of the landfill area's historical drainage courses will indicate the migration of toxic and hazardous chemicals to areas beyond those which have been openly admitted to by the parties to the litigation. For this reason, Applicants for Intervention respectfully request the Court to consider the results of the October 22, 1981 drainage area samples as it makes a final decision on the proposed Hyde Park settlement agreement.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Lewis Steele".

Lewis Steele, attorney for
College Heights Property Owners Ass'n.

cc: Mr. David Floyd
Mr. Michael Elder
Ms. Lorelei Borland
Ms. Barbara Morrison
Ms. Toby Vigod ✓
Mr. Richard Berger
Mr. Robert Merino
Mr. Benjamin Hewitt



Niagara Falls, N.Y.

**Pumphouse Fire and
Subsequent Events at the
Hyde Park Landfill**

During the Period

January 15 to January 23, 1982.

TABLE OF CONTENTS

	<u>Page No.</u>
1.0 CHRONOLOGY OF EVENTS	1
2.0 EVALUATION OF SOURCE OF WATER	5
3.0 CONCLUSION	7

CHRONOLOGY OF EVENTS

On Friday, January 15, 1982 at 12:40 p.m. an electrical fire occurred at the main pumphouse which houses the transfer pump and master electrical control panel at the Hyde Park landfill site. The fire was immediately discovered by a Hooker security guard at the site. When use of two on-site fire extinguishers failed to control the fire, the Town of Niagara Fire Department was notified. A fire department pump truck responded promptly to the call and water hosed what was remaining of the fire. The loss due to the fire was the entire pumphouse and attendant equipment, and truck loading ramp and the master control panel for the three wet well pumps and loading pump. As a result, the system lost its ability to pump leachate from the leachate collection system to the lagoon and from the lagoon to trucks for treatment.

The lagoon level was approximately two feet below the berm at the time of the fire. In light of the sub-zero temperatures and the disruption of the leachate handling capability, arrangements were immediately made for Vac-all trucks to remove leachate from the lagoons. Over this weekend (January 16-17), nine trailers of leachate were removed from the lagoons and taken to the Niagara plant for treatment.

On Monday, January 18, the emergency leachate removal operation was expanded to remove leachate from Wet Wells "A" and "B" of the leachate collection system and a second truck was utilized to remove leachate from the West Lagoon.

On Monday, January 18, 1982 it was discovered that the watermain for the site office trailer had ruptured due to the sub-zero weather. Following a thaw, this rupture resulted in water ponding in the immediate area of the site office trailer. To prevent additional ponding, the watermain valve was shut off by the site operator.

On Tuesday, January 19, 1982, an inspection of the site on this date was completed by Mr. J. Wilding (NYDEC). At this time, the Vac-all trucks were still being employed to empty the wet wells and to remove leachate from the lagoon.

The use of the Vac-all trucks to empty the Wet Wells "A" and "B" continued until Wednesday, January 20, when temporary electrical power permitted reactivation of the wet well pumps. For the period January 18 through January 23, 29 trailers of leachate were removed from the lagoons. On January 23, the lagoon level was two feet six inches below the berm.

On Wednesday, January 20, 1982 at 3:30 p.m., personnel from Hooker's Environmental Control Department observed water at the northwest corner of the site near the vicinity of the power tower and at the southwest corner of the site. Following an inspection from the site to the outlet of Bloody Run Creek, water was found to have flowed into Bloody Run Creek. The NYDEC was immediately notified of this situation and a clean-up plan was developed and implemented.

The clean-up plan included the pumping and disposal of surface water from various locations along Bloody Run and the west ditch of the site. The clean-up plan along Bloody Run Creek was carried out during the night of January 20, 1982 and continued through January 22. In addition, the ditch at the site was blocked off with clay at the northwest corner to prevent further runoff from the site, and a surface control (floatable oil boom) was installed at the ponded water south of University Drive.

On January 20, 21, and 22, samples of the water were collected and analysed with the following results:

<u>DATE</u>	<u>LOCATION</u>	<u>CONCENTRATION BY INFRATED*</u>
1/20	South of Niagara U. Gorge Outfall	29 ppm Benzoic Acid; 10 ppm OCT** 12 ppm Benzoic Acid
1/21	South of Niagara U. Gorge Outfall N of Greif Bros*** S of Greif Bros***	2 ppm Benzoic Acid <5 ppm Organics 2 samples each <5 ppm organics 165 ppm Benzoic Acid; 55 ppm OCT**
1/22	Gorge Outfall	<5 ppm Organics

The temporary pumping procedures at the site will remain in effect until all site facilities are functioning properly in accordance with the site's standard operating program. It is estimated that damaged equipment will be replaced or repaired by January 29.

* All samples were grab samples. These were analysed by infrared spectroscopy following carbon disulfide extraction of the water samples.

** o-Chlorotoluene.

*** Stagnant Samples.

2.0 EVALUATION OF SOURCE OF WATER

The potential sources of water flowing into the west ditch and the Bloody Run Creek were evaluated as follows:

1. Lagoons: On January 20, 1982 it was observed that the lagoon had approximately two feet of freeboard. Based on the January 21st lagoon-berm inspection, which included exposing the ground surface from the toe of slope to the top of slope at several locations, no apparent failure or overflow was evident. Therefore, it does not appear that lagoon failure or overflow occurred.
2. Surface Run-Off: Because of recent periods of heavy precipitation (e.g., week of December 27) and the hosing of the pumphouse fire, there was considerable surface run-off to the west ditch of the site. This could have been a source of the water which flowed into Bloody Run.
3. Watermain Rupture: The watermain rupture is a possible source of the water. It is difficult to determine the duration of flow after the watermain rupture. The uncontrolled flow from the watermain would have contributed to a high groundwater condition adjacent to the 24-inch diameter culvert pipe. The interfacing of

the bedding material of the two pipe trenches would promote underground water flow to the west ditch.

4. TAM Ceramics: The ditch along the south side, which accepts an effluent discharge pipe from TAM Ceramics, appeared dry and displayed no ice accumulation. This inspection indicated that a discharge from the TAM Ceramics pipe to the ditch system probably was not the source of the water.
5. Manhole Sump: As a result of the fire, there was an electric power loss to the automatic southwest manhole sump pump near the lagoons. This allowed the water level to rise in the manhole to an elevation higher than the invert elevation of the ditch. This condition could have permitted water flow toward the west ditch.
6. Spillage: A visual inspection of the immediate area did not indicate or reveal evidence of spillage.

3.0 CONCLUSION

Based on the investigatory work which has thus far been completed, it appears that the following sources may have caused the discharge conditions which were observed in the west ditch and Bloody Run:

- a) Surface water run-off due to precipitation and hosing of the fire;
- b) Water resulting from watermain rupture;
- c) Water backflow to west ditch when fire rendered southwest manhole sum pump inoperable.

All of Which is Respectfully Submitted,
CONESTOGA-ROVERS & ASSOCIATES LIMITED

Frank A. Rovers



Ron Schwark

Toby: for your information

march 3, 1982
714 Buffalo Avenue
Niagara Falls, New York 14303

Honorable John T. Curtin
District Court Judge
United States District Court
western District of New York
United States Court House
Court Street
Buffalo, New York

Re: Hooker Chemicals and Plastics
litigation, HYDE PARK site,
Civil Action No. 79-989C

Dear Judge Curtin:

As you may recall, I am Co-counsel to the College Heights Property Owners Association in the Hyde Park landfill litigation now before your Court. The College Heights Property Owners Association is a group of persons composed of residents of the Hyde Park landfill-area and includes families who reside on property bordering Bloody Run Creek.

I am enclosing for your information a copy of a report I recently received from Counsel for Hooker Chemicals and Plastics Corp. The report is entitled Pumphouse Fire and Subsequent Events at the Hyde Park Lnadfill and deals with a series of recent emergencies and/or operational problems at Hooker's Hyde Park landfill site.

The Hooker report indicates that during the third week of January 1982, chemical-laden water from the Hyde Park landfill-area drained into the landfill's west drainage ditch and thence into Bloody Run Creek, and from there presumably into the Niagara River. According to the report, Hooker subsequently pumped water out of both the landfill ditch and Bloody Run for treatment and disposal. The report indicates that the New York State Department of Environmental Conservation was aware of difficulties and/or problems at the site.

The contaminated water moved to the landfill's west drainage ditch and into Bloody Run Creek because of a series of site operating problems. First, on January 15, 1982, a fire destroyed the landfill's main pumphouse and its attendant equipment, the truck loading ramp and the master control panel for the leachate pumping system. As a result, the leachate pumping system was unable to move leachate from the collection system into the collection lagoons and from the lagoons into trucks for later treatment. Second, on or prior to January 18, 1982, apparently cold weather

caused the watermain from the landfill's site office to rupture.

Fully seven days after the landfill fire, the College Heights Property Owners Association and their Counsel learned of the problems at the landfill site. The neighborhood residents and their Counsel were informed of these events by a newspaper article appearing in the January 22, 1982 edition of the Niagara Gazette.

The College Heights Property Owners Association is much disturbed that defendant Hooker and Plaintiff New York State intentionally left landfill-area residents and their Counsel uninformed about the emergency and mechanical problems at the landfill site. The organizations is especially concerned because such operating problems at the landfill could affect the neighborhood residents' health and safety interests. Moreover, the College Heights Property Owners Association's active participation in the process of Court review of the proposed Hyde Park settlement agreement could have left no doubt that that organization and its Counsel consider it important that they be notified of any system failure at the landfill. Consequently, we had assumed that Hooker and New York State would as a matter of course have informed Hyde Park-area residents and their counsel of any serious system failure or malfunction at the site.

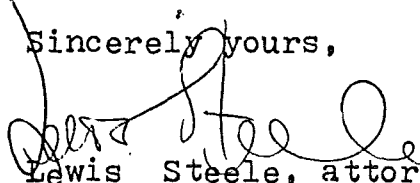
Immediately upon learning of the January problems at the landfill, I communicated these feelings to both Counsel for Hooker and New York State and formally requested that each prepare a comprehensive report to the Court on the January landfill events. Hooker and New York State subsequently informed me that they thought such a report to the Court was unwarranted and inappropriate. Hooker, however, did compile the enclosed report on the January landfill events and has submitted it to the New York State Department of Environmental Conservation.

Because of the refusal of Plaintiff New York State and defendant Hooker to keep the residents of the Hyde Park landfill-area and their Counsel informed of the level of functioning of the landfill site, at this time, the College Heights Property Owners Association respectfully requests that the Court issue an order requiring Hooker and all parties to the pending litigation to notify the Court, Hyde Park landfill-area residents and their Counsel whenever a malfunction or site emergency at the Hyde Park landfill site comes to their attention. Such an order and its implementation will insure that those who continue to have to live within the shadow of the Hyde Park landfill and adjacent to the Bloody Run Creek will have an opportunity to act to protect their health and safety interests on those occasions when they believe that such interests might be threatened.

Since the time of the January events, I have reviewed the terms of the proposed Hyde Park settlement agreement to determine whether that agreement, as it currently stands, would require Hooker and/or any party with knowledge of system failure at the landfill site to communicate such knowledge to the Court, the other parties, and neighborhood residents and their counsel. I have not been able to discover any such provision in the proposed settlement agreement and wish to call this absence to the attention of the Court.

If this request for an order is more appropriately made through the formal filing of motion papers and accompanying affidavits with the Court, upon notification, I will proceed to bring this matter and my client's concern to the Court's attention in that more formal way.

Sincerely yours,


Lewis Steele, attorney for
College Heights Property Owners Ass'n.

cc: Mr. David Floyd
Mr. Michael Elder
Ms. Lorelei Borland
Ms. Barbara Morrison
Ms. Toby Vigod
Mr. Robert Merino
Mr. B. Hewitt