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March 28, 1983
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Mr. George Shanahan, Esq.
United States Environmental Protection Agency
Water Enforcement Section
Region II Headquarters
Federal Building
26 Federal Plaza
New York, New York

Re: Update Meetings required by
November 5, 1982 Community
Relations Plan

Dear Sirs and Ms. Burns:

As you know, we are counsel to the College Heights
Property Owners Association in the Hyde Park landfill litigation.

At the request of Judge Curtin, the State of New York and the
United States of America submitted to, and filed with, the United
States District Court for the Western District of New York on or
about November 5, 1982 a document entitled Community Relations Plan
To Be Utilized During The Implementation of The Hyde Park Settle-
ment Agreement (hereafter referred to as Community Relations Plan).
Because of the "special status" (Community Relations Plan at 4)
of the intervenors and the amici, the United States and New York
State committed themselves to hold "pre-scheduled bi-monthly up-
date meetings with representatives of the intervenors and the
amici". Id. In addition, the meeting date and time for these meetings
are to "be established at mutually convenient times". Id. Finally,
the agenda for these meetings is to be developed by the intervenors
and the amici submitting items for discussion to the governmental
parties ten days in advance of each meeting. Id.

We are in receipt of letters dated March 23, 1983 from Mr. Michael Cavanaugh, a Citizen Participation Specialist at the New York State Department of Environmental Conservation. The letter invites us or our representative to the second in a series of "update meetings" concerning the Hyde Park landfill remedial work. The meeting has been scheduled for April 7, 1983, at 2 pm.

We are concerned that the United States and New York State are continuing to ignore the clear language and plain intent of the November 5, 1982 Community Relations Plan. First, contrary to the plan, the College Heights Property Owners Association has had no opportunity to indicate its availability or unavailability to be represented at a meeting on April 7, 1983. In fact, and as the enclosed exhibit shows, Mr. Steele is already committed to be in attendance at another meeting at the time and date scheduled for the update meeting. Secondly, the Association was not given a specific opportunity to submit items for the agenda of the update meeting as the Community Relations Plan provides. Third, and again contrary to the plan, Mr. Cavanaugh's letter makes clear that the State of New York intends to unilaterally develop the agenda for this update meeting. Finally, the March 23, 1983 letter suggests that the meeting will follow the format (it is the "second in a series") of the EPA/STATE information meeting on the Hyde Park landfill held on January 26, 1983. That meeting was scheduled "to bring (people) up to date on the status of the (Hyde Park landfill) study and clean-up program and to offer (people) the opportunity to speak with representatives of the United States Environmental Protection Agency, the New York State Department of Environmental Conservation, and the New York State Department of Health. See attached letter dated December 28, 1982 from Mr. Cavanaugh to Mr. Lewis Steele. On that date EPA/STATE ignored the terms of the Community Relations Plan, which committed EPA/STATE to meet with the intervenors and the amici, and invited representatives of Defendant Hooker (!), the television and newspaper media, Niagara University, the Towns of Niagara and Lewiston, New York, State Assemblyman Pillettierre and State Senator Daly to the meeting. During the course of that meeting, it became apparent that the meeting was scheduled for maximum public and political relations impact and was structured and run in such a way that the detailed substantive discussion that EPA/STATE is committed to by the Community Relations Plan could not possibly ensue.

Under all of these circumstances, we ask that EPA/STATE immediately clarify the nature of the meeting scheduled for April 7, 1983. More specifically,

- o is this meeting supposed to be one of the bi-monthly update meetings required by the Community Relations Plan;
- o if it is not, when will EPA/STATE, the intervenors and the amici make arrangements to hold such a meeting;
- o if it is, how will the meeting be rescheduled to a time and date convenient to all of the intervenors and amici, as well as to EPA/STATE;

- o what procedure will the intervenors, the amici and EPA/STATE use to jointly develop the agenda for the update meeting;
- o how will it be assured that the meeting required by the Community Relations Plan be limited to EPA/STATE, the intervenors, and the amici and to others specifically invited by the amici and the intervenors?

In order to resolve these issues, we request that EPA/STATE quickly and expeditiously arrange a conference telephone call among themselves, the intervenors and the amici. For the purpose of such a conversation, you may contact Mr. Steele at (716) 284-2644.

We want it to be clear at this time that neither of us will attend any meeting held in ostensible compliance with the Community Relations Plan's requirement for update meetings among EPA/STATE, the intervenors and the amici that does not strictly adhere to the requirements established by that plan. Further, the College Heights Property Owners Association will seek an Order from the United States District Court for the Western District of New York requiring EPA/STATE to schedule an update meeting consistent with all of the terms of the November 5, 1982 Community Relations Plan.

The guarantee for update meetings contained in the Community Relations Plan is an important element in the ability of those most affected by the Hyde Park landfill to protect their Health and Safety interests during the implementation of the Hyde Park settlement agreement. We therefore can not agree to any effort by EPA/STATE to turn that guarantee and the protections inherent within it into a public relations gimmick and a substantive fiasco.

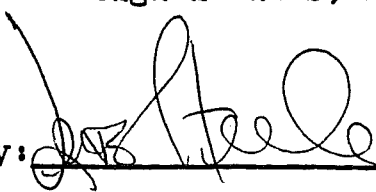
Finally, we do not want to be misunderstood. The Association has no objection to EPA/STATE scheduling additional information sessions or update meetings with whomever and in whatever fashion they may wish. The Association encourages all such activity that will lead to more people knowing more about the implementation of the Hyde Park Settlement Agreement. However, it not appropriate that such efforts prejudice the legal rights and health and safety interests of the College Heights Property Owners Association as guaranteed to them under the terms of the Hyde Park Community Relations Plan.

If you have any questions, please contact Mr. Lewis Steele at (716) 284-2644.

Sincerely yours,

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By:  _____

Attorneys for Plaintiff-intervenor
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cc: Hon. John T. Curtin
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Pollution Probe
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