THE HONOURABLE ANDREW S. BRANDT
MINISTER OF THE ENVIRONMENT

A STATEMENT TO THE LEGISLATURE

ON

S-AREA INTERVENTION AND NIAGARA RIVER CLEANUP

APRIL 10, 1984

MR. SPEAKER:

YESTERDAY LEGAL REPRESENTATIVES FOR MY MINISTRY FILED DOCUMENTS WITH JUDGE JOHN T. CURTIN OF THE FEDERAL COURT OF WESTERN NEW YORK IN OPPOSITION TO THE PROPOSED AGREEMENT ON THE CLEANUP OF THE OCCIDENTAL CHEMICAL CORPORATION'S S-AREA SITE IN NIAGARA FALLS.

YOU MAY RECALL THAT DETAILS OF THIS AGREEMENT BETWEEN THE CHEMICAL COMPANY AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY WERE RELEASED IN MID-JANUARY, ABOUT A MONTH BEFORE ONTARIO WON INTERVENOR STATUS IN THE COURT PROCEEDINGS.

I ANNOUNCED AT THE TIME THAT MY STAFF WOULD REVIEW THE VARIOUS PROPOSALS IN THE COURT SETTLEMENT AND THAT WE WOULD MAKE OUR VIEWS KNOWN TO JUDGE CURTIN.

THAT REVIEW IS COMPLETE. WE ARE DEFINITELY NOT SATISFIED THAT THE PROPOSED CLEANUP MEASURES ARE ADEQUATE AND WE ARE EXPRESSING THAT DISSATISFACTION IN THE STRONGEST POSSIBLE TERMS TO JUDGE CURTIN.

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THE COURT HAS SCHEDULED A HEARING STARTING APRIL 30 TO ALLOW ALL PARTIES INVOLVED TO STATE THEIR VIEWS BEFORE ANY FINAL DECISION IS MADE ON RATIFICATION OF THE PROPOSED SETTLEMENT. I CAN ASSURE YOU THAT ONTARIO'S CONCERNS WILL BE EXPRESSED IN DETAIL IN THE COURTROOM.

THE BASIS OF THE SETTLEMENT IS A PLAN TO CONTAIN THE WASTES IN THE S-AREA SITE. WE DO NOT ACCEPT THAT CONTAINMENT FOR SEVERAL DECADES, POSSIBLY EVEN HUNDREDS OF YEARS, PROVIDES ADEQUATE PROTECTION FOR THE NIAGARA RIVER. WE SHALL THEREFORE REQUEST PHYSICAL REMOVAL OF THE S-AREA CONTAMINANTS. IN A CASE LIKE THIS, WHERE A DRINKING WATER SOURCE FOR SO MANY PEOPLE MAY BE AT RISK, A PERMANENT SOLUTION IS NEEDED. WE CANNOT SIMPLY PASS OUR PROBLEM ON TO THE NEXT GENERATION.

UNFORTUNATELY, THE PROPOSED AGREEMENT DOES NOT PROVIDE ADEQUATE REMEDIES FOR, OR PROTECTION AGAINST, THE EFFECTS OF THE CONTAMINANTS MIGRATING OFF-SITE.

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FOR THE AREA BETWEEN THE S-AREA SITE AND THE NIAGARA RIVER, WE SHALL INSIST ON A REMEDIAL PROGRAM BEING DEVELOPED QUICKLY TO DEAL WITH CONTAMINANTS THAT ARE KNOWN TO HAVE LEFT THE SITE.

CONTAMINANTS FROM THE WASTE SITE ARE ALSO BELIEVED TO BE IN THE BEDROCK UNDER THE NIAGARA RIVER. OCCIDENTAL CHEMICAL CORPORATION SHOULD THEREFORE BE REQUIRED TO STUDY THE RIVER BOTTOM TO IDENTIFY AREAS WHICH COULD PERMIT THE CONTAMINANTS IN THE BEDROCK TO RISE AND ENTER THE RIVER. THE COMPANY SHOULD ALSO CARRY OUT CONTAMINANT SURVEYS IN THE BEDROCK ON THE ONTARIO SIDE OF THE RIVER TO IDENTIFY ANY CONTAMINANT MIGRATION THAT MAY HAVE REACHED CANADIAN TERRITORY.

THERE MUST BE LIABILITY IMPOSED ON THE COMPANY NOW FOR ANY OFF-SITE EFFECTS OF THE CONTAMINANTS. IT IS ALSO IMPERATIVE THAT STRICT PROVISIONS BE IMPOSED REQUIRING REMEDIAL TREATMENT OF CONTAMINANTS WHERE ANY HAZARD TO HEALTH OR THE ENVIRONMENT IS IDENTIFIED.

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MR. SPEAKER, AS IS EVIDENCED BY OUR ACTIONS YESTERDAY, ONTARIO IS COMMITTED TO PROTECTING THE GREAT LAKES FROM CHEMICAL CONTAMINATION FROM THE S-AREA. OUR COMMITMENT ALSO EXTENDS TO THE OTHER NIAGARA RIVER WASTE SITES AND INDEED TO ANY OTHER INDENTIFIABLE SOURCE OF TOXIC CONTAMINANTS.

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