

Ken's

Hearing, only if there's opposition to Dr. K. & Sell
Clean up Plan.

Tuesday 13 March 1984

For release at 2 p.m.

Kingsford
Coburn
Oshawa
City of Toronto
Burlington
Halton + Hamilton.

CITIZEN GROUPS SHOCKED BY DECISION DENYING INTERVENTION IN S-AREA CASE APPEAL PLANNED

Yesterday morning U.S. Federal District Court Judge John Curtin issued an order which denies four Canadian and U.S. environmental and citizen groups the right to intervenor status in the pending S-Area landfill lawsuit against Occidental Chemical (formerly Hooker Chemical). The groups are Pollution Probe, Operation Clean Niagara, the Ecumenical Task Force of the Niagara Frontier, and Niagara Environmental Action. After reserving decision for five months on the original motions, Judge Curtin ruled that the citizen groups were "adequately represented" by the governments already involved.

Pollution Probe, Operation Clean, and the Ecumenical Task Force are shocked by this decision. It reflects a predilection for government agencies that experience has shown is entirely unwarranted. We entered this case precisely because we were convinced that the efforts of the governmental agencies involved would be inadequate to protect the health and safety of the people of the Niagara frontier or to protect the waters of Lake Ontario from a landfill that spews toxic chemicals into the Niagara River. The recently filed draft settlement agreement between the governmental parties and Occidental tragically confirms our original analysis and magnifies our concern.

Judge Curtin's decision is symptomatic of a basic disrespect for the importance of organized citizen participation in the Occidental landfill cases. Despite the direct and personal impact of the S-Area

landfill on the lives of those who live in the zone of greatest danger, this decision seeks to exclude the groups from proceedings that will uniquely determine the scope of the S-Area cleanup. As the case now stands, only governmental parties will have the right to present and challenge evidence, appeal any decision, and monitor continuing conditions during implementation of the final order.

We unequivocally reject the Judge's offer of amicus curiae status in this case. It was our experience as amici curiae in the Hyde Park landfill case that demonstrated the absolute necessity of party status for any meaningful participation and protection of vital rights. An amicus is a legal eunuch with no rights whatever.

Paradoxically, the Judge's decision has clearly recognized our valuable contribution in the Hyde Park case and has expressly indicated his desire for our input in the upcoming S-Area hearings. (see summary or complete decision attached). We fully intend to participate in the S-Area matter to protect our environmental and health concerns, but we will do so in a forum and context that fully protects our rights. Accordingly, we have instructed our attorney to implement all legal actions necessary to accomplish this goal.

We will be filing an appeal of Judge Curtin's decision within a few days and will, if necessary, initiate other proceedings to ensure that our concerns are properly addressed in the clean up of the S-Area landfill.

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For further information: Colin Isaacs, Pollution Probe, Toronto 978 6477
home (416) 643 1094

Margherita Howe, Operation Clean Niagara,
Niagara-on-the-Lake (416) 468 3328

Barbara Morrison, attorney, Buffalo (716) 855 2151
home (716) 885 3712