

DIPLOMATIC NOTE RE: HYDE PARK LANDFILL

Pollution Probe and Operation Clean-Niagara's application for amicus curiae status in a New York Court has received considerable press attention here, coupled with SCA discharge and a high degree of Canadian political and public interest in anything to do with the Niagara area, proposed meeting to discuss Hyde Park Agreement to provide general update on situation in Niagara River appears highly advisable in terms of managing situation.

Would be pleased to consider any date prior to June 30th suggested by State Department.

TEXT OF NOTE - Delivered May 21, 1981

The Embassy of Canada

...has the honor to refer to an Agreement between the U.S. Government, State of New York and Hooker Chemical & Plastics Corp. This agreement pertains to proposed remedial action to halt and prevent further migration of toxic chemicals, including dioxins, from the Hyde Park Landfill Site in Niagara Falls, New York, and is now pending ratification by U.S. District Court in Buffalo.

The Canadian government is aware of the efforts being made by the U.S. and New York State governments to rectify problems associated with inadequate past toxic waste disposal practices in the Niagara Falls, New York area.

The potential impact of this situation on the levels of toxic substances in the Niagara River and Lake Ontario has been a matter of concern for some time. The Canadian government on numerous occasions has expressed concern about the need to take action to improve the state of water quality in the Niagara River.

In particular, the Embassy's note of December 4, 1980 cited the manufacture of 2,4,5, trichlorophenol by the Hooker Chemical Co. in Niagara Falls, New York as a possible source of 2,3, 7-8 TCDD (Dioxin) which has been detected in the Great Lakes system and is now a matter of concern to both governments.

The Canadian government was subsequently pleased to receive the assurance in the State Department's note of February 12, 1981 that the U.S. government fully shares Canadian concerns and will advise the Canadian government on a regular basis with regard to U.S. remedial and clean up activities.

The Canadian government is concerned that the agreement between the U.S. government, the State of New York, and Hooker Chemicals & Plastics Corp. does not appear adequate to prevent the leakage of toxic substances from the Hyde Park Landfill into the Niagara River and Lake Ontario.

The Embassy therefore wishes to be satisfied, prior to finalization of the agreement, that all reasonable and practical means are being undertaken to prevent the release into the Great Lakes system of any toxic materials consistent with the commitment in the Great Lakes Water Quality Agreement that "the discharge of toxic substances in toxic amounts be prohibited and the discharge of any or all persistent toxic substances be virtually eliminated", (and to comply with the specific objectives of the Agreement contained in Annex 1 and 12).

In accordance with the expressed desire of both governments for close and continuing cooperation in this area, the Embassy requests that:

- a) an early meeting, including an on-site visit, be convened to discuss the measures proposed to contain or dispose of materials at the Hyde Park Landfill Site and related matters such as provisions for liability in the event of further problems;
- b) an inventory of all waste disposal sites with a possible impact on the Great Lakes be provided. This inventory shall include all sites where it is known or suspected that dioxin or other toxic wastes may be present as well as information regarding investigations currently underway or contemplated regarding any of these sites;

- c) In view of the potential adverse transboundary impacts, information be provided and consultation held as necessary prior to any decisions being taken on disposal or containment measures regarding sites in the Great Lakes area known or suspected to contain dioxin or other toxic substances.