

Canadian Environmental Law Association
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POISONOUS HEALTH CARE

CELA's recommendations to the Ministers
of Environment and Health regarding the
continued use of Incinerators

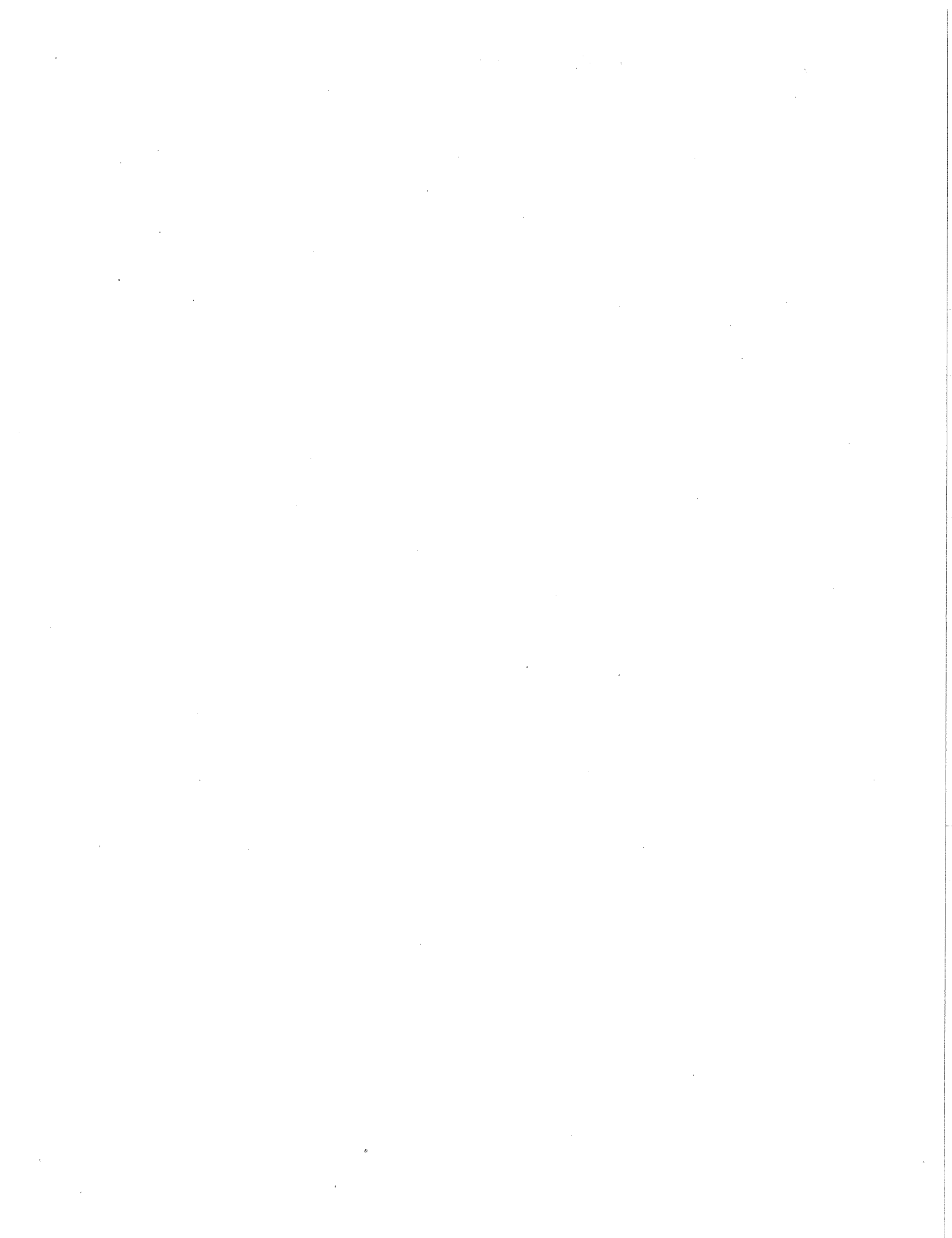
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POISONOUS HEALTH CARE

In June of 1992 the Ministry of Environment (MOE), the Ministry of Health and the Ontario Hospital Association published a "Strategy for the Development of New Biomedical Waste Management Facilities in Ontario." This brief will present a critique of the proposed strategy in light of the clear evidence of the toxicity of incineration, including the emissions, the ash residue, and the quench cooling water.

The Canadian Environmental Law Association (CELA) is a non-profit, public interest organization established in 1970 to use existing laws to protect the environment and to advocate environmental law reforms. It is also a free legal advisory clinic for the public, and will act at hearings and in the courts on behalf of citizens or citizens' groups who are otherwise unable to afford legal assistance.

CELA'S RECOMMENDATIONS

In light of the rights of citizens to a healthy environment, their governments' obligations regarding health and environmental protection, and the state of knowledge regarding the hazards of incineration, we recommend the following:

1. Immediate closure of Riverdale Hospital's incinerator and revocation of their Certificate of Approval given that no biomedical waste is being incinerated;
2. Immediate design and implementation of comprehensive waste management programs for the four hospitals currently permitted to incinerate waste in downtown Toronto, in particular emphasizing the reduction of use of plastics that will eventually be classified as biomedical waste;
3. Immediate review and amendment of the remaining three facilities' Certificate of Approvals to ensure only waste classified as cytotoxic, anatomical and microbiologically hazardous will be incinerated;
4. Development of a test program at the Toronto Western Hospital using microwave technology as an alternative to incinerating anatomical, cytotoxic and microbiological waste;
5. Immediate treatment of all ash residue as hazardous;
6. Immediate requirement that workers handling such ash residue wear protective clothing;
7. Consultation must include participation from labour representatives, environmental experts, representatives of environmental groups, and the public, on hospital waste management issues and planning;

8. Full environmental assessment of all future incinerators and sites;
9. Recognition that the concept of "for profit" incineration is fundamentally irreconcilable with waste reduction and zero discharge; and
10. That the MOE expedite the Clean Air Program legislation to ensure more stringent air emission standards are developed and enforced.

The Right to a Healthy Environment

There is growing recognition in international instruments of the emerging right to environmental quality. At present, the Stockholm declaration of 1972 recognizes this right to environmental quality. Many other international rights codes may imply such a right, for example, the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights and the International Covenant of Economic, Social and Cultural Rights. The most recent formulation of the right to environmental quality is contained in the legal experts' report to the World Commission on Environment and Development, the Brundtland Report. The text provides that:

All human beings have the fundamental right to an environment adequate for their health and well-being and states shall ensure that the environment and natural resources are conserved and used for the benefit of present and future generations.

The Canadian Bar Association Committee on Sustainable Development in Canada, in a publication dated September 1990, recommends that the federal government should work toward a long term strategy to entrench the right to a healthy environment in the Canadian Constitution. The current round of constitutional reform negotiations has produced a Status Report dated July 16th on the Multi-lateral Meetings on the Constitution. This document sets out the agreement of the nine English Premiers and the Government of Canada to a Social Covenant being entrenched in the Constitution of Canada. The Social Covenant recognizes the following policy objective:

- protecting, preserving and sustaining the integrity of the environment for present and future generations.

Moreover, MOE has just recently released its proposal for a new Environmental Bill of Rights in Ontario. This statute will recognize individual citizens' rights to a healthy environment and will create mechanisms whereby citizens can compel their governments to fulfil their duty to their constituents to protect and preserve the environment by acting in a matter to avoid any unnecessary risk to people's health and their environment. In addition citizens will have the right to sue for harm to public resources.

The internationally recognized principle of "anticipating and preventing" and the "precautionary principle" dictate that governments should be rigorous in their investigation of environmental harms in a proactive manner and not wait for conclusive proof that health problems will result before acting to avoid the risk of environmental harms. The MOE has recognized these two principles and acted in accordance with these principles through its ban on municipal waste incineration in April of 1991. In addition, the Ministry stated policy objective of "zero discharge" is also consistent with these principles.

Evidence

We do not have any expertise in the area of the scientific identification of hazardous biomedical waste. We would concede, therefore, that there may be a need to incinerate some very small proportion of what is now considered pathological waste under Regulation 309. However, the adverse health consequences of waste incineration dictate that it is imperative that the amount of biomedical waste that is burned is reduced to the smallest amount possible. Moreover the 3Rs of waste management must be immediately adhered to by hospitals to prevent the currently unacceptable risk to the health and environment of the communities affected. There must be a reduction of the use of plastics given that the incineration of plastics creates extremely hazardous emissions including dioxins and furans, even with the Best Available Technology.

We have reviewed the May 1992 Recycling Council of Ontario report entitled "Protecting Community Health: 3Rs' Solution to Health Care Waste". We commend the Recycling Council of Ontario for its survey of the issues, and we endorse the recommendations contained therein.

In addition, we have also reviewed the July 16, 1992 report of the City of Toronto, Department of Public Health regarding "Incineration in the City of Toronto". This report is also comprehensive and we endorse the recommendations of this report, with the exception of their recommendation number 4 which suggests that the MOE identify a hospital incinerator in the City of Toronto which may be retrofitted with the best available technology and that this facility treat biomedical waste from all generators in the City of Toronto. Furthermore, this recommendation calls for the phasing out of incinerators that cannot be retrofitted on an accelerated timetable. We call for an immediate restriction on all of the incinerators in the downtown Toronto area to ensure that only true biomedical waste is incinerated. With this restriction in place, these incinerators should be phased out once alternative facilities are available.

We have also had the opportunity to review two reports prepared by the Office of the Comptroller of the City of New York: January 1992 "Burn Baby Burn: How to Dispose of Garbage by Polluting Land, Sea and Air at Enormous Cost" and March 1992 "Fire and Ice: How Garbage Incineration Contributes to Global Warming".

From the above-mentioned sources we highlight the following facts:

1. There is a tremendous opportunity for reducing, recycling and reusing large portions of waste, particularly plastic, which is presently being incinerated;
2. The emissions of incinerators are known to be hazardous, including heavy metals, dioxins and furans, even with the Best Available Technology;
3. There is inadequate testing at present of emissions;
4. The bottom ash and fly ash residue, which are routinely disposed of as regular waste, are also toxic and current landfill design is not sufficient to arrest toxic leachate;
5. The quench cooling water that is discharged into the sewer system is toxic and results in further degradation of Lake Ontario, and our water supply;
6. The incinerators in Toronto were built in an era of ignorance about the harmful effects of incineration, and also without the knowledge that so much plastic would be burned;
7. The Certificates of Approvals of the four downtown Toronto hospitals are all pre-1986 (as early as 1968!) and accordingly these incinerators do not meet current Ministry of Environment guidelines for pollution control;
8. Although it is clear that incinerator emissions anywhere in the Province are toxic to human health and the environment, there should be special attention paid to the cumulative effects of such toxins combined with other sources of pollution in downtown Toronto; and
9. Several experts, environmental groups, citizens groups, and government representatives all agree that the amount of waste currently being burned constitutes a significant and avoidable health hazard.

Conclusion

Given the uncontroverted evidence listed above, citizens' right to a healthy environment, and the government's obligation to act to prevent avoidable environmental harm, it is clear that the four downtown Toronto hospital incinerators must be immediately restricted in what they burn. The cumulative effect of the toxic emissions puts at risk the health of a significant number of downtown residents and workers, including a portion of the low

income community, and many children whose immune and respiratory systems are extremely vulnerable to the total load of toxins in the environment. Furthermore, with respect to Toronto Western Hospital incineration, the largest open air food market in Toronto is being adversely affected.

The one remaining obstacle acting to prevent this avoidable harm is the perception that we cannot afford it. We are sure that the costs of implementing the 3Rs properly in hospital care are less than the latent costs of exploiting the environment and community health through the degradation of land, air and water, and the patent costs of incineration, including the proper disposal of toxic ash. Moreover, in this current economic climate, it would seem prudent for this government to recognize the employment opportunities of implementing environmentally sustainable hospital care.

It is time that we stop viewing efficiency as a simple short term economic calculation of the least cost disposal strategy in an economic system where public resources and people are not properly valued. By assigning an appropriately high value to maintaining and preserving priceless public goods such as clean air, clean water, and a healthy citizenry, governments fulfil their mandate to protect, preserve and sustain the integrity of the environment for present and future generations.

