

Hazardous Waste

Letter to the Minister of the Environment on Transboundary Movement of Hazardous Waste

February 29, 2000

The Hon. D. Anderson
Minister of the Environment
28th Floor
Terrasses de la Chaudiere
10 Wellington St.
Hull, Quebec
K1A 0H3

Re: Transboundary Movement of Hazardous Waste

Dear Minister,

I am writing to you regarding the import of hazardous wastes into Ontario for 'recycling' and final disposal.

Imports of hazardous wastes into Ontario from the United States have quintupled over the period 1993 to 1998, rising from 56,000 tones to 288,000 tonnes. Hazardous wastes exports from Ontario to the United States have remained stable over the same period.

The Institute believes that this increase in imports arises from increasingly strict disposal standards in the United States, and implementation of more lax standards in Ontario. In 1994, for example, a prohibition on the land disposal of untreated hazardous wastes was finalized under the US Resource Conservation and Recovery Act (RCRA). This ban flowed from amendments to the U.S. legislation adopted in 1984, following the Love Canal disaster in New York State. In July of last year, new standards for hazardous waste combustion facilities were made under the RCRA and the U.S. Clean Air Act.

No comparable standards for land disposal or combustion exist in Ontario. At the same time, the approvals process for hazardous waste disposal sites has been significantly weakened since 1995. This has occurred through a combination of legislative amendments and policy changes. The Ontario Ministry of the Environment has also suffered a significant loss of capacity to oversee the management of hazardous wastes, and other activities which may pose a threat to human health or the environment, as a result of major budgetary reductions.

On December 20, 1999, the Canadian Institute for Environmental Law and Policy (CIELAP) filed a Request for Review under Ontario's Environmental Bill of Rights, stating that the present situation represents a threat to the health, environment and economic well-being of Ontario residents. The Institute specifically requested that stronger requirements for the approval of hazardous waste disposal sites in Ontario be put in place, and that the province adopt immediately the RCRA standards for the land disposal of hazardous wastes, and the standards for hazardous waste combustion facilities made under the RCRA and the U.S. Clean Air Act.

A copy of this submission and its supporting documentation are attached to this letter for your information.

The Institute's request was prompted by a series of events over the past six months regarding hazardous waste disposal sites in Ontario:

- * the Philip Services Corporation Taro landfill in Stoney Creek was approved as a "non-hazardous industrial waste" disposal site without a public hearing under the Environmental Assessment Act in July 1996. It was later discovered that the operator was importing hazardous wastes from the U.S., solidifying them with portland cement, and disposing of them as non-hazardous wastes in the landfill. The Ministry of the Environment was forced to take action to end this practice in September 1999, after it had gone on for several years.

- * a major expansion of the Safety-Kleen Ltd. hazardous waste landfill near Sarnia was approved without a public hearing under the Environmental Assessment Act in September 1997. In November 1999 it was discovered that groundwater and methane were leaking into one of the new areas of the landfill, breaching the liner and raising the possibility of groundwater contamination. The facility was temporarily prohibited from receiving wastes for disposal in December 1999.

- * the use of a scrap metal smelting furnace, operated by Gary Steacy Dismantling Ltd., in Northumberland County was approved to destroy low level PCB's in December 1997. This was Ontario's first permanent PCB incineration facility. In its decision the Environmental Assessment Board questioned why the facility was not designated for review under the Environmental Assessment Act, given the availability of potentially safer and more effective PCB destruction technologies. The Board also questioned the adequacy of the Ministry's review of the potential human health impacts of emissions from the facility.

- * in November 1999, the Environmental Assessment Board approved the use of a scrap metal furnace operated by SRBP Resource Recovery Inc. in Cornwall to destroy high level PCB's and other hazardous wastes. The facility was again not designated for review under the Environmental Assessment Act. Serious questions have been raised regarding likely emissions of dioxins from the facility, and whether the furnace was ever designed for this use. The approval of the facility is currently under appeal to the provincial cabinet.

In the view of the Institute, these events indicate serious problems with the way in which hazardous waste disposal sites are being approved and regulated in Ontario. Problems which should have been identified in an adequate approval process, such as the disposal of "solidified" hazardous wastes in Taro and the potential for breaches of the liner at Safety-Kleen, have been overlooked and only being recognized later. In the cases of both the Steacy Dismantling and SRBP PCB incinerators, the Environmental Assessment Board itself raised questions about the way in which such approvals were being handled.

On February 21 of this year, the Ontario Ministry of the Environment rejected our request for the review of Ontario's hazardous waste standards and practices, stating that "the public interest does not warrant a review of the matters raised in the application." A copy of the Ministry's statement is attached for your information, along with a commentary by the Institute explaining why the Ministry's response fails to address the concerns raised in CIELAP's application.

sound management established by the Basel Convention is being met. The absence of specific standards in Ontario regarding land disposal and incineration, the lowering of the level of scrutiny applied to the establishment or expansion of disposal facilities in the province, and the loss of the capacity, due to budgetary reductions, of the Ontario Ministry of the Environment to oversee hazardous waste disposal facilities over the past five years must all be considered in this context.

As you know, the Auditor-General of Canada raised concerns over Canada's ability to fulfil its international obligations regarding the transboundary movement of hazardous wastes in his October 1997 Report to the House of Commons (Chapter 4). The recent developments in Ontario can only reinforce these concerns both domestically and within the international community.

The Institute therefore requests that you review the situation in Ontario to determine whether Canada's hazardous waste import obligations are being met. If you find that Canada's obligations are not being met, we ask that you exercise your authority under the existing CEPA, or under section 185(2) of CEPA 1999, as appropriate, to deny permits for further imports of waste into Ontario until the situation is addressed.

We would be pleased to respond to any questions which you, your staff or your officials might have regarding this matter.

Yours sincerely,

Anne Mitchell,
Executive Director.

cc: The Hon.C.Caccia, M.P., Chair, House of Commons Environment Committee.

The Hon. T.Clement, Ontario Minister of the Environment.

Richard Smith, A/Commissioner for Environment and Sustainable Development.

Gordon Miller, Environmental Commissioner for Ontario.

John Myslicki, Director, Transboundary Waste Movement Division, Environment Canada.

Keith West, Director, Waste Reduction Branch, Ontario Ministry of the Environment.