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# FACT LINE

HOOKER

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## LOVE CANAL: THE FACTS (1892-1980)

Hooker Chemical  
Public Affairs Department  
(713) 840-2801  
P.O. Box 4289  
Houston, Texas 77210

**HOOKER CHEMICAL**

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What started out as the utopian dream of the 19th century industrialist, William T. Love, has become one of the most emotionally charged environmental issues of our time. The magnitude of the situation and the continuing distorted reports regarding what happened at Love Canal require a dispassionate presentation of the relevant facts.

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# FACTS VS MISPERCEPTIONS

Since the fall of 1976 when the information first became available that chemicals had migrated from the Love Canal, misperceptions and misinformation rather than facts have been widely repeated. The following are the facts:

**FACT:** Hooker did not use the Love Canal property for waste disposal until 1942. It continued using it for disposal until it was deeded in 1953 to the Niagara Falls Board of Education. (Please see—1942 to 1953 and 1957)

**FACT:** The nature and use of the Love Canal property as a chemical waste disposal location was better than many methods of disposal used by industry at the time. The site would conform to pending Federal RCRA regulations. (Please see—March 15, 1979 and June 30, 1980).

**FACT:** The Niagara Falls Board of Education and the Administrative Officers were informed of the prior use of the Love Canal property and Hooker had repeatedly warned that subsoil conditions made any excavation undesirable and possibly dangerous. (Please see—1952, 1953 and 1957)

**FACT:** Hooker warned the Board of Education that chemical wastes had been buried in the Love Canal. It documented the warnings to the Board in the transfer deed, and in letters to and appearances before the Board. Hooker warned that the area was not suitable for construction. The public was informed of Hooker's warnings through articles appearing in local and area newspapers. (Please see—1952 to 1958)

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*New York Times* that,

“Hooker would have had no trouble complying with these (Federal RCRA) regulations. They may have had a little extra paperwork, but they wouldn't have had to change the way they disposed of the wastes.”

That is the Love Canal story to date. We have made every effort to present the facts and documented information. The following excerpts from editorials carried in *The Wall Street Journal* on May 22 and June 19, 1980, place Love Canal in perspective:

“The new study also makes it all the more important to try to understand just what went wrong at Love Canal. Much still is unknown, of course, but contrary to public impression, the original waste disposal practices of Hooker Chemicals and Plastics Corp. were not grossly negligent.

“In November 1957, as the nearby” (Please see—1957) “school board minutes and news accounts reveal, a lawyer for what was then the Hooker Electrochemical Company twice issued strong public warnings about potential health hazards at Love Canal. These warnings don't necessarily absolve Hooker of all responsibility for the misfortunes that have subsequently afflicted families living near the Niagara Falls, N.Y., dump site. But they do put in perspective various efforts to use the Love Canal mess as an opportunity to defame both Hooker in particular and profit-making corporations in general. “The courts will decide how often a company that no longer owns a dump site property should be legally responsible for monitoring and protesting its misuse.

“But whatever Hooker's legal responsibility, it is clear that on at least two occasions the company did go out of its way to alert the public to possible dangers. The unfortunate history of Love Canal should teach us the urgency of cleaning up and monitoring the nation's chemical dump sites more carefully. But contrary to the half-truths and innuendoes dealt in by professional corporate baiters, the story does not provide an object lesson in unbridled corporate callousness or villainy.”

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Health Commissioner, David Axelrod, M.D., issued the department's epidemiologic studies on *Adverse Pregnancy Outcomes in the Love Canal Area*. The report concluded,

"Finally, and most importantly, we have not yet been able to correlate the geographic distributions of adverse pregnancy outcomes with chemical evidence of exposure. At present, there is no direct evidence of a cause-effect relationship with chemicals from the Canal."

At the press conference announcing the epidemiological study, the New York Department of Health also released documents regarding other studies relating to Love Canal area residents. These included the following conclusions:

"Blood testing, which was designed to screen for liver and kidney abnormalities, leukemia and blood diseases, showed no patterns of excess abnormality."

"None had clinical evidence of liver disease."

"Computer analyses of the 22-page health questionnaire, which elicited information on some 150 different diseases or symptoms, produced no evidence of unusual patterns of illness or other disorders. Cancer incidence was within normal limits for this population."

"Efforts to establish a correlation between adverse pregnancy outcomes and evidence of chemical exposure have proven negative. Comprehensive studies of three households with unusually adverse reproductive histories did not produce evidence of unusual risk of chemical exposure."

On June 29, 30 and July 1, *The Buffalo Courier Express* published the results of its staff investigation which found that in 1957 and 1960 the City of Niagara Falls, despite warnings from Hooker personnel, constructed sanitary and storm sewers at the Love Canal site. This construction destroyed portions of the Canal's protective cap as well as portions of the east and west canal walls. Reports indicate that those penetrations into the walls and cap of the Canal

"had the effect of freeing the chemicals and allowing them to move throughout the area."

On June 30, William Sanjour, chief of the EPA Hazardous Waste Implementation Branch, discussing Hooker's use of the Love Canal, reported in *The*

**FACT:** The original understanding provided to Hooker by the Board of Education was that the Love Canal property would be used only for a school and a park. (Please see—1952 and 1957)

**FACT:** What went wrong at the Love Canal was not the way Hooker had disposed of the waste material but what happened to the property during the following 25 years when Hooker no longer had any control over the property. (Please see—March 15, 1979)

**FACT:** The clay covering the materials was disturbed by city and state road construction, and thousands of cubic yards of the cover were removed, at direct order of the Board of Education. This allowed water to seep into the Canal and it gradually filled up with a mixture of water and chemicals just like a bathtub and overflowed. (Please see—1953 to 1955 and 1958)

**FACT:** There is no corroborated scientific evidence to support a causal relationship between the chemicals in the Love Canal and genetic disorders or the alleged medical problems of residents living in the area of the Love Canal. (Please see—May 17 and June 24, 1980)

**FACT:** Hooker does not now own, nor has it owned, nor had management responsibility for the Love Canal property for 27 years. Hooker sold the property in 1953 to the Niagara Falls Board of Education under threat of condemnation. (Please see—November 21, 1957)

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Elon Huntington Hooker was a visionary who saw in Niagara Falls, N.Y., what William T. Love had seen before him—a source of unlimited energy. In 1903, Hooker founded The Development and Funding Company in Brooklyn, N.Y., which moved to Niagara Falls in 1905. The name was changed to the Hooker Electrochemical Company in 1909.

A knowledge of the events and facts regarding the Love Canal is critical for a clear analysis and understanding of the present situation. All of the relevant facts have not been communicated by the news media to the public. This FACTLINE outlines, in chronological order, the significant events between 1892 and mid-1980 that explain and place in historical perspective what actually transpired regarding the Love Canal.

**1892:** William T. Love arrived in Niagara Falls, N.Y. to bring about a long-held dream of building a planned model community with easy access to nearby markets, via canal, and an abundance of inexpensive power. He believed this combination would make his Model City a mecca for industrialists looking for suitable plant sites. This was especially true in an age when electricity was generated as direct current, making it essential that industry locate close to the source of electrical power.

**1893:** In January, Love formally announced his plans for a new city which would house approximately 600,000 people. Within a few months, he purchased or obtained options on 20,000 acres of land and began laying out the site. That same year, Love's dynamism and charisma were brought to bear on the New York legislature. He became the second private citizen to address a joint session of the State Senate and Assembly. They granted him a charter for his new company, the Niagara Power and Development Company (other companies that later merged with it were the Niagara County Irrigation and Water Company and the Modeltown Company). In October, he opened the first factory on the townsite.

**1894:** Work began on excavation for the canal, but Love's dream began to fade when the country found itself in the grip of a full-scale economic recession. Money and backing began to slip away

the Love Canal disaster and that release of information such as the studies I had asked about might weaken the Justice Department's case by giving the defendants in the lawsuit the opportunity to 'poke holes in the government's case,' as one Justice representative put it."

He continued,

"I find no justification whatsoever for making broad public policy judgements—such as the one here to recommend temporary relocation of 2,000 people—based on information developed in conjunction with litigation, and then refusing to make that information available to the people whose lives are devastated by it, and to public officials who must make public policy judgements, hopefully based on fact rather than surmise. Facts are essential in trying to deal with this terrible situation. Everyone involved—the people, state, local and federal employees, and elected public officials alike—ought to be aware both of what is known about the situation and what remains unknown. Without facts it is impossible to make intelligent public policy decisions about the future or to evaluate the wisdom of past decisions.

"The Love Canal is a unique situation. No health authorities at any level of government have ever conducted comprehensive health tests in an acceptable scientific manner, despite my repeated call for them. Some residents of that neighborhood believe that they suffer from very serious health problems and that the cause is their exposure to toxic chemicals. Others believe that there is no more risk in the area than in many other urban environments. Still others simply do not know what to think and have been suffering from terrible mental anguish for the past three years. The one thing these three groups do have in common, however, is a lack of information, thanks in part to the attitude of the United States Department of Justice. A whole neighborhood is stigmatized to the point that the property there is literally valueless and the people who live there frightened beyond belief, and an arrogant individual in the Justice Department says that they cannot even be told why this has been done!"

On June 24, New York State Department of

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On May 31, in an interview with *Newsday* (L.I., N.Y.), New York Governor Hugh Carey “charged that a costly relocation of more than 700 Love Canal homeowners is medically unnecessary but has to be carried out to assuage the panic caused by the (EPA) report.”

He said that New York State Health Department studies had turned up no health-related justification for the relocation. The director of the state’s office of public health said that, based on studies going on since 1978, the frequency of birth problems in the rest of the Love Canal area (other than the first 230 relocated families) was comparable to that of Niagara County. They also had not found a high frequency of liver ailments or cancer in the area but were going to continue to track down additional former residents.

On June 20, Congressman John J. LaFalce (36th District, New York) wrote to President Carter. He said in part that,

“Having seen the memorandum (EPA memorandum dated May 19, 1980) and desiring additional information about the studies that played a part in EPA’s decision to recommend the uprooting of these families, I wrote to Barbara Blum, Deputy Administrator of the EPA, asking her to provide the details omitted from the memorandum. Rather than receiving a reply from EPA, however, I was called by the Department of Justice and told that representatives from the Department would like to have an appointment with me to discuss my letter to EPA. That meeting took place yesterday; its results, described below, give rise to this letter to you.

“Three representatives from Justice came to my office. Two were attorneys from the environmental enforcement division; the third was from the Department’s Congressional liaison office. Incredibly, the meeting began with them telling me that if the EPA official who had initially released the memorandum noted above had consulted with counsel first, even the memorandum itself would not have seen the light of day. They asserted that the memorandum itself, and many of the studies mentioned in it, constituted ‘lawyers’ work product’ pertaining to the litigation pending over liability for

from Love and his Model City. To compound the situation, Louis Tesla discovered a way to transmit electricity economically over long distances by means of alternate current. Tesla’s discovery eliminated one of Love’s prime selling points.

**1896:** Love left his project and several others attempted to fulfill his concept until 1910.

**1903:** Elon Huntington Hooker founded The Development and Funding Company in Brooklyn, N.Y.

**1905:** Hooker moved The Development and Funding Company to Niagara Falls, N.Y.

**1909:** Hooker changed the company name to Hooker Electrochemical Company. The basis of the company’s initial success was a process to turn brine inexpensively into chlorine and caustic soda. This technology became the cornerstone for Hooker Chemical, a company that today manufactures and sells chemicals worldwide with more than 70 operations in the U.S. and around the world.

**1910:** Love’s dream finally died. For the next 30 years, the excavated portion of Love’s canal, located in an undeveloped area several miles from downtown Niagara Falls, lay fallow.

**1939:** On August 14, a Certificate of Dissolution was filed by Niagara Power and Development Company. Under the laws of New York, the company was allowed to dispose of assets at a later date.

**1941:** In September, Hooker initiated feasibility studies to determine the suitability of using the unfinished canal because its bottom and sides were of impermeable clay. It was determined that the canal was suitable as a disposal site for wastes from its Niagara Falls manufacturing operation. Since the canal had been dug out of clay it assured that the chemical wastes would remain in place indefinitely. Although the company anticipated that the sale of the canal property would close the following month (October) defects in the chain of title prevented the consummation of the sale until 1947.

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**1942:** Hooker entered into an agreement with the Niagara Power and Development Company to purchase the area known as part of Lot 60 of the Mile Reserve (Love Canal property). On April 15 a letter was received by Hooker from Niagara Power and Development Company granting permission to use the property for waste disposal until the sale could be completed. Aerial photographs taken of the property at the time show only six houses adjacent to the canal property.

Hooker began using the property under a license for the disposal of waste material from its Niagara operations. Its use was better than many methods of disposal used by industry at the time. As Hooker disposed of wastes, that portion of the canal area was covered with a layer of the same material which lined the bottom and sides of the canal. The use of clay to contain chemical wastes even meets pending Federal Resource Conservation and Recovery Act (RCRA) standards.

**1947:** On April 29, Hooker acquired legal title to the Love Canal property.

**1951:** The area around the canal was zoned "General Residential." This zoning permitted the continued use of the canal as a location for waste disposal.

**1952:** The Niagara Falls Board of Education (Board), realizing that the general area around the Love Canal was going to continue to develop, announced it wished to build a school in that neighborhood. The Board indicated that the canal property was the only area it felt suitable for the school.

In March, Hooker Executive Vice President B. J. Klaussen visited the site with the Niagara Falls School Board Superintendent and President. Klaussen had a map prepared showing where wastes were deposited, how they were covered and the results of testing that had recently been completed. On the map provided to the Board he stated,

"No evidence of chemicals anywhere digging down 10' right up to within 1' of the excavations. In places where we have dumped chemicals the chemicals are almost unchanged in form and found 4' below top surface."

On October 16, B. J. Klaussen sent a letter to the

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On May 17, the EPA held a press conference to release the results of a preliminary genetic study showing chromosome damage in 11 of the 36 Love Canal residents tested. The private laboratory which performed the tests for the EPA acknowledged that the preliminary findings were not definitive and the absence of a control group required that,

"prudence must be exerted in the interpretation of such results." The report also stated, "... we strongly recommend the cytogenetic analysis of a larger population of Love Canal residents along with a number of unexposed individuals (controls) before significance can be placed upon the results."

Hooker again reconfirmed the company's concern for the health and well-being of all residents of the Love Canal community and called for an immediate follow-up of the EPA report by a scientifically sound study.

On May 21, President Carter declared a state of emergency in the Love Canal area, paving the way for the evacuation of up to 710 families.

The same day the U.S. Department of Health and Human Services released a special panel's assessment of the EPA chromosome report and its conclusion was that the study

"provides inadequate basis for any scientific or medical inferences from the data (even of a tentative or preliminary nature) concerning exposure to mutagenic substances because of residence in the Love Canal area." The panel also said, "... we do not believe that on the basis of this report it could be concluded that 'the chemical exposures at Love Canal may be responsible for much of the apparent increase' nor can we concur with the Report's implication that the cytogenetic observations suggest that the residents are at increased risk of neoplastic disease, of having spontaneous abortions and of having children with birth defects based on the evidence presented."

On May 29, a New York State Assembly task force issued a report that claimed the U.S. Military had dumped dangerous wastes in the Love Canal and that the federal government's dumping began before Hooker first used the property. The federal government denied the charges.

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Hooker and various other parties associated with the Love Canal sought damages for alleged personal injury, property damage and other losses.

Among the personal injury suits are five purported "class actions" which seek recovery of millions of dollars on behalf of various groups of persons who claim to have been injured by the chemicals at Love Canal. The court ruled that these purported "class actions" failed to satisfy any of the prerequisites of the New York class action statute and ordered that the cases could only be considered on behalf of the individually named plaintiffs.

Hooker asserts that the three-year statute of limitations applies to the plaintiffs' claims in the Love Canal actions in which Hooker is a party. The rule in New York is that the statute of limitations, with respect to personal injury claims, starts to run when the invasion of the body occurs and not when the injured party claims to have discovered his or her injury.

**1980:** In January, the City issued \$6.5 million in bonds to pay for remedial work in the south section of the Love Canal.

In April, the State of New York filed a \$635 million lawsuit against Occidental Petroleum, Hooker Chemical Company and Hooker Chemicals & Plastics Corp., accusing them of responsibility for the Love Canal problems. During the month the Atmospheric Science Center published a paper by H. B. Singh, et al., entitled *Atmospheric Measurements of Selected Toxic Organic Chemicals: Halogenated Alkanes; Chlorinated Ethylenes, Chlorinated Aromatics, Aromatic Hydrocarbons, and Secondary Organics*. Information from that study and from studies by the Research Triangle Institute by E. D. Pellizzari, entitled *Formulation of a Preliminary Assessment of Halogenated Organic Compounds in Man and Environmental Media (July 1977)* and *Ambient Air Carcinogenic Vapors: Improved Sampling and Analytical Techniques and Field Studies (May 1979)* indicate that the outdoor air in the Love Canal area compares favorably with outdoor air in Los Angeles, Oakland, Phoenix, and a number of cities in Texas and New Jersey. These studies, prepared for the EPA, also show that the air inside homes at Love Canal, including homes adjacent to the canal, is even cleaner than the outdoor air.

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Board confirming the company's understanding from the Board that the Love Canal property was to be used for a school "and the balance of the property to be maintained as a park." He also again reminded the Board,

"As explained to you at our conferences, in view of the nature of the property and the purposes for which it has been used, it will be necessary for us to have special provisions incorporated into the deed with respect to the use of the property and other pertinent matters."

On October 17, the Board responded to Hooker that the letter had been read at the Board's meeting the prior night, that the proposal had been accepted, and the Board stated:

"It is understood that as you explained to the Superintendent of Schools, it will be necessary for you to have special provisions incorporated into the deed with respect to the use of this property."

The deed was done by Hooker so future members of the Board and others who might take possession of the Love Canal property would be warned that it was not suitable for construction since chemical wastes had been disposed of in the canal.

The deed from Hooker to the Board states, in part:

"Prior to the delivery of this instrument of conveyance (deed), the grantee (Niagara Falls Board of Education) herein has been advised by the grantor (Hooker Electrochemical Company) that the premises above described have been filled, in whole or in part, to the present grade level thereof with waste products resulting from the manufacturing of chemicals by the grantor at its plant in the City of Niagara Falls, New York, and the grantee assumes all risk and liability incident to the use thereof. It is, therefore, understood and agreed that, as a part of the consideration for this conveyance and as a condition thereof, no claim, suit, action or demand of any nature whatsoever shall ever be made by the grantee, its successors or assigns, against the grantor, its successors or assigns, for injury to a person or persons; including death resulting therefrom, or loss of or damage to property caused by, in connection with or by reason of the presence of said industrial wastes.

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It is further agreed as a condition hereof that each subsequent conveyance of the aforesaid lands shall be made subject to the foregoing provisions and conditions.”

**1953:** On May 7, Ralph A. Boniello, the school district Deputy Corporation Counsel, told the Board that the deed

“provides specifically that the Board of Education has been advised by the Hooker Electrochemical Company that the above premises have been filled, in whole or in part, to the present grade level thereof with waste products resulting from the manufacturing of chemicals by the Hooker Company, and that the Board assumes all risk and liability incident to the use thereof.”

He also said that,

“In the event that the Board shall accept this deed, it is my opinion that there is placed upon the Board the risk and possible liability to persons and/or property injured or damaged as a result thereof arising out of the presence and existence of the waste products and chemicals upon the said lands referred to in the said deed.”

The Board voted that the deed and conveyance be accepted. The deed transferring the Love Canal property from Hooker to the Board was recorded on July 6. On August 6 the Board approved removal of 4,000 cubic yards of soil from the Love Canal for “grading at the Ninety-third Street School.”

**1954:** On January 21, the Board approved removal of up to 3,000 cubic yards of fill from the canal site.

**1955:** A set of architectural plans dated August 18 indicate the intention of removing various amounts of soil from the top of the canal to grade the site. The amount to be removed ranged from 1 to 2.88 feet or approximately 10,000 cubic yards.

**1957:** Because of a pending transfer of unused sections of the canal property to private developers, A. W. Chambers of Hooker appeared before the Board’s regular meeting on November 7 to remind them of the possible dangers of using the Love Canal for construction because of the chemicals

families living on both sides of 97th and 99th Streets would be evacuated and their homes purchased. In November, remedial work began on the canal property.

**1979:** In February, Beverly Paigen, a biologist with Roswell Park Memorial Institute in Buffalo, urged the evacuation of more families in light of her study suggesting a high rate of birth defects and miscarriages among Love Canal residents. The New York State Department of Health did not concur with her findings. Dr. David Axelrod, N.Y. Commissioner of Health stated,

“We cannot say with certainty that the higher rates found in each of the categories are directly related to chemical exposure but the data do suggest a small but significant increase in the risk of miscarriages and birth defects. Although the magnitude of the additional risk to this population is indeed small, prudence dictates that we take a most conservative posture to minimize even that small additional risk.”

Based on this, he recommended temporary relocation of all pregnant women and as a further precaution, temporary relocation of children under the age of two.

On March 15, representatives from the American Institute of Chemical Engineers (AIChE) Task Force on RCRA (Federal Resource Conservation and Recovery Act) met with staff members from the Senate Environment Subcommittees on Natural Resource Protection and Environmental Pollution. The Task Force provided input to both the Congressional staff members and to Environmental Protection Agency (EPA) officials. The Task Force reported that,

“The Senate staff members were impressed with the statement that the design of the Love Canal site was well within the standards of RCRA. What went wrong with Love Canal can be attributed in large part to lack of monitoring, invasion of the site itself, and lack of remedial work.”

On December 20, the U.S. Justice Department filed a lawsuit against Hooker Chemical Company relating to the company’s earlier use of the Love Canal.

The first of what has now become hundreds of personal injury suits was filed in 1979 against

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Love Canal property to Ralph Capone of Niagara Falls for \$1,200. The special provisions in the deed from Hooker to the Board were included in the deed. Capone deeded the property with references to these deed provisions to L. C. Armstrong of Kane, Pa., on June 13, 1974.

**1968:** The State of New York's construction of the LaSalle Expressway resulted in the relocation of Frontier Avenue through the southern portion of Love Canal, requiring the removal of some buried chemical wastes and soil.

**1976:** On October 3, reports stated that chemicals had seeped into basements of some homes on the periphery of the Love Canal property. Although there are now some allegations that there were earlier instances, this was the first confirmed indication that chemicals had migrated from the canal into adjacent property.

**1977:** A task force, comprised of the City of Niagara Falls, the Niagara County Health Department and Hooker, began to study the situation. The City, acting as lead, commissioned Calspan Corporation of Cheektowaga, N.Y., to prepare an abatement plan. The Calspan report was presented to the City in August.

**1978:** In March, the City commissioned Conestoga-Rovers of Waterloo, Ontario, Canada, to design a remedial program. In June, Conestoga-Rovers presented its recommendations for a system to contain wastes migrating from the canal. Hooker also participated in this study and offered to pay one-third of the then-expected cost of remedial work for the southern section of the canal, which was estimated at \$840,000.

On August 2, the New York State Health Commissioner ordered the temporary closing of the 99th Street school and recommended the temporary evacuation of pregnant women and children under two living in the first two rings of homes around the canal property during the completion of the remedial program. Approximately twenty families could have been affected. On August 9, Governor Carey visited the area and announced that all 236

buried there. The following is an excerpt from the Board's minutes:

"He (A. W. Chambers) reminded the Board that, due to chemical waste having been dumped in that area, the land was not suitable for construction where underground facilities would be necessary. He stated that his company (Hooker) could not prevent the Board from selling the land or from doing anything they wanted to with it but, however, it was their intent that this property be used for a school and for parking. He further stated that they feel the property should not be divided for the purpose of building homes and hoped that no one will be injured."

That same night the Board approved "that a letter be forwarded to the Hooker Electrochemical Company expressing appreciation for sending their representative here tonight to explain the conditions of the soil near the Ninety-ninth Street School when there was no legal obligation on their part to do so."

On November 8, the *Niagara Gazette* newspaper reported on Hooker's presentation before the Board. The story said Hooker used

"a section of the old Love Canal to bury chemical waste. He (A. W. Chambers) said this use made the land unsuitable for construction..."

On November 21, A. W. Chambers again appeared before the Board and presented a communication from Ansley Wilcox 2nd, Vice President and General Counsel of Hooker, opposing the sale of the property and amplifying the remarks made by Chambers at the Board's November 7 meeting.

The following are excerpts from Wilcox's letter:

"At the time it (the Love Canal property) was acquired it was a sparsely settled section and our purpose in acquiring the same was to obtain an area for burying industrial wastes.

"The area was used for this purpose for a number of years, and, in fact, was still being used when we were approached by Dr. Small (Superintendent—Board of Education) and other representatives of the Board of Education who stated that the Board of Education would like to acquire at least a portion of the property for the creation of a new school. We explained in detail to Dr. Small the use which we were making of

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the property and stated that we were very reluctant to sell the same, feeling that it should not be used for the erection of any structures. However, after several discussions with Dr. Small and others it was pointed out to us that the School Board felt that this was the only property available in the location in which a new school had to be constructed and that they were so desirous of acquiring the same that condemnation proceedings might be resorted to. "As a result, our management considered the matter very carefully and came to the conclusion that if the property was so important to the Board of Education we would make a gift of the same to the Board with the understanding that it should be used only for the construction of a new school and the maintenance of a park. We were thoroughly convinced that should the property ultimately be used for any other purpose the residues which had been buried thereon might well have a serious deleterious affect on foundations, water lines and sewer lines, and, in addition, we felt it quite possible that personal injuries could result from contact therewith...

"...since the Board of Education itself had no facilities for maintaining a park it was reluctant to accept a conveyance containing an affirmative agreement to do so. It was pointed out that actual maintenance of a park could probably only be carried out by the City and some agreement would have to be made with the City to do this. Therefore, at the request of the Board's representatives this provision was not included in the deed. However, its omission in no sense indicated that we felt it would be safe or proper to use the property for any other purpose."

The following excerpt is from the minutes of the Board's November 21 meeting:

"It was pointed out that, although it was not so stated in the deed, there was a mutual understanding that the property would be used only for the construction of a new school and the maintenance of a park... A copy of a communication from the Hooker Electrochemical Company to the Superintendent of Schools, stated the Administrative Officers and the members

of the Board of Education knew of this restriction. (Please see—October 16-17, 1952). Mr. Wilcox stated they (Hooker) feel very strongly that subsoil conditions make any excavation undesirable and possibly hazardous; he urged that arrangements be made to use the property for the purpose intended since additional park or recreation facilities in this area are desirable."

On November 22, the *Niagara Gazette* reported that A. W. Chambers had said that

"there had been an unwritten understanding at the time of the gift that the board would not dispose of the land in any way that might lead to digging or construction work." The report continued, "There are dangerous chemicals buried there in drums, in loose form, in solids and liquids. It was understood the land would be used for a park or some surface activity if it was developed," he said."

In conjunction with the planned construction of Read and Wheatfield Avenues, the City in 1957, and again in 1960, constructed storm sewers across the landfill site, cutting both the clay covering and walls of the disposal area.

**1958:** The City of Niagara Falls began construction of Read and Wheatfield Avenues and installation of utilities through the property, disturbing the cover of the canal, and causing some chemical waste to become exposed. Children playing in the area received minor skin irritations after coming in contact with the exposed chemicals. They received medical treatment. Hooker told the Board to cover the area to protect others from possible injury.

**1960:** On June 2 the Board deeded 6.6 acres of the Love Canal property to the City for a park which was never built. The deed incorporated by reference the restrictions in the 1953 deed.

**1961:** Read Avenue across the canal was paved by the City.

**1962:** Wheatfield Avenue across the canal was paved by the City.

On January 25, the Board sold six acres of the