
FACTLINE

HOOKER

WHAT THE WALL STREET JOURNAL SAID ABOUT LOVE CANAL

If you have any questions, please write or call Public Relations. We will get an answer to you personally, and any questions of general interest will appear in later issues of FACTLINE.

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HOOKER CHEMICAL

The editorials and support documentation reprinted in this FACTLINE place in more accurate perspective several of the issues involved in the emotional and highly controversial Love Canal situation. In its entirety, this coverage provides further acknowledgment that Hooker Chemical acted responsibly.

In keeping with its policy to set the record straight and present pertinent facts to its employees and neighbors, Hooker Chemical is reprinting these editorials even though it may not necessarily concur with all points.

REVIEW & OUTLOOK

Love Canal Warnings

In November 1957, as the nearby 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 warnings came at a time when the Niagara Falls Board of Education was thinking of selling part of the Love Canal property to private developers. Hooker had used excavations from the abandoned Love Canal as a chemical dump site from 1942 to 1953, in which year, under threat of seizure by eminent domain, it had sold the canal and surrounding property to the school board for \$1. Shortly afterwards, the school board built an elementary school on the central portion of the property, with part of the building being over the dump site itself. As the minutes make clear, Hooker accepted use of the property as a school and playground. But the company vigorously protested a proposed sale that might lead to subsoil construction and disturbance of the "dangerous chemicals down there."

What's most interesting about

these protests is how seldom they have been reported. They are never once mentioned in "Laying Waste: The Poisoning of America by Toxic Chemicals," a popular book by Michael Brown that excoriates Hooker for failing to warn the school board and local residents of the dangers lurking in the dump site. They never once appear in the tirades of Ralph Nader, who has said that "Michael Brown's 'Laying Waste' takes the reader on a macabre journey from the notorious Hooker Chemical Company waste dump at Niagara Falls to other cancerous, toxic cesspools left by callous corporations around the country for present and future generations of Americans to suffer by."

The facts aren't all in yet on Love Canal, and it's possible that regardless of its warnings Hooker still bears some responsibility for the seepage of toxic chemicals into the basements of nearby homes. The Environmental Protection Agency, which is suing Hooker for the costs of cleanup and relocation, charges that Hooker failed to place an "adequate clay cap or other appropriate seal" over the dump site when it gave the landfill to the school board. Hooker argues that its clay cap was sufficient but was disturbed by construction. Though no houses were ever built over the canal, two city streets and a state expressway were built across the dump site, and Hooker also contends that the property was dug into as a source of landfill.

The EPA's lawsuit charges that

Hooker "did not warn anyone living in the Canal vicinity that contact with material at the Canal could be injurious," even though as early as 1958 some children playing above the dump site had to be treated for chemical burns; and that in 1968 the company failed to warn the state Department of Transportation of possible hazards associated with construction of an expressway across the southern tip of the dump site. 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. It is perhaps understandable that the EPA has not sought to correct this impression—public officials tend to stick together when faced with acute political embarrassment. On the other hand, it is a bit much for the agency to use narrow legal language in an effort to imply, contrary to an easily accessible public record, that Hooker provided no warnings.

What Hooker Told Whom, When About Love Canal

From a complaint filed in U.S. District Court in Buffalo last December by U.S. Environmental Protection Agency against Hooker Chemical, the Niagara Falls and the Niagara Board of Education:

As explained in more detail below, about 1942 until 1953 Hooker Chemical and its predecessors in incorporated and disposed of its chemical wastes at Love Canal landfill in Niagara County, N.Y. The migration of these hazardous wastes from the landfill site has resulted in the entry of these wastes into the Canal, the sewers running through the Canal area, waters of the Canal, ambient air at the Canal and in homes in the Canal area; as a result these wastes have been consumed by man, animal and plant life. The migration of these wastes and their consumption by human, animal and plant life gives rise to this action.

Hooker neither warned residents and developers in the vicinity that with materials at the Canal could be hazardous, nor did it take any action to prevent future injuries due to exposure of these wastes.

From the Regular Meeting Official Record of the Board of Education, Niagara Falls, N.Y., November 7, 1957:

Arthur Chambers appeared as a representative of the Legal Department of Electrochemical Company regarding a piece of property on Ninety-ninth Street on the north side of Buffalo Avenue which was deeded to the Board of Educa-

tion by his company around 1953. He 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 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. He referred to a moral obligation on the part of the Board of Education in the event the property is sold.

Mrs. Runals moved, seconded by Mrs. Bialecki, 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.

From the Niagara Gazette, Nov. 8, 1957:

The Board of Education has a certain moral responsibility in the disposition of land in 99th street near Buffalo avenue which the Hooker Electrochemical Co. deeded to it in 1953, in the opinion of a member of the company's legal firm.

He is Arthur Chambers, who discussed the situation at last night's board meeting.

The board built a school on part of the land and now is entertaining the idea of selling a section of the land.

Mr. Chambers reviewed the company's

transactions involving the land. He said Hooker bought the 200 by 2,400-to-3,000 feet area running north and south, a section of the old Love canal, to bury chemical waste. He said this use made the land unsuitable for construction in which basements, water lines, sewers and such underground facilities would be necessary.

The company in disposing of the land sought protection lest some party might dig into the chemicals and incur personal or property damages, he said. It gave the school a deed absolute in form but drawn up with a restriction that no claims for damage shall ever be made against Hooker.

Mr. Chambers said definitely that the company did not think the land should be subdivided. "You're apt to hit something we buried there," he explained.

From the Board of Education official record, Nov. 21, 1957:

Mr. Arthur Chambers of the Hooker Electrochemical Company's Legal Department presented a communication from Mr. Ansley Wilcox 2nd, Vice President and General Counsel of that Company, amplifying the remarks made by Mr. Chambers at the Board meeting held November 7th opposing the sale of property, owned by this Board, located near the Ninety-ninth Street School. The letter gave a detailed account of the transaction at the time the property was donated by the Hooker Electrochemical Company to this School System. 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. Also that, at the request of the Board of Education, this provision was not included in the deed due to the fact 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. A copy of a communication from the Hooker Electrochemical Company to the Superintendent of Schools, dated October 16, 1952, and one to that company from the Clerk of this Board under date of October 17, 1952 were presented indicating that the Administrative Officers and the members of the Board of Education knew of this restriction. Mr. Wilcox stated they 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.

From the Buffalo Courier-Express, Nov. 22, 1957:

The Niagara Falls Board of Education is back where it started in its attempt to purchase land in the east end of the city for a school building.

The Hooker Electrochemical Co., from whom the Board received the property in 99th St., said it was the company's understanding that if at any time the Board decided it did not want to use the land, it was to be returned to Hooker.

Arthur Chambers, an attorney for the

company, emphasized that tonight. He added that Hooker had buried, "willfully," chemicals which would be injurious to developers who had to put pipe or other materials underground.

From a Niagara Gazette article Nov. 22, 1957, explaining that the Board of Education voted not to sell two parts of its Love Canal property:

Under the recommendation, approximately 10 acres of land in parcels north and south of the 99th Street School would have been sold to Mr. Infantino and Mr. Cubello for \$16,000.

This land is used as a chemical dump. It was given to the board by Hooker Electrochemical Co. in 1953 along with the site for the 99th Street School.

Arthur Chambers, of the Hooker legal department, who appeared at the Nov. 7 meeting, was back again Thursday night to reiterate the company's opposition to the sale of the two parcels.

He said 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.

"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.

He said there was four to five feet of fill over the chemicals which made use of the land as a park or playground not dangerous.

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REVIEW & OUTLOOK

Love Canal Lessons

With the release of an Environmental Protection Agency study suggesting chromosome damage, families living near the Love Canal chemical dump site have suffered yet another misfortune. Unlike some more tentative environmental concerns, the disposal of toxic wastes presents a clear and present danger.

The scientific meaning of the chromosome study is still uncertain, of course, since it did not include a control group or show any line of causation between dump site and chromosome damage. The sample was preselected to include people likely to have genetic abnormalities. But the evidence is so alarming—11 residents in a sample of 36 showed signs of chromosome breakdown—that President Carter, at the EPA's urging, yesterday signed an emergency order under which the federal government and New York state will share the cost of relocating 710 Love Canal area families to other housing.

This move will be in addition to the 239 families who had to abandon their homes two years ago after toxic fumes were discovered in basements, traces of deadly chemicals such as dioxin showed up in drainage ditches and the New York State Department of Health concluded that residents were suffer-

ing from abnormally high rates of miscarriages and birth defects.

The chromosome damage findings were very tentative and one could argue that release of the results was premature, but we suppose such information was bound to be leaked in so highly charged an atmosphere. Its revelations have understandably added to the residents' bitterness and psychological tensions. Their resentment burst out a few days ago, when EPA officials in the area had to be protected from angry mobs.

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. A task force of the American Institute of Chemical Engineers last year told Senate environmental subcommittees that the original dump site design was well within federal guidelines set down in 1976 by the Resource Conservation and Recovery Act. Hooker used the abandoned Love Canal excavations as a dumping ground between 1942 and 1953; the sidewalls and bottom had already been lined with impervious clay and when the site was closed, Hooker added a cap. Test holes

drilled by the state Department of Environmental Conservation have yet to detect any leakage through the lower sidewalls and bottom.

The problem at Love Canal, according to the Chemical Engineers' task force, was with "lack of monitoring, invasion of the site itself, and lack of remedial work." In 1953, under pain of property condemnation, Hooker deeded the site to the Niagara Falls Board of Education, which erected a school and sold the remainder of the land to private developers. The developers built houses alongside the dump site, the city of Niagara Falls built roads directly over it, and several parties used the dump site as a source of landfill. There is good reason to suspect that toxic chemicals escaped either as a result of construction-induced damage to the dump site cover or, more directly, with landfill that was used for the grading of roads and household properties.

The courts have yet to decide whether Hooker is legally responsible for these misfortunes. In the 1953 deed, Hooker advised the school board that the site was filled with "waste products resulting from the manufacturing of chemicals" and disclaimed all legal responsibility for risks and liabilities associated with those wastes. Hooker, however, did not publicly in-

form the school board that many of the wastes were highly toxic. Nor does the company appear to have vigorously protested construction that could endanger the dump site cover.

The difficulties in determining exact blame make it all the more necessary to limit the likelihood of future Love Canals. To this end, the EPA has recently issued a complex set of regulations providing "cradle-to-grave" standards for wastes currently being generated. The House Commerce Committee has passed a bill sponsored by Representative James J. Florio, which would set up a \$600 million superfund to clean up abandoned dump sites. Reasonable men will quarrel with many of the details in each of these government efforts, but both of them are to be generally applauded.

One of the worst aspects of the Love Canal episode is that the serious health dangers did not come to public light until 1976, 23 years after the dump site was closed. The cleanup and careful monitoring of chemical dumps should have been a top environmental priority. And whatever their legal obligations, companies in the best position to know about potential public health hazards should take greater responsibility for alerting the public.