

## Lesson No. 1 Documents

### Document No. 1

#### Historical Background and Development of the Love Canal Toxic Chemical Disaster:

“The history of Love Canal began in 1892 when William T. Love proposed connecting the upper and lower Niagara River by digging a canal six to seven miles long. . . . Love hoped to harness the water of the upper Niagara River into a navigable channel, which would create a man-made waterfall with a 280-foot drop into the lower Niagara River, providing cheap [hydroelectric] power. However, the country fell into an economic depression [Panic of 1893] and financial backing for the project slipped away. Love then abandoned the project, leaving behind a partially dug section of the canal, sixty feet wide and three thousand feet long. In 1920, the land was sold . . . and became a municipal and chemical disposal site until 1953. The principal company that dumped waste in the canal was Hooker Chemical Corporation, a subsidiary of Occidental Petroleum [21,800 tons of at least 200 different chemicals that were used for chlorinated hydrocarbons, pesticides, plastic residues, chemical sludges, etc. were dumped into the canal between 1942 and 1952]. The City of Niagara and the United States Army used the site as well, with the city dumping garbage and the Army possibly dumping parts of the Manhattan Project and other chemical warfare material. . . . Because of the close proximity to the Niagara River, the water table in the canal would rise and fall substantially. As this occurred, water would mix with chemicals in the landfill and move out into the community . . . through the topsoil to homes built nearby. There was also an old stream bed that crossed the canal . . . that carried this overflow into the basements of adjacent homes and throughout the community. . . . Canal families didn’t know that they were being exposed to poisonous chemicals, nor were they aware that chemical wastes were being dumped. . . . Love Canal awoke a community to the unpleasant and unfortunate realization of how toxic wastes affect our lives and destroy our environment.”

Source: Center for Health, Environment and Justice, “Love Canal,” Fact Pack P001, 1979, pp. 1, 4, and 12.

<http://chej.org/about/our-story/love-canal/>

[http://www.chej.org/wp-content/uploads/Documents/love\\_canal\\_factpack.pdf](http://www.chej.org/wp-content/uploads/Documents/love_canal_factpack.pdf)

---

**Document No. 2****Text of United States District Court Decision in the Case of *United States, the State of New York and UDC-Love Canal, Inc. v. Hooker Chemicals and Plastics Corporation and the Occidental Petroleum Corporation, et al.*, March 17, 1994:**

“The State [of New York] claims that OCC [Hooker, Occidental Chemical Corporation] is liable for punitive damages in addition to compensatory damages . . . for the public nuisance created by the chemical residues which surfaced and . . . flowed out of the Love Canal landfill . . . to punish OCC and serve as a warning to others. . . . Hooker management did not believe there would be any difficulty with groundwater contamination, because Love Canal was looked upon as a large bathtub lined with clay through which nothing would ever go. The Company apparently believed that the barrier was sufficient to prevent migration of chemicals. . . . Hooker was . . . negligent in its careless method of piling barrels above the clay level where chemicals could and did seep through the soil, exposing the tops of the barrels and even the chemical residues themselves whenever subsidence [gradual sinking of the earth’s surface] occurred. . . . A review of the literature on solid waste and chemical disposal techniques of the 1940s and 1950s reveals that Hooker was justified in believing that the chemicals could not get through the clay soil if the area remained properly covered. However, no such belief could be maintained regarding the chemicals buried too shallowly to sit securely inside the ‘clay bathtub.’ The State asserts that Hooker should have asked a geologist to survey the site before beginning its disposal operations. However, no expert was needed to point out that the barrels had to be buried deeply enough to avoid exposure from subsidence. Common sense should have informed Hooker that allowing the barrels to rest within 1½ feet from the surface was potentially dangerous. . . . Measured by industry practice of the time, Hooker’s procedures at Love Canal met or exceeded the standards in most particulars. Moreover, the disposal practices were designed to limit the exposure of those who worked daily at the site. Although the ‘helter-skelter’ dumping of barrels looked untidy, this method was safer than forcing workers to climb into the pits to align the barrels. . . . Although the Company . . . should have provided some warning to residents of the potential dangers of the site once the dumping began, it violated no zoning or pollution regulations by using it as a dump or failing to erect a fence to keep people out. . . . [The Court] cannot look at the pre-transfer events in isolation but must consider them in the context of the transfer.”

Chief Judge John Thomas Curtin,  
United States District Court for the Western District of New York

Source: *United States, the State of New York, and UDC-Love Canal, Inc. v. Hooker Chemicals and Plastics Corporation et al.*, United States District Court, Western District New York, Case No. 850 F. Supp. 993, March 17, 1994, p. 1–42.  
[http://www.leagle.com/decision/19941843850FSupp993\\_11703.xml/U.S.%20v.%20HOOKE%20R%20CHEMICALS%20&%20PLASTICS%20CORP](http://www.leagle.com/decision/19941843850FSupp993_11703.xml/U.S.%20v.%20HOOKE%20R%20CHEMICALS%20&%20PLASTICS%20CORP).

<http://law.justia.com/cases/federal/district-courts/FSupp/850/993/2132540/>

**Document No. 3****Bill of Sale and Transfer of Property Deed between the Hooker Electrochemical Company and the Board of Education of Niagara Falls, New York, April 28, 1953:**

“This Indenture made the 28th day of April 1953 between Hooker Electrochemical Company . . . and the Board of Education of the School District of the City of Niagara Falls, New York, . . . in consideration of One Dollars [\$1.00] does hereby . . . release . . . and assign forever all that tract or parcel of land situate[d] in the City of Niagara Falls, County of Niagara and State of New York being part of Lot number sixty (60) of the Mile Reserve. . . . Prior to the delivery of this instrument of conveyance, the grantee herein has been advised by the grantor 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. 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.”

Source: Wikipedia,

[http://en.wikipedia.org/wiki/File:Hooker\\_Electrochemical\\_Quit\\_Claim\\_Deed\\_to\\_Board\\_of\\_Education.pdf](http://en.wikipedia.org/wiki/File:Hooker_Electrochemical_Quit_Claim_Deed_to_Board_of_Education.pdf)

**Document No. 4****Account of *Niagara Gazette* journalist Michael H. Brown in his reporting on and recollections of the Love Canal Toxic Chemical Disaster:**

“Beginning in the late 1930s or the early 1940s, the Hooker Company, whose many processes included the manufacture of pesticides, plastics, and caustic soda, had used the canal as a dump for at least 20,000 tons of waste residues. The chemical garbage was brought to the excavation in 55-gallon metal barrels. . . . When the hazardous dumping first began, much of the surrounding terrain was meadowlands and orchards, but there was also a small cluster of homes on the immediate periphery, only thirty feet from the ditch. Those who lived there remembered the deep holes being filled with what appeared to be oil and gray mud by laborers who rushed to borrow their garden hoses for a dousing of water if they came in contact with the scalding sludge they were dumping. Children enjoyed playing among the intriguing, unguarded debris. . . . Odors similar to those of the industrial districts wafted into adjacent windows, accompanied by gusts of fly ash. On a humid moonlit night, residents would look toward the canal and see, in the haze above the soil, a greenish luminescence. . . .

“In 1977, . . . while working as a reporter for a local newspaper, the *Niagara Gazette*, I began to inquire regularly about the strange conditions on 99th Street. The Niagara County Health Department and the city both said it was a nuisance condition but no serious danger to the people. The Hooker Company refused to comment on their chemicals, claiming only that they had no records of the burials and that the problem was not their responsibility. In fact, Hooker had deeded the land to the Niagara Falls Board of Education in 1953 for a token \$1. At that time the company issued no detailed warnings about the chemicals; a brief paragraph in the quitclaim document disclaimed company liability for any injuries or deaths that might occur at the site. Ralph Boniello, the board’s attorney, said that he had never received any phone calls or letters specifically describing the exact nature of the refuse and its potential effects, nor was there, as the company was later to claim, any threat of property condemnation by the Board in order to secure the land. ‘We had no idea what was in there,’ Boniello said. . . .

“When I read its deed, I was left with the impression that the wastes there would be a hazard only if physically touched or swallowed. Otherwise, they did not seem to be an overwhelming concern. . . . We now know that the drums dumped in the canal contained a veritable witch’s brew of chemistry, compounds of truly remarkable toxicity. There were solvents that attacked the heart and liver, and residues from pesticides so dangerous that their commercial sale had subsequently been restricted or banned outright by the government; some of them are strongly suspected of causing cancer.

“Yet Hooker gave no more than a hint of that. When approached by the educational board for the parcel of property it wanted for a new school . . . Hooker’s executive vice-president [B. Klaussen] replied in a letter to the board, ‘We are very conscious of the need for new elementary schools and realize that sites must be carefully selected so that they will best serve the area involved. . . . We are anxious to cooperate . . . [and] have, therefore, come to the conclusion that . . . this location is the most desirable one for this purpose, we will be willing to donate the entire strip.’ . . . The school board, apparently unaware of the exact nature of the substances underneath this generously donated property, and woefully incurious, began to build the new school and playground at the canal’s midsection. Construction progressed even after the workers struck a drainage trench that gave off a strong chemical odor and then discovered a waste pit nearby. Instead of halting the work, the board simply had the school site moved 80 feet away. Young families began to settle in increasing numbers alongside the dump; many of them had been told that the field was to be a park and recreation area for their children.

“. . . In 1958 the company was made aware that three children had been burned by exposed residues on the surface of the canal, much of which according to the residents, had been covered over with nothing more than fly ash and loose dirt. Because it wished to avoid legal repercussions, the company chose not to issue a public warning of the dangers only it could have known were there, nor to have its chemists explain to the people that their homes would have been better placed elsewhere.

“The Love Canal was simply unfit to be a container for hazardous substances, even by the standards of the day. . . . The contents were overflowing at a frightening rate, seeping readily into the clay, silt, and sandy loam and finding their way through old creekbeds and

swales into the neighborhood.

“The city of Niagara Falls, I was assured, was planning a remedial drainage program to reduce chemical migration off the site. But it was apparent that no sense of urgency had been attached to the plan, and it was stalled in a ball of red tape. There was hopeless disagreement over who should pay the bill – the city, Hooker, or the Board of Education – and the engineers seemed confused as to what exactly needed to be done for a problem that had never been confronted elsewhere.”

Source: Michael H. Brown, *Laying Waste: Love Canal and the Poisoning of America by Toxic Chemicals*, New York: Pantheon Books, a division of Random House, 1979.

## **Document No. 5**

### **Account of investigative journalist and historian Eric Zuesse on the Love Canal Toxic Chemical Disaster:**

“These provisions [in the deed] would seem to indicate that Hooker had been quite anxious to unburden itself of responsibility for this property. . . . Hooker had provided clear notice, recorded [in the deed indenture] for all time, that its use of the property had been such that any future owner would have to take care to use it in a safe manner so as to avoid causing harm. . . . Hooker had evidently been so concerned that the [Niagara School] Board know what it was getting in taking over the Canal that the company . . . had escorted them [School Board officials] to the Canal site and in their presence made eight test borings—into the protective clay cover that the company had laid over the Canal, and into the surrounding area. At two spots, directly over Hooker’s wastes, chemicals were encountered four feet below the surface. At other spots to the sides of the Canal property, no chemicals showed up. . . . Hooker had gone out of its way to make sure that they [School Board officials] *did* inspect it and that they did see that *chemicals* lay buried in that Canal. . . . In [1957], the Board was debating whether to sell portions of the Love Canal to real estate developers; Hooker officials came to the Board meetings to urge that these sales not be consummated. . . .

“It’s also worth noting . . . that other wastes besides these 21,800 tons from Hooker have apparently been dumped into the Canal. . . . federal agencies, especially the Army, disposed of toxic chemical wastes there during and after World War II. The city of Niagara Falls also regularly unloaded its municipal refuse into this Hooker-owned pit.

“There were two reasons why the School Board wanted to acquire Hooker’s Love Canal property. One was that the postwar baby boom had produced a need for construction of more schools. . . . The other was . . . land prices around this dumpsite were low, and the Board was strapped for cash. . . . According to the School Board’s own records, the Board was already well along in its planning of the 99th Street School more than two years before Hooker deeded the Canal to the Board. And the Board meant business. It was gearing up for a string of condemnation proceedings for the Canal site and all properties abutting it [to claim it under eminent domain]. The school building [was] completed and . . . opened to 500 students in February, 1955.

“On November 7, [1957], [Hooker reminded] the Board that chemicals were buried under the surface [which] ‘made the land unsuitable for construction in which basements, water lines, sewers . . . would be necessary’ [and] further stated that . . . the property should not be divided for the purpose of building homes. . . . On the very same two November days, city workmen were busy at the Canal constructing a sewer that punctured both of its walls and the clay cover. . . . In addition to these publicly recorded breaches of the Canal walls, there were . . . other . . . man-made incursions upon the surface of the Canal. . . . The invading construction . . . can only be laid at the feet of the [Niagara] School Board, the city, and the state Department of Transportation. (The other main factor that precipitated the crisis was that in 1976 Niagara Falls experienced record rains that poured down into the by-then opened Canal, forcing large quantities of the chemicals up and out; in October of that year, there surfaced the first reports of nearby basements being invaded by chemicals attributed to Love Canal.)”

Source:

Eric Zuesse, “Love Canal: The Truth Seeps Out,” *Reason* 12, no. 10 (February 1981): 1–27.  
<http://reason.com/archives/1981/02/01/love-canal/print>

---