

MEMORANDUM

April 2, 1984

Memo To: Toby

From: Frank

Re: West Burlington Landfill: MOE Files

I spoke with John Titball this morning. He reviewed the MOE files on the Burlington Site, and came to the conclusion that some of the information is covered by client/solicitor privilege, and that other material is covered by what he loosely described as crown privilege (but sounded like third party confidentiality). He elaborated by saying that correspondence had not been written for the public's consumption.

Titball cited section 130⁽¹⁾ of the Act (Matters Confidential) to justify his refusal to allow me access to the Burlington Landfill Site.

Titball described the files as being very extensive: 8 files about 2 feet thick.

As a compromise he suggested that I could look at the site inspection reports and talk with Heilo Parr and Greg McCarty, two site inspectors most familiar with the site.

In the interim while you ponder legal ways to gain access to the file, I will obtain the certificate of approvals. Should I also look at the inspection reports? Titball informs me Sid Chumley of the West Burlington Rate Payers group has a complete set of monitoring reports.

Background

Let me reiterate my efforts in trying to gain access to the files.

In early March I phoned G. B. Nelson, the district officer for Halton-Peel and I requested to see the District Office's file on the Burlington Landfill Site.

A few days later I received a phone call from John Titball, the MOE lawyer. At that time he stated that I could not see the files because they were dispensed to six different MOE staff members preparing for the EPA hearing. Titball said he would require time to view the files himself to decide whether I could see them.

On March 26, 1984 Titball called and said he was going to view the files before making a decision. He said that once he decided I could view the file under MOE supervision. He said he was leery of showing

me the files because the hearing process was shaping up to be an adversarial situation. He wanted to know which files I was interested and I told him at this stage I was interested in all of them. Titball said this would cause problems as some of the older files had been put in storage. It was during this conversation that Titball described the West Burlington Site as "not the greatest site in the world until the 1980 expansion."

The April 2nd conversation followed.

FG:nd