



Canadian Environmental Law Association
L'Association canadienne du droit de l'environnement

8 York Street, 5th Floor South, Toronto, Ontario M5J 1R2, telephone (416) 366-9717

April 4, 1984

John R. Tidball
Solicitor
Legal Services Branch
Ministry of the Environment
135 St. Clair Avenue West
Toronto, Ontario
M4W 1P5

Dear John:

Re: Proposed Expansion of the Burlington Landfill

As you are aware, CELA represents the West Burlington Citizens' Group in regard to the above-noted matter.

In early March, our researcher, Frank Giorno, tried to contact G. B. Nelson, the district officer for Halton-Peel to set up a meeting to view the District's file on the Burlington landfill site. This is standard practice in preparing for an environmental hearing and indeed our office has had no trouble viewing files and obtaining copies of reports, memos and correspondence in the past. As Mr. Nelson was not available, Frank left a message outlining his request.

A few days later you called Frank and stated that he could not see the files because they were dispensed to six different MOE staff members preparing for the EPA hearing. You further said you would require time to view the files yourself before deciding whether we could see them.

Then on March 26, you again contacted Frank and stated that once you decided what files we could see, Frank would be allowed to view them under MOE supervision. You asked us which files we were interested in. Frank replied that, not having seen them, we were interested in all of them.

Finally, on April 2, 1984, you again spoke to Frank regarding the files. You stated that you had viewed the MOE files and had come to the conclusion that some of the information was covered by solicitor/client privilege, that other material was covered by "crown privilege"

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and further that section 130(1) of the Environmental Protection Act also justified your refusal to allow us access to the files. However, at the same time you noted that there were about eight files on the matter some two feet thick. It appears that the only material you are prepared to let us see now are the site inspection reports.

We cannot believe that in "two feet thick" files, everything but site inspection reports are confidential. Further, we cannot understand why you will not provide us with full access to the files as the Ministry has done in the past. For example, we received copies of extensive MOE files in the Seymour landfill matter, the Lewis landfill and the Holbrook landfill cases, including memos and correspondence.

We can see no justification in refusing us access to the files in the Burlington landfill case, especially in light of the Ministry's general commitment to allowing greater public access to information. We can only assume that the Ministry is trying to keep information concerning the Burlington landfill from the public.

We would ask that you clearly outline your position regarding access to Ministry files in writing. We may well want to raise the matter with the Board. We believe that the Ministry who has the responsibility to provide for environmental protection, should be taking a broad and not a narrow interpretation as to what information is accessible to the public.

We look forward to an early reply to this important matter.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

Toby Vigod
Toby Vigod
Counsel

TV:dlb

cc Mr. Neil Mulvaney
Director, Legal Services
Mr. Walter Mulkewich
Alderman, City of Burlington