

MEMORANDUM

August 13, 1984

To: Roger Cotton
Bob Fishlock
Adele Hurley
Sarah Miller
Grace Patterson
Steve Shrybman ✓
John Swaigen

From: Doug Macdonald

Re: Environmental Defence Fund

I have enclosed a copy of a letter received from Brian Iler respecting incorporation. Susan Fortner will be circulating the material which requires your signature in the next few days.

John Swaigen has completed a first draft of a major portion of the funding proposal. Adele and I will now proceed to produce a complete first draft of the proposal.

Bob Fishlock will contact John Goyeau of Stephen Thomas and Associates to discuss the direct mail material. He feels we should use the New Brunswick spray case as the centre of our fund-raising efforts. Jerry White of the sprayers association contacted Toby Vigod last week asking for fund-raising assistance and she informed him that EDF might be able to help.

I have enclosed an article from Maclean's, June 25, 1984, describing the case.

The next meeting will be on Thursday, September 6 at 8:30 a.m., Murray's restaurant, Avenue Road and Bloor. This meeting will not be cancelled.

per Doug Macdonald sf
Doug Macdonald

DM:sf

Iler, Campbell & Associates

BARRISTERS & SOLICITORS

Suite 201, 136 Simcoe Street, Toronto M5H 3G4

(416) 598-0103

July 10, 1984

Canadian Environmental Law
Research Foundation
243 Queen Street West
Toronto, Ontario M5V 1Z4

Attention: Doug Macdonald
Executive Director

Dear Doug:

Re: CANADIAN ENVIRONMENTAL DEFENCE FUND INC.

At last I enclose a draft application for incorporation.

You will note that the first object is the primary object of the old Fund. I believe it is acceptable and is worded sufficiently broadly that there should be no difficulty carrying on the activities you propose.

The usual clauses inserted in the Letters Patent for charitable organizations will appear on the printed sheet to be attached by the government upon incorporation.

I have given considerable thought to how to best apply for registration as a charitable organization and do expect that success will not be easily achieved. Still, there is a good case to be made for registration. As is usual, your preparation should allow at least three months, and more likely six months, from the date of application for registration to obtaining registration, or, perhaps, refusal of same and contemplation of an appeal to the courts.

In any event, let's get the incorporation stage out of the way.

One question: If this is to be a Canada-wide organization, you might consider inserting a provision in the application for incorporation permitting membership meetings to be held outside of Ontario.

. /2

Charles Campbell, M.A., LL.B.
Brian Iler, LL.B.

Associates:

James Fyshe, M.A., LL.B.
Barbara Hall, B.A., LL.B.
Eva B. Ligeti, LL.B.
James Thomas, B.Sc.(Eng.), LL.B.



Doug Macdonald
Executive Director
Canadian Environmental Law Research Foundation

Page 2
July 10, 1984

Unfortunately, Section 82(3) of The Corporations Act requires that the places outside of Ontario at which members' meetings may be held must be designated in the Letters Patent. Accordingly, if you wish to make such a provision, please advise as to the places at which meetings might be contemplated outside Ontario. *Vancouver, Edmonton, Halifax*

Fredericton
Reviewing the by-laws of CELRF, they are in general quite appropriate for this organization. Again, you will wish to have the ability to hold board of directors' meetings outside of Ontario, and accordingly a provision to that effect is necessary to be included as follows:

Directors' Meetings -- Meetings of the board of directors may be held at any place in or outside Ontario.

Similarly, the first few lines at the top of page 11 should be amended to read:

members shall be held at the head office of the corporation, elsewhere in Ontario, or elsewhere in Canada in accordance with the provisions contained in the Letters Patent, as the board of directors may determine and on each day as the said directors shall appoint.

The number of directors should be changed in paragraph 3 from five to seven.

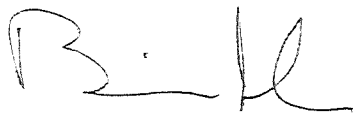
You might consider a higher quorum than that set out in paragraph 21. ⁴ ←

You might consider deleting the proxy provision as it is not customary for non-share capital corporations to avail themselves of the proxy provisions of The Corporations Act. *Yes*

A year end appropriate to the organization should be chosen and inserted in paragraph 23. *March 31.*

I look forward to receipt of your comments and the executed application for incorporation in due course.

Yours truly,



Brian Iler
/aj
Enclosures



Gregory (left) and former sprayer Jerry White: 'so safe you could drink it'

A Garrison compromise

For almost 20 years the Garrison Diversion irrigation project has been at the heart of an often bitter environmental dispute between Canada and the United States. In 1965 Congress approved the undertaking, which would have diverted Missouri River water to the dry North Dakota farmland near the Manitoba border. But Manitobans and U.S. environmentalists have managed to block most of the project, contending that it would pollute the Red River system, which flows into Manitoba, with parasites and chemicals. Now concerned Manitobans say that a new compromise proposal, which would eliminate the environmental threat entirely, may be reached. Declared provincial Natural Resources Minister Alvin Mackling optimistically: "I believe the tide in this long struggle is finally turning in Manitoba's favor. There is recognition of our concerns at last in the U.S. Senate."

The compromise emerged from days of intensive bargaining early this month between North Dakota Republican Senator Mark Andrews, a powerful proponent of Garrison, and leading U.S. environmental groups. The agreement calls for U.S. Interior Secretary William Clark to establish a 12-member commission, made up of environmentalists, North Dakota farmers and developers, to consider whether the \$1.2-billion project can be "redesigned and reformulated." The two sides agreed that approved funding for Garrison of \$53.6 million in 1985 should be set aside until the commission, which Clark is to appoint in July, issues findings on possible alternatives.

From the outset many environmentalists have been concerned about possible harmful effects if the project diverted water from the Missouri River basin, which normally flows south to the Gulf of Mexico, to within yards of North Dakota rivers, which are part of the Hudson Bay drainage basin. They contend that seepage and overflow would be inevitable and that the Red River, which runs north through Winnipeg, could be overrun by commercially useless fish. Manitobans say they are now optimistic that the new commission will find an alternative to eliminate such risks. But an aide to Andrews made it clear that, for any change, at least eight of the 12 members must agree on an alternative irrigation plan by Dec. 31. Otherwise the controversial Garrison project will go ahead in its current form.

—JACK MCGOWAN,
with Gary Moir in Winnipeg.

ENVIRONMENT

Dioxin goes to court

At 48, Robyn Gregory of Fredericton has not worked for four years, weakened by tumors and pancreatic disease which have forced him to undergo five operations. Gregory was one of about 200 young men who sprayed a powerful defoliant to kill brush along the New Brunswick Electric Power Commission's transmission lines in the 1950s and 1960s. Their supervisors told them that the defoliant was "so safe you could drink it," Gregory contends, and sometimes the men would have water fights with their spray guns or hose themselves down in the heat. Since then at least 66 of those men have died, at ages ranging from 27 to 65, and many of the survivors, like Gregory, have suffered serious health problems, including heart attacks and cancer. This week the former defoliant sprayers are launching a New Brunswick legal battle for compensation from the power commission and the defoliant's manufacturer, Dow Chemical Ltd.

The defoliant they used was a combination of the chemicals 2,4-D and 2,4,5-T containing small amounts of a dioxin compound, possibly the deadliest substance manufactured by man. Indeed, last month 15,000 Vietnam veterans in the United States who had been exposed to a similar defoliant, Agent Orange, won a \$180-million out-of-court settlement from the chemical companies that made it. Fredericton lawyer Eugene Mockler, who is representing the New Brunswick sprayers, said he would in-

form the Court of Queen's Bench in New Brunswick this week that the sprayers intend to take action against the power commission and Dow Chemical within 60 days. He said the sprayers may claim punitive as well as actual damages but added that there was not yet a dollar figure on the claim. "The U.S. settlement spurred further interest," said Mockler. "But we are sure the case they have in New Brunswick is valid, regardless of whether there was a settlement in the United States."

For its part, the New Brunswick power commission says that it is sympathetic to the former sprayers. But, added labor relations manager Larry Boudreau, no one has yet "established a link between the chemicals and their illnesses." He said the sprayers' association has not considered that the men may have faced health hazards in jobs unrelated to the spray program. Said Boudreau: "A man could have worked for 20 years in a coal mine for all they know."

But Gregory added that New Brunswick sprayers have heard from people in Nova Scotia, Quebec, Ontario, Manitoba and British Columbia. He said that the people who have contacted them report a high incidence of health problems after similar defoliation operations. Said Gregory: "No one knew about environmental hazards then. All they knew about was nuclear fallout, and if it was not atomic it was not dangerous."

—MICHAEL CRAWFORD in Fredericton.