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September 22, 1988.

Osler Hoskin & Harcourt
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P.O. Box 50, First Canadian Place
Toronto, Ontario
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Attention: H. Douglas Hodgson, Esq.

Dear Mr. Hodgson:

Re: Halton Landfill Hearing

We are enclosing, for your consideration, a witness statement of Dr. Nicholas Eyles, a Quaternary geologist, wherein he describes an investigation at Site "D" and the observation of fractures in the clay till of the kind hypothesized by Mr. Feenstra. Appended to the witness statement is a photograph of a fracture extending to the lower till at a depth of between 6-7 metres.

You will recall distributing the Feenstra witness statement in the late afternoon of August 23, 1988. At that time Milton had closed its reply case. The significance of the finding by the Quaternary geologist was greatly elevated by the 1988 Ruland Project thesis findings and the Feenstra hypothesis in respect of Site "D". The Town of Milton and its counsel began considering ways and means of calling the evidence from the time that Mr. Feenstra put his hypothesis forward. When it became apparent that the City of Burlington would bring a motion seeking further investigation at Site "D", it was concluded that the evidence of the Quaternary geologist would be called in respect of the motion.

On Friday, September 16, the City of Burlington withdrew its proposed motion. You will recall that I addressed the Board with respect to evidence which would have been called on the motion and asked for time to seek further instructions.

The Town of Milton now instructs us to distribute the enclosed

witness statement to all major parties and by this letter and copies hereof we do so. We are distributing only to the parties and have made no effort to inform the Board of the evidence. We would ask all parties to consider their position on the evidence in relation to the Board's statement of September 16. It is our view that the statement can bear more than one interpretation and we have not decided the issue of what next step, if any, to take with respect to the evidence in the circumstances. We would be grateful for the input and advice of any party in regard to this dilemma.

Yours very truly,



FREDERICK E. LEITCH, Q.C.

FEL/jh

c.c.: M. J. McQuaid, Q.C.
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Toby Vigod
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