

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA AND
STATE OF NEW YORK,

Plaintiffs

-v-

HOOKER CHEMICALS & PLASTICS CORP.;:
HOOKER CHEMICAL CORP.; OCCIDENTAL
PETROLEUM INVESTMENT CORP.;
OCCIDENTAL PETROLEUM CORP.;
TOWN OF LEWISTON, NEW YORK;
AND TOWN OF NIAGARA, NEW YORK,
(Hyde Park landfill)

Defendants

CIVIL NO. 79-989

AFFIDAVIT

State of New York)
County of Erie) ss
City of Buffalo)

Robert Charles Morgan, being duly sworn, deposes and says that:

1. I am the chief technical advisor for the Federal Government regarding the Hyde Park Landfill. Part of my duties included the coordination of technical assistance to the Government attorneys who negotiated the proposed settlement.

2. To fulfill these duties, I formed a multi-disciplinary technical assistance team which included a toxicologist, a soil scientist, a hydrogeologist, a chemist, a chemical engineer and a civil engineer.

3. From time to time during the course of negotiations, it was necessary to consult with other agency experts and private consultants for the purpose of assisting the Government attorneys in their consideration of various proposals discussed during negotiations.

4. At the request of Government counsel, Barry J. Trilling, a former Department of Justice attorney, I obtained the below-entitled expert evaluations of certain technical issues being discussed at negotiations.

5. These evaluations are entitled:

- a. Letter from Dr. David B. Twedell concerning remedial cost estimates for four Hooker sites (Hyde Park is one of the four sites evaluated) (March 3, 1980).
- b. Letter from Dr. David B. Twedell concerning final Hyde Park cost estimates (November 26, 1980).
- c. Versar preliminary draft report, "Assessment of Risk Associated with Implementation and Monitoring Programs [without Particulate Suppression] for Hyde Park Landfill", (June 1980) prepared for contract officer, Mark Mercer of the Office of Water Quality, Planning and Standards, U.S. EPA.
- d. Amendment to Versar preliminary draft report (corrections made to calculations) (August 1980).
- e. Memorandum from Dr. Benjamin J. Mason, "Movement of Dioxin Contaminated Soil", (June 1980) prepared for contract officer Dr. Frode Ulvedal, Office of Health Research, U.S. EPA.

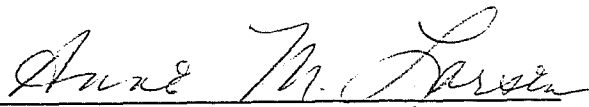
6. These reports are addressed to me or the EPA contract officer and not Government counsel because the authors of these reports are paid for their services by EPA.

7. When Dr. Miller indicated that the reports in question were received by his subordinates, he was referring to myself and to the other technical advisors assisting the federal attorneys during negotiations. To the extent that Dr. Miller's testimony left the impression that these reports were prepared for general agency use, that impression is not correct.

8. But for these negotiations, the reports in question would not have been prepared..


ROBERT CHARLES MORGAN

Subscribed to and sworn before me
this 11th day of September, 1981.



ANNE M. LARSEN
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 30, 1983

5. These evaluations are entitled:

- a. Letter from Sidney F. Paige of JRB, Inc. concerning remedial cost estimates for four Hooker sites (Hyde Park is one of the four sites evaluated) (March 3, 1980).
- b. Letter from Dr. David B. Twedell concerning final Hyde Park cost estimates (November 26, 1980).
- c. Versar preliminary draft report, "Assessment of Risk Associated with Implementation and Monitoring Programs [without Particulate Suppression] for Hyde Park Landfill", (June 1980) prepared for contract officer, Mark Mercer of the Office of Water Quality, Planning and Standards, U.S. EPA.
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