

DECLARATION OF INTENT

BY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENT CANADA

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

ONTARIO MINISTRY OF THE ENVIRONMENT

RELATING TO

THE NIAGARA RIVER TOXICS MANAGEMENT PLAN

## INTRODUCTION

The problems of toxic chemical pollution in the Niagara River have been well documented. Major investigations have identified existing and potential sources of toxic pollution along the River, as has work undertaken by the Parties to this Declaration, the International Joint Commission and, more recently, through the Niagara River Toxics Committee (NRTC) report of October 1984.

Numerous studies and investigations undertaken over the years have contributed significantly to the understanding of the complex problems in the river. They have also led to the implementation by the jurisdictions of a wide range of control programs and other measures to reduce the burden of toxic chemicals in the River.

The United States Environmental Protection Agency (EPA), Environment Canada (DOE), the New York State Department of Environmental Conservation (NYSDEC) and the Ontario Ministry of the Environment (MOE) - herein referred to as the Parties - have each identified their respective various programs and activities underway or planned on the Niagara in their responses to the recommendations of the Niagara River Toxics Committee. The Parties continue to undertake activities leading to the reductions of toxic chemical pollutants in both countries in accordance with existing laws and regulations which continue to evolve and which may not be similar in approach.

Under Article II of the Great Lakes Water Quality Agreement of 1978, the governments of Canada and the United States agreed to make a maximum effort to develop programs, practices and technology necessary to eliminate or reduce, to the maximum extent practicable, the discharge of pollutants into the Great Lakes System. This Article also states the policy of the Parties that the discharge of toxic substances in toxic amounts be prohibited and that the discharge of any or all persistent toxic substances be virtually eliminated.

While there are other sources of contamination, the Niagara River is a major contributor of toxic chemical pollutants to Lake Ontario. Public concern over toxics problems in the international waters of the Niagara River and Lake Ontario calls for the unified and collective efforts and will of the four Parties to protect and improve the quality of this valuable resource. Complementary actions carried out in both countries to address these problems include:

- Remedial Action Plans for Areas of Concern identified by the International Joint Commission (IJC);
- United States and Canadian Great Lakes Five Year Strategies;
- Canada-Ontario Agreement on Great Lakes Water Quality;
- Ongoing environmental programs in each jurisdiction.

PURPOSE

The purpose of this Declaration is to ensure that a management strategy is adopted which enables the Parties to move in a directed and coordinated manner toward the objective of achieving significant reductions of toxic chemical pollutants in the Niagara River in accordance with timetables and specific activities. The Parties commit themselves to using the authority provided by their domestic laws and regulations to this end. This is consistent with the goal of virtual elimination of toxic discharges, as agreed upon in 1978 by the Governments of the United States and Canada under the Great Lakes Water Quality Agreement.

In October 1986, the Parties released the first edition of a four-party Work Plan which establishes timetables and a set of specific activities to be undertaken. This Declaration in conjunction with that document, together form The U.S. - Canada Niagara River Toxics Management Plan, hereinafter referred to as the The Plan.

THE PARTIES DECLARE THEIR INTENT TO:

Adopt and implement The Plan as a dynamic and evolving framework within which the United States and Canadian agencies will cooperatively take appropriate steps leading to a significant reduction in toxic chemical pollutants from point and non-point sources to the Niagara River, in a manner consistent with federal, state and provincial laws.

In so doing, and in order to achieve the goals of The Plan as stated in this Declaration of Intent, the Parties will:

1. Jointly establish a common basis for identifying, assessing and quantifying toxic chemical loadings into the Niagara River;

Individually identify and establish priorities for control measures to reduce loadings;

Individually implement chemical pollutant control activities in the Niagara River;

Individually and jointly monitor and evaluate the success of control activities.

2. Take into account applicable water quality and drinking water standards and set as a target a reduction level of 50% for

persistent toxic chemicals of concern\* from point sources in Ontario and New York by the year 1996. This achievement will depend on the progressive evolution of technologies, permits, standards, laws, and regulations in both countries.

3. Report by July 1987 and each year thereafter on progress made in identifying and quantifying loadings of toxic chemical pollutants originating from non-point sources in Ontario and New York. To this end, the Parties will work towards achieving a reduction of at least 50% of persistent toxic chemicals of concern\* by the year 1996 taking into account siting issues, technology available, laws and regulations.
4. Establish an improved system of monitoring to ensure the effectiveness of all monitoring programs and schedules.
5. Enforce laws and regulations to ensure the maximum reductions in loadings. In general, point source control measures will be based upon the application of existing best available technology and the results of scientific evidence of environmental degradation. The Plan will be updated to reflect developments in these areas.
6. Use The Plan as a means of alerting the jurisdictions to those chemicals for which reductions are not occurring, so that appropriate corrective actions can be taken.
7. Review and update The Plan on an annual basis. As part of the review a progress report will be published and public input sought. The report will include an implementation schedule proposed for the coming year, the results of monitoring, a list of actions undertaken with respect to point and non-point sources, updated information on chemicals of concern, and scientific evaluations of new and developing technologies relevant to the program.
8. In 1988 and annually thereafter, review and report in depth (based to the maximum extent possible on existing Parties' reporting requirements) on the state of new and emerging technologies applicable to hazardous waste landfill site remediation with particular emphasis on such techniques as the excavation, removal, and on-site destruction of contaminated material.

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\* A mutually agreed upon list of persistent toxic chemicals of concern will be developed from:

- i) NRTC Group I and II lists of chemicals of concern;
- ii) IJC Water Quality Board's 1985 list of "Critical Pollutants";
- iii) Results of point and non-point source monitoring activities underway.

9. Submit The Plan and progress reports to the International Joint Commission as part of the Commission's Remedial Action Plan program for the Great Lakes.

10. Adopt the following goals for each component of The Plan:

a) River Monitoring

- determine the toxic chemical loadings to the Niagara River from Lake Erie (input);
- determine toxic chemical loadings from the Niagara River to Lake Ontario (output);
- determine toxic chemical loadings from sources along the Niagara River by comparing the difference between the output from the river and input from the river from upstream sources (input-output differential river monitoring identified by the NRTC);

Attempts will be made to determine the loadings with sufficient confidence to measure the effectiveness of the control programs.

b) Point Sources

- determine toxic chemical loadings from industrial and municipal facilities;
- estimate allowable toxic chemical loadings from industrial and municipal sources as provided in regulatory specifications;
- estimate reduction of toxic chemical loadings as a result of implemented control measures and scheduled reductions based on planned control measures;
- implement remedial and control programs so as to achieve the maximum possible reduction of toxic chemical loadings to the Niagara River;

c) Non-Point Sources

- estimate toxic chemical loadings from tributaries and leaking hazardous waste disposal sites;
- estimate reductions in toxic chemical loadings as a result of implemented control measures, and scheduled reductions based on planned control measures;

- implement remedial and control programs so as to achieve the maximum possible reduction of toxic chemical loadings to the Niagara River. In addition, on all sites, excavation, removal and destruction of contaminated material will be considered as a means of eliminating contaminants to the river.

d) Chemicals of Concern

- identify and maintain a list of chemicals of concern (as determined by the NRTC, with further monitoring, research and priorities established by the IJC Water Quality Board) within the Niagara River ecosystem and promote the establishment of uniform environmental and human health criteria for those chemicals.

e) Technical and Scientific Cooperation

- carry out research, technical and scientific programs to assist the four jurisdictions in addressing the problems of the Niagara Frontier.

f) Communication Plan

- present information and scientific reports to the public, and seek their input to The Plan.

g) Organization and Implementation

- establish and maintain a management structure to ensure that the implementation of The Plan is effectively monitored.

h) Reporting

- update The Plan annually and issue status reports at the beginning of each calendar year.

11. Initiate activity on a Lake Ontario Toxic Management Plan which will be similar in content and scope to the Niagara River Toxics Management Plan and compatible with IJC activities. The Lake Ontario document will be completed by January 1, 1988.

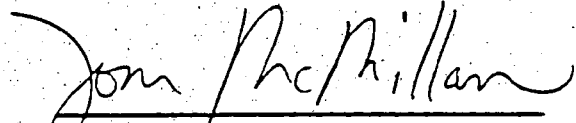
Executed this 4th day of February, 1987

For the United States  
Environmental Protection Agency



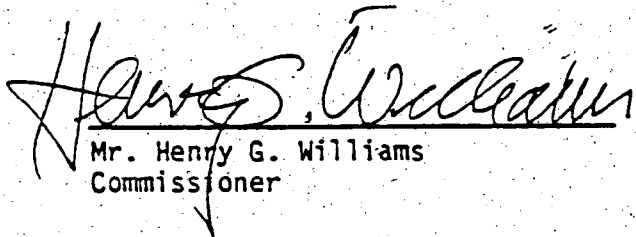
Mr. Lee Thomas  
Administrator

For Environment Canada



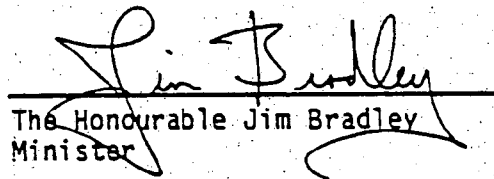
The Honourable Tom McMillan  
Minister

For the New York State Department  
of Environmental Conservation



Mr. Henry G. Williams  
Commissioner

For the Ontario Ministry of the  
Environment



The Honourable Jim Bradley  
Minister