Statement of

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Good morning. I am James R. Marshall, Chief of Staff of the U.S. Environmental Protection Agency (EPA), Region 2. I welcome the opportunity to be here today on behalf of Dr. Richard T. Dewling, Acting Regional Administrator, EPA Region 2, to address the environmental problems associated with the Niagara River, and to explain the Federal role in programs designed to deal with them.

EPA Administrator Anne Gorsuch has made comprehensive pollution abatement throughout the Niagara Frontier a major priority, and the Agency is working closely with all levels of government toward this goal. In addition to our regular grant-making and regulatory programs, EPA has undertaken a series of special initiatives:

- The Agency began a short-term survey four months ago of existing data on air emissions, wastewater discharges and hazardous waste sites in Niagara and its neighboring counties. This study, which is being carried out by our Denver-based National Enforcement Investigations Center, (NEIC) has four objectives:

    1. To define today's environmental conditions as characterized by the quality of the ambient air, surface and groundwaters, and drinking water supplies and by biological data.
    2. To define major sources of toxic substances.
    3. To identify past, present and proposed remedial measures and programs for control of toxics.
    4. To identify and prioritize what, if any, additional remedial measures or programs are needed.

  The study is scheduled to be ready for Agency review this month.

- Secondly, representatives from EPA's Region 2, our Great Lakes National Program office and the New York State Department of Environmental Conservation (DEC) joined forces early this year with Environment Canada, Ontario region, and the Ontario Ministry of the Environment to form the American/Canadian Niagara River Toxics Committee.

Over a two year period this ad hoc committee is working to identify sources of toxic pollutants entering the Niagara River, to recommend necessary control programs, and to propose long term water quality monitoring programs that will enable evaluation of their effectiveness.

° Thirdly, EPA and the Department of Justice, joined by New York State, are now engaged in extensive litigation involving Hooker Chemical's activities on the Niagara Frontier.

° Fourth, EPA is working under the Superfund program with New York State to develop additional remedial measures for control of Love Canal. Another waste site - the Niagara County landfill in Wheatfield - has been identified in our recently published national list of 115 priority Superfund sites.

° Finally, EPA has offered a program to the City of Niagara Falls for funding much of the rehabilitation of its sewage treatment plant. This plan is contingent on development of a strict discharge permit for the plant. We have been providing technical assistance to New York State in developing this permit.

There has been much public concern and confusion lately over the extent of contamination by toxic chemicals on the Niagara Frontier. This hearing will, I hope, help to allay that concern and clear up that confusion by putting the toxics issue in its proper perspective. While the NEIC study I mentioned previously is not yet complete, I can describe some of the general conclusions that are emerging from it:

- Significant degradation of water and air quality has taken place in the past because of the heavy industrialzation of the Niagara Frontier - a result of cheap hydro power and water transportation. However, this degradation is typical of that to be found in similar industrial areas elsewhere.

- This degradation appeared to peak in the early 1970's and almost all current measurements show marked improvement.

- There have been major decreases in air pollution levels over the last 15 years, although data on toxic air pollutants are limited.

- While concern over the quality of drinking water supplies in the area is justified, the actual quality of water drawn from the Niagara with respect to toxic organics is much better than many U.S. river cities.

- Concentrations of toxic materials measured in fish from Lake Ontario have declined markedly since the early 1970's. This includes DDT, mercury, mirex and dioxin.

- The Federal and state permit programs for industrial wastewater discharges have produced major reductions in discharges of conventional pollutants, nutrients and phenols over the past 10 years. There have also been significant reductions or complete elimination of discharges of mirex, PCB's, mercury and dioxin.

- Contamination of the shallow groundwater system under the Niagara Falls industrial complex remains a problem. This contamination results from spills, leaks, and on-site waste disposal. As a result, contaminated groundwater infiltrates the city sewer system and also enters the river directly. Inactive hazardous waste sites near the river may also be contributing. Similar problems probably exist on the Buffalo, Lackawanna and Tonawanda water-fronts. New York State DEC has proposed extensive monitoring of this situation.

In short, contamination by toxic materials has been, and to a certain extent remains, a major environmental problem on the Niagara Frontier. However, every trend we have been able to measure shows significant improvement. This reflects a

major commitment of resources and dollars by all levels of government and industry. The effort has been backed up by strong legislation at both state and federal levels. A continued commitment by all parties is needed to make sure we address and clean up the remaining problems. I would like to discuss in greater detail some of the specific issues raised in the hearing notice.

There has been much concern expressed over the time required to develop national effluent guidelines for toxics discharged by industry. Under the National Pollutant Discharge Elimination System (NPDES) permit program, which is mandated by the Clean Water Act (CWA), EPA or the states issue permits to industries and municipalities. In New York, this program has been delegated to the state, which administers it through its State Pollutant Discharge Elmination System (SPDES). Each permit, good for five years, limits the discharge of conventional pollutants such as biological demand (BOD), total suspended solids (TSS), pH levels, nutrients, as well as phenols, oils and grease, toluene, benzene and several heavy metals.

There are 38 major industrial dischargers covered by this program on the Niagara Frontier and seven major municipal dischargers. With some exceptions, these permittees are complying with their discharge limits.

But the law as amended in 1977 mandates industry to extract the more exotic toxic pollutants from effluent discharges by applying Best Available Technology through a second round of permits. "BAT" means utilizing a treatment scheme which provides the greatest pollutant reduction for each toxic parameter, taken from a list of 129, in a specific industry category, taken from a list of 24 industries. Industry must apply BAT by 1984.

We expect that within the first half of 1982, rules for the following industries will be in effect: inorganic chemicals, iron and steel, leather tanning and finishing, paint and ink, petroleum refining, steam electric, and textile mills. Because these guidelines are considered "major rules", they are subject to a regulatory impact analysis. Analyses for each rule include a description of industry costs, benefits, and alternatives that would achieve the goal at less cost.

Until these federal guidelines are in effect, many industrial dischargers holding renewed permits are applying "best professional judgement" (BPJ) to curtail the release of conventional as well as priority pollutants. We have encouraged the states to incorporate BPJ limits in the second round of permits and we will provide technical assistance if needed. We were pleased by Governor Carey's announcement last week that New York will proceed with this course of action for Niagara River dischargers.

Under Section 403 of the Clean Water Act, municipal dischargers (and states) are to develop approvable pretreatment programs by mid 1983. The purpose of these programs is to reduce the level of toxics passing through publicly owned treatment works to prevent interference with plant operations and to limit the adverse impacts associated with the uses of sludge from these plants.

National pretreatment standards for new or existing industrial users are being developed for industries discharging through publicly owned treatment works. Similar to the effluent guidelines, the pretreatment standards will represent Best Available Technology economically achievable. Finalization of standards for 64 categories of industry and 129 pollutants is also contingent on completion of a regulatory impact assessment.

To develop a local pretreatment program, muncipalities must, among other other things, inventory area industries and toxics entering the plant, and assess liquid wastes impacting plant operations and the environment. To perform such tasks EPA provides funding under the Federal Clean Water Act construction grants program. EPA is working with New York State to develop a statewide program eligible for federal funds. We hope to award the grant early in 1982.

Local pretreatment programs are also being developed on a case by case basis. EPA recently awarded the City of Niagara Falls over $248,000 to develop a pretreatment program. Prior to the grant award, we required more detailed analysis of discharges to the city's plant than we have from any other pretreatment grantee.

The hearing notice raised specific questions with respect to the Niagara Falls treatment plant. This plant was considered innovative technology when it was built. The plant was to provide secondary treatment with phosphorus removal by using a physical chemical treatment process including carbon absorption. The process can treat wastes of widely varying characteristics. But since the collapse of the carbon beds in 1978, the plant has not been able to meet permit requirements and has operated essentially as a primary plant. In May of this year the Department of Justice on EPA's behalf filed a complaint in Federal Court requiring the City to bring the plant into compliance.

In October, EPA made an offer to the city of Niagara Falls under which we will allow remaining available funds to be spent under a construction grant amendment for replacement of carbon bed bottoms and appurtenances. The City estimates this sum

at approximately $4.4 million. Authorization of this grant expenditure will mean disallowance of approximately $2.4 million spent in design and construction of the original carbon beds.

After new designs are approved, EPA will award a grant conditioned on, among other things, a construction schedule, development of a discharge permit incorporating strict toxics control, and a commitment to a remedial program to improve overall plant performance and reliability. The City has accepted these conditions in principle, and New York State is expected shortly to propose conditions for the new permit.

Another major publicly owned treatment plant with significant industrial contributers and operational difficulties is the Bird Island Wastewater Treatment Plant in Buffalo. Construction delays, equipment malfunctions, and inadequate maintenance of certain units have prevented the plant from meeting permit limitations.

Earlier this year EPA initiated an administrative enforcement action against the Buffalo Sewer Authority for violating suspended solids and phosphorous limitations. We requested that the Authority submit information on corrective actions to be taken and that it commit to have all equipment malfunctions

repaired within the shortest time practical. We are considering enforcement action against other municipal permit violators as well.

A greater impact on water quality in the Niagara River may originate from non-point sources such as hazardous waste sites. At least we know, to a great extent, the universe of contaminants contained in industrial wastewater. We know very little about the extent, makeup, or concentrations of discharges from nearby hazardous waste sites.

EPA and NYSDEC have been steadily and systematically working together on the hazardous waste situation in New York State. Mandated by State law, the Department has moved aggressively on site identification and inventory. We commend the New York State Legislature, especially the members of the authorizing committes we are appearing before today, for their continuing support of effective action on hazardous wastes.

In a report issued last year by the Interagency Task Force on Hazardous Waste, 300 sites were identified in six western New York counties. Approximately half of these sites are located within three miles of the river, and most were characterized as inactive - no longer receiving wastes.

To deal with the problem of abandoned, inactive hazardous waste dumps, Congress passed the Comprehensive Environmental Response Compensation & Liability Act in December, 1980. The law authorizes a $1.6 billion fund, which we refer to as "Superfund", financed over 5 years by taxes levied on chemical manufacturers and by federal appropriations. The fund may be used to clean up sites where responsible parties cannot be determined or cannot afford to pay for cleanup.

On October 23rd of this year, EPA announced 115 top priority hazardous waste sites nationwide, targeted for consideration under the Superfund program.

The emphasis in ranking the sites was on potential threat to public health and also on threat to the environment. The State of New York submitted nine sites for consideration; eight of these sites ended up on EPA's top priority list. Two of these sites - Love Canal and the Niagara County Refuse site in Wheatfield - are on the Niagara Frontier. The Agency will release a more comprehensive list of 400 sites nationwide, next spring.

Three mechanisms for cleanup exist under the Superfund program. Cleanup may occur through: 1) direct federal contracts 2) cooperative agreements with the State, and 3) private voluntary or court-ordered action.

So far, $4 million has been allowed for design and remedial work at Love Canal.

EPA has assigned and will continue to assign a high priority to the Niagara Frontier. However, this must be viewed in the context of the Administration's thrust to delegate the management and implementation of environmental programs to the states. We were therefore pleased by the announcement last week that an office of Hazardous Waste Enforcement has been established within DEC. A continuing strong commitment and adequate funding by New York State to these programs is essential.

In summary, let me say again that, in EPA's view, the environmental problems of the Niagara River are real and they warrant continued attention by all levels of government, as well as industry. However, the situation is one that calls for concern, not panic. The effort and the dollars spent so far have not been wasted. The Niagara Frontier is today a vastly better environment than it was a decade ago. If we all maintain our commitment, that improvement will continue.