

THE CHARGES IN THE KINGSTON BELLE PARK CASE

March 10, 1997

CANADA
PROVINCE OF ONTARIO
PROVINCE DE
L'ONTARIO
Kingston Region
Region de Kingston

Information of
Denonciation de

JANET FLETCHER
Clinical Secretary
(occupation / profession)

The informant says
Le denonciateur

that she believes on reasonable grounds that
declare qu'il a des motifs raisonnables de
croire

(1) that
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The Corporation of the City of Kingston

between the 5th day of December, 1996 and the 17th day of December, 1996, inclusive, at a seep on the north shore of Cataraqui Park, also known as Belle Park, in the City of Kingston, in the County of Frontenac, did unlawfully deposit or permit the deposit of a deleterious substance, to wit, toxic liquid, in a place under conditions where the deleterious substance entered water frequented by fish, to wit, the Great Cataraqui River, contrary to s. 36(3) of the Fisheries Act, R.S.C., 1985, c. F-14, as amended, and did thereby commit an offence contrary to s. 40(2)(a) of that Act.

PRIVATE PROSECUTION FACT SHEET

ACCUSED: The Corporation of the City of Kingston

OFFENCE DATES: December 5,8,14,17,1996

PLACE OF OFFENCE: Belle Park Golf Course, Montreal Street
Kingston, Ontario

OFFENCE: Fisheries Act, Section 36(3) - (Depositing a deleterious substance into water frequented by fish)

RECEIVING WATER: The Great Cataraqui River

TYPE OF POLLUTION: Toxic leachate containing benzene, chlorobenzene, heavy metals and ammonia. Test fish have died in only one hour of a 96-hour government approved test for toxicity.

CIRCUMSTANCES: A 1994 Scientific study informed the City of Kingston that there was probably toxic leachate flowing from the park, which is a closed landfill site. This study even pointed out on a map the exact location of one of the likely discharge points. Evidence was gathered at this site to lay the

charge. The City has taken no concrete steps to stop the pollution.

THE INFORMANT:

Janet Fletcher, a local environmentalist, on behalf of the Storrington Committee Against Trash (SCAT)

KINGSTON BELLE PARK: WITNESS STATEMENTS

Excerpts from expert witness scientific statement

David Dillenbeck, former Regional Biologist with the Ministry of Environment & Energy, and member of [EBI Advisory Panel](#), assisted in the collection of evidence and his report includes the following:

From his observation, he estimated the total amount of leachate leaving the entire site on a daily basis as follows:

"this is a total estimated discharge of 216 litres per minute or 311,040 litres a day. This volume is equal to 68,420 Imperial Gallons per day or almost 20 average-sized tank trucks discharging to the Cataraqui River."

Referring to the toxic discharge his report states:

"These results indicate quite dramatically and conclusively that the discharge from the location referred to as SW-5 (the discharge point where the evidence was gathered), is extremely toxic to Rainbow trout, and by implication, to all biota in the Cataraqui River in the vicinity of the discharge."

Mr. Dillenbeck's conclusions are as follows:

"In conclusion, it is my opinion that the discharge from the location referred to as SW-5, from the Belle Island Waste Disposal Site to the Cataraqui River, is toxic to aquatic biota. Considering that this toxic discharge has been ongoing for a number of years, it is also my opinion that a severe, localized deleterious impact on the fish, aquatic invertebrates and other aquatic life in

the vicinity of the point of discharge has undoubtedly occurred."

KINGSTON BELLE PARK: DECISION

The City of Kingston was convicted on December 11, 1998 on four charges under the federal Fisheries Act brought by Janet Fletcher, an EBI advisory panel member. The City was convicted of releasing toxins into the Cataraqui River from Belle Park, a former municipal and industrial waste dump, now a municipally run golf course and park.

The City of Kingston and co-defendant Mirka Januszkiewicz were also convicted on three of the four counts brought by the Ministry of Environment.

During the 25-day trial, 227 exhibits were entered into evidence, ten expert witnesses testified.

- The News Releases
 - Citizen's prosecution results in conviction and \$120,000 fine against the City of Kingston for toxic dump
 - [Environmental group wins](#) Private Prosecution against City of Kingston for toxic waste dump polluting the Great Cataraqui Rivers
 - [Citizen's environmental group commences](#) Private Prosecution against City of Kingston for toxic waste dump pollution flowing into the Great Cataraqui River

For more detailed information please go to <http://www.e-b-i.net/ebi/weprosecute.html>