

Ministry of
Environment
and Energy

Ministère de
l'Environnement
et de l'Énergie

119 King St W
12th floor - Box 2112
Hamilton ON L8N 3Z9

119 rue King ouest
12^e étage - Casier 2112
Hamilton ON L8N 3Z9

Environmental Protection Act

ORDER

EPA Sections 17, 18, 43, 197

TO:

**JOHN HERBERT LONG
633 Margaret Street
Cambridge, Ontario
N3H 4S9**

AND TO:

**INTERNATIONAL MALLEABLE IRON COMPANY, LIMITED
c/o Ian Bullock Carver
American Appraisal Associates
131 State Street, Suite 930
Boston, Mass.
U.S.A. 02109**

AND TO:

**IAN BULLOCK CARVER
American Appraisal Associates
131 State Street, Suite 930
Boston, Mass.
U.S.A. 02109**

AND TO:

**IMICO INDUSTRIES, INCORPORATED
c/o Ian Bullock Carver
American Appraisal Associates
131 State Street, Suite 930
Boston, Mass.
U.S.A. 02109**

AND TO:

**LIONEL ARMAND GUY
229 D Woolwich Street
Guelph, Ontario
N1H 3V4**

AND TO:

**THE ASSEMBLY OF THE CHURCH OF THE UNIVERSE
329 Wentworth Street North
Hamilton, Ontario
L8L 5W1**



PART 1 LEGAL AUTHORITY AND REASONS

1.1 Section 1(1) of the *Environmental Protection Act* (hereinafter, "the EPA") defines "contaminant" as:

any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect.

1.2 Section 1(1) of the EPA defines "adverse effect" as one or more of the following:

- (a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business.

1.3 Section 17 of the EPA states that:

Where any person causes or permits the discharge of a contaminant into the natural environment, so that land, water, property, animal life, plant life, or human health or safety is injured, damaged or endangered, or is likely to be injured, damaged or endangered, the Director may order the person to,

- (a) repair the injury or damage;
- (b) prevent the injury or damage; or
- (c) where the discharge has damaged or endangered or is likely to damage or endanger existing water supplies, provide alternate water supplies.

1.4

Section 18(1) of the EPA states that the Director may require a person who owns or owned or who has or had management or control of an undertaking or property to do any one or more of the following:

1. To have available at all times, or during such periods of time as are specified in the order, the equipment, material and personnel specified in the order at the locations specified in the order.
2. To obtain, construct and install, or modify the devices, equipment and facilities specified in the order at the locations and in the manner specified in the order.
3. To implement procedures specified in the order.
4. To take all steps necessary so that procedures specified in the order will be implemented in the event that a contaminant is discharged into the natural environment from the undertaking or property.
5. To monitor and record the discharge into the natural environment of a contaminant specified in the order and to report thereon to the Director.
6. To study and to report to the Director upon,
 - i. measures to control the discharge into the natural environment of a contaminant specified in the order,
 - ii. the effects of the discharge into the natural environment of a contaminant specified in the order,
 - iii. the natural environment into which a contaminant specified in the order is likely to be discharged.

1.5 Section 18(2) of the EPA states:

The Director may make an order under this section where the Director is of the opinion, upon reasonable and probable grounds,

- (a) that the nature of the undertaking or of anything on or in the property is such that if a contaminant is discharged into the natural environment from the undertaking or from or on the property, the contaminant will result or is likely to result in an effect mentioned in the definition of "contaminant" in subsection 1(1); and
- (b) that the requirements specified in the order are necessary or advisable so as,
 - (i) to prevent or reduce the risk of the discharge of the contaminant into the natural environment from the undertaking or from or on the property, or
 - (ii) to prevent, decrease or eliminate an effect mentioned in the definition of "contaminant" in subsection 1(1) that will result or that is likely to result from the discharge of the contaminant into the natural environment from the undertaking or from or on the property.

1.6 Section 43 of the EPA states:

Where waste has been deposited upon, in, into or through any land or land covered by water or in any building that has not been approved as a waste disposal site, the Director may order an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of such land or building to remove the waste and to restore the site to a condition satisfactory to the Director.

- 1.7 The property which is the subject of this Order is Part of Beverley Street, Registered Plan 343 and Parts of Lots 1, 2, 3, Range 3, Division F, City of Guelph, Wellington County, also known municipally as 200 Beverley Street, Guelph (hereinafter, "the Property").
- 1.8 John H. Long was the registered owner of the Property, and as such, is a person who owns or owned or who has or had management or control of an undertaking or property for the purposes of section 18 of the EPA; and is an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of the property for the purposes of section 43 of the EPA.
- 1.9 International Malleable Iron Company, Limited was a company, registered in Ontario as Ontario Corporation No. 0010208, having as its head office the address of 200 Beverley Street, Guelph, Ontario, and as such, is a person who owns or owned or who has or had management or control of an undertaking or property for the purposes of section 18 of the EPA; and is an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of the property for the purposes of section 43 of the EPA. The company was dissolved by the Ministry of Consumer and Commercial Relations on June 28, 1993.
- 1.10 Ian Bullock Carver was a director of International Malleable Iron Company, Limited from 15/11/82 to 07/09/89 and was an officer of that company from 14/12/87 to 07/09/89, and as such, is a person who owns or owned or who has or had management or control of an undertaking or property for the purposes of section 18 of the EPA; and is an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of the property for the purposes of section 43 of the EPA.

- 1.11 IMICO Industries, Incorporated is a parent company to the International Malleable Iron Company, Limited, incorporated in Delaware, United States of America, which held all shares of the International Malleable Iron Company, Limited, and as such, is a person who owns or owned or who has or had management or control of an undertaking or property for the purposes of section 18 of the EPA; and is an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of the property for the purposes of section 43 of the EPA.
- 1.12 Lionel Armand Guy is a contractor who performed various tasks on the Property, consisting of but not limited to disposal of waste from and on the Property, and salvage of scrap metal from the Property, and as such, is a person who owns or owned or who has or had management or control of an undertaking or property for the purposes of section 18 of the EPA; and is an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of the property for the purposes of section 43 of the EPA, and is a person who caused or permitted the discharge of a contaminant, for the purposes of section 17 of the EPA.
- 1.13 Ownership of the Property was transferred from John H. Long to The Assembly of the Church of the Universe, by Instrument No. 706184, dated December 31, 1993.
- 1.14 The Assembly of the Church of the Universe is the registered owner of the Property, and as such, is a person who owns or owned or who has or had management or control of an undertaking or property for the purposes of section 18 of the EPA; and is an owner or previous owner, an occupant or previous occupant or a person who has or had charge and control of the property for the purposes of section 43 of the EPA.

1.15

I am advised in and accept a report prepared by J. Cooke and R. Fedy, Provincial Officers, Ministry of Environment and Energy, (hereinafter, "the Provincial Officers' Report") that contaminants have been discharged into the surface and subsurface soils and groundwater at the Property, which contaminants have caused or are likely to cause an adverse effect as defined in section 1 of the EPA, contrary to section 14 of the EPA, and which may be described as but which are not limited to the following:

- 1.15.1 Residual soil contamination from metal galvanizing process in the southeast portion of the Property;
- 1.15.2 Residual soil and groundwater contamination from the former buried gasoline tank in the southeast portion of the Property;
- 1.15.3 Soil contamination from disposal of oily metal cuttings from the former machine shop in the northeast area of the Property;
- 1.15.4 Soil and groundwater contamination including leachate toxic soils covered by Ontario Regulation 347 around the former storage shed in the northeast portion of the Property resulting from dip galvanizing;
- 1.15.5 Soil and groundwater contamination from solvents and paint usage in the area of the former paint shop, near the north Property boundary;
- 1.15.6 Soil contamination from oils and solvents spills, including residual PCB contamination around the maintenance garage in the northwest area of the Property;
- 1.15.7 Soil contamination from improper oil storage practices at various locations about the exterior of the foundry building;
- 1.15.8 Soil contamination with metals in the vicinity of former dust control equipment;

- 1.15.9 Soil contamination around the truck bay from backfilling of process and dust collector waste;
- 1.15.10 Soil contamination in the north yard from used motor oil commonly spread for dust control;
- 1.15.11 Foundry sands which exhibit chemical concentrations in leachate exceeding Ontario Drinking Water Objectives placed across the northern and eastern portions of the Property as filling material;
- 1.15.12 Sludges, sediment, foundry sands and solids in numerous subgrade pits and sumps resulting from past foundry operations;
- 1.15.13 Asbestos-containing material in certain building materials at the facility;
- 1.15.14 Residual PCB contamination on concrete floors at the former capacitor room;
- 1.15.15 Demolition debris and building material waste stockpiled on the Property for the purpose of disposal;
- 1.15.16 Foundry slag stockpiled on the Property for the purpose of disposal;
- 1.15.17 Subgrade pits filled with wastes such as foundry sand and ceramic materials, contrary to section 40 of the EPA; and,
- 1.15.18 Soil contamination beneath the main foundry building which exceeds the decommissioning levels of the Ministry of Environment and Energy.

1.16

I am further advised and accept in the Provincial Officers' Report that the contaminants of concern can migrate off the Property in groundwater, and/or as surface runoff which is likely to cause an adverse effect contrary to section 14 of the EPA.

1.17 I am of the opinion, upon reasonable and probable grounds, that the procedures and requirements specified in this Order are necessary and advisable in the public interest to prevent or reduce the risk of the discharge of contaminants into the natural environment from the Property; and to prevent, decrease or eliminate an adverse effect that will or is likely to result from discharge.

1.18 Notice of my intention to issue this Order, written reasons therefore and a copy of the Provincial Officer's Report were previously served on you and written submissions were invited within fifteen days of service on you of the Notice, proposed Order and Provincial Officer's Report.

I have considered the submissions made by The Assembly of the Church of the Universe and I am still of the opinion, based upon the foregoing, that the requirements of the Order are necessary to prevent or reduce the risk of the discharge of contaminants into the natural environment from the Property; to prevent, decrease or eliminate an adverse effect that will or is likely to result from discharge; and to remove the waste and restore the Property to a condition satisfactory to me.

PART 2 WORK ORDERED

2.1 For the reasons above, and in the Provincial Officers' Report, and pursuant to the authority vested in me by sections 17, 18, 43, 197 of the EPA, I consider it necessary to order you to do the following to lessen or prevent the discharge of any contaminant into the natural environment and I do hereby order you, both jointly and severally, to take all steps necessary to do the following:

- 2.1.1 Pursuant to section 197 of the EPA, I prohibit any dealing with the Property in any way without first giving a copy of this Order to each person acquiring an interest in the Property, and you shall within thirty (30) days of service of this Order, prepare for signature of the Regional Director, a certificate of prohibition on the title of the Property in the form prescribed by Ontario Regulation 14/92.
- 2.1.2 Within 30 days of the date on which the Certificate is signed by the Regional Director pursuant to section 197 of the EPA, register the Certificate on title to the Property in the appropriate Land Registry Office and return a duplicate registered copy thereof to the Regional Director, at the address noted in paragraph 4.3 hereof.
- 2.1.3 Within 120 days of service of this Order, submit for review and approval of the Regional Director, a written Work Plan for remediation of the Property, according to the Ministry's "Guidelines for the Decommissioning and Cleanup of Sites in Ontario" (hereinafter, "the Decommissioning Guidelines"), for commercial/industrial land-use, commensurate with current zoning. The Work Plan shall be detailed and consistent with the methods and technologies described in Section 5.0 of the Provincial Officer's Report.

Specific information in the Work Plan shall include but shall not necessarily be limited to: hydrologic assessment of the Property and adjacent properties to fully define surfacewater movements and possible off-site contaminant migration, additional analyses required to define limits of removal, methods of characterizing materials for removal, removal and handling procedures, demolition work, worker and public health and safety provisions, air monitoring, methods of protecting air quality, methods of materials disposal, implementation schedule and timeframe for the work, and a post clean-up sampling program.

- 2.1.4 The Remedial Work Plan referred to in paragraph 2.1.3 above, and all other submissions referred to in this Order shall be prepared and completed by a qualified consultant and approved by the Regional Director prior to work being undertaken, and such consultant must possess hydrogeologic expertise and be experienced in preparing reports on various types of waste removal, treatment and disposal, the monitoring of air and groundwater and recommending remedial options.
- 2.1.5 In the event that interim storage of excavated material or on-site treatment of excavated material is contemplated by the Remedial Work Plan referred to in paragraph 2.1.3 above, apply within 30 days of approval of the Remedial Work Plan for any required Certificate(s) of Approval.
- 2.1.6 Within 60 days of obtaining the Certificate of Approval in paragraph 2.1.5 above, construct the approved interim facility.
- 2.1.7 The Remedial Work Plan referred to in paragraph 2.1.3 above, must address handling and disposal methods for any contaminated liquid encountered from soil or waste removal/excavations. The proposed recovery system shall also collect groundwater or surface water entering remediation areas on the Property, at a sufficient rate to control the volume and prevent migration of such water from the Property.

Within 30 days of the approval of the Remedial Work Plan, submit to the Director, Approvals Branch at 250 Davisville Avenue, 3rd Floor, Toronto, Ontario M4S 1H2, and to the Regional Director, an application for a Certificate of Approval for an Industrial Sewage Works, pursuant to Section 53 of the OWRA concerning any proposed discharge to the natural environment, or to any storm sewer of collected waters referred to above. Effluent quality from a wastewater treatment system concerning discharge to the natural environment shall meet Provincial Water Quality Objectives as given in "Water Management - Goals, Policies, Objectives and Implementation Procedures of the Ministry of the Environment".

2.1.8 Upon obtaining any required Certificate of Approval governing a discharge referred to in paragraph 2.1.7 above, and prior to commencing any remediation, the approved sewage works referred to above shall be put into operation.

2.1.9 Within 180 days from the date of approval by the Regional Director for the Remedial Work Plan in paragraph 2.1.3 above, or such further date as is set out in any requisite approvals, commence implementation of the works and measures as specified by and in accordance with the approved Remedial Work Plan.

2.1.10 Within 90 days of the service of this Order, drill, install and develop a minimum of three (3) new groundwater monitoring wells on the Property, to a depth and construction design required to properly evaluate hydrogeologic conditions, utilizing procedures and methods acceptable to and approved by the Regional Director. The locations of such wells (see Figure 4 of the Provincial Officers' Report) shall include:

- (a) one well in the vicinity of the Stevenson Street and Property boundary, opposite to the former electrical shop;
- (b) one well in the vicinity of the Beverley Street and Property boundary, opposite to Smith Ave; and,
- (c) one well to be located inside the main foundry building, east of the electric furnace area in the vicinity of sump S1.

Any other location(s) for a well location as may be necessary to fully delineate the extent of groundwater contamination on the Property shall be proposed in writing and approved by the Regional Director. All wastes from the well installation shall be properly managed.

2.1.11 Within 30 days of development of the new wells referred to in paragraph 2.1.10, collect representative samples from all on-site groundwater monitoring wells for analysis of total and dissolved PCBs, volatile organics (VOCs) and polyaromatics (PAHS), phenols, oil & grease, metals (filtered), pH and total dissolved solids. Sample analysis shall be completed by a qualified laboratory, approved by the Regional Director.

2.1.12 Within 60 days of sample collection referred to in paragraph 2.1.11, submit for approval of the Regional Director a hydrogeologic report to the Regional Director with collected analytical results and geologic data. The report shall be of sufficient technical content and detail to provide a hydrogeologic and groundwater contamination update at the Property, include a proposal for a long-term groundwater monitoring and reporting plan, and make recommendations as may be necessary to ensure that contaminated groundwater is prevented from migrating off the Property.

- 2.1.13 Within 30 days of approval by the Regional Director, of the report referred to in paragraph 2.1.12, submit for approval of the Regional Director, all necessary designs, applications, drawings, and procedures as may be required to satisfactorily carry out the approved recommendations provided in the said report.
- 2.1.14 Within 180 days of approval of the Regional Director for the plans submitted pursuant to paragraph 2.1.13, implement all approved remedial works and measures as specified therein.
- 2.1.15 Within 90 days of service of this Order, engage a qualified contractor approved by the Regional Director, for mobile destruction of stored PCB contaminated mineral oil from the Property (presently in secure storage at the Guelph Water Pollution Control Plant) and proceed with such destruction.
- 2.1.16 Within 30 days of service of this Order, provide financial assurance to the Crown in right of Ontario in the amount of \$150,000.00, in the form of a letter of credit, or other form acceptable to the Director and in accordance with Part XII of the EPA, for the performance of any action required to be carried out under Part 2 of this Order.

The total financial assurance required may be reduced from time to time by the Director upon application and submission of such supporting documentation as required by the Director to make an order that the financial assurance returned or released is not required in respect of the works.

- 2.1.17 By the 15th day of the second month following service of this Order, and by the 15th day of each month thereafter, unless otherwise provided in writing by the Regional Director, submit a written progress report to the Regional Director which summarizes activities undertaken in the preceding month toward completion of the requirements of this Order.
- 2.1.18 Within 120 days from the date of a written request from the Regional Director, submit a detailed written report to the Regional Director and to the Cambridge District Office, 320 Pinebush Road, Cambridge, Ontario, N1R 5T8, which shall include a description of the implementation of all remedial measures and controls; an assessment of the effectiveness of these measures in decommissioning; the results of the post clean-up sampling program as required by the approved Remedial Work Plan specified in paragraph 2.1.3 above, verifying that all required work is completed, with supporting documentation such as receipts, stubs, waybills and other such evidence of completed transactions and a written report by any consultant(s) confirming completion of the work.
- 2.1.19 All contaminated soil and other material on the Property that must be removed pursuant to the Remedial Work Plan shall be removed by a waste management system certified under Part V of the EPA to handle such contaminated soil and other material.
- 2.1.20 All contaminated soil and other material removed from the Property shall only be deposited at a disposal site certified under Part V of the EPA to receive such contaminated soil and other material.
- 2.1.21 Take all reasonable steps to ensure that all contractors, employees, agents and others implementing the terms of this Order exercise reasonable care to prevent any discharge of contaminants into the natural environment and any adverse effect that may be caused by such discharge.

2.1.22 Pursuant to the authority vested in me by section 196 of the EPA, I hereby order you to grant any employee or agent of the Ministry of Environment and Energy, and any other person the Director may designate or order, access to the Property for the purposes of carrying out actions specified in the Order and any further requirements the Director may deem necessary pursuant to the provisions of the Order.

2.1.23 Notify the Regional Director prior to any use, change to use or any other dealing with the Property and obtain the approval of the Regional Director for any remedial measures required in connection with any use, change to use or any other dealing with the Property.

PART 3 GENERAL

3.1 The requirements of this Order are minimum requirements only and do not relieve you from:

3.1.1 complying with any other applicable order, statute or regulation;

3.1.2 obtaining any approvals or consents not specified in this Order.

3.2 Notwithstanding the issuance of this Order, further or other orders may be issued in accordance with the EPA as circumstances require. In particular, the Director shall issue an order where the approval of the Director is required in respect of a matter under this Order and;

3.2.1 the Director does not grant approval; or

3.2.2 the Director does not grant approval because the changes which the Director considers necessary have not been agreed to by the persons to whom this Order is issued.

- 3.3. The requirements set out in this Order are severable. If any requirement of this Order is held to be invalid with regard to a particular circumstance, it will not affect the application of that requirement to other circumstances and will not affect the remainder of this Order.
- 3.4. Subsection 19(1) of the EPA provides that an order of the Director is binding upon the successor or assignee of the person to whom it is directed.
- 3.5. Subsection 186(2) of the EPA provides that non-compliance with the requirements of this Order constitutes an offence.
- 3.6. Section 196 of the EPA provides that the authority to make an order under the EPA includes the authority to require a person or body to whom an order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order and the authority to order any person who owns, occupies or has charge, management or control of the place where a thing is ordered to be done to permit access to the place for the purpose of doing the thing.
- 3.7. Part XIV of the EPA provides that the Director or the Minister may cause to be done any thing required under an order issued under the EPA, and may, in any manner set out therein, recover the costs of doing any such thing from the person to whom the order has been issued.
- 3.8. Unless stayed by application under section 143 of the EPA, this Order is effective from the date of issue.

PART 4 HEARING BEFORE THE ENVIRONMENTAL APPEAL BOARD

- 4.1 Pursuant to section 140 of the EPA, you may require a hearing before the Environmental Appeal Board (the "Board"), if within fifteen (15) days after service on you of a copy of this Order, you serve written notice on the Director and the Board as set out in paragraph 4.3.

4.2

Pursuant to Subsection 142 of the EPA, the Notice requiring the hearing must include a statement of the portions of the order for which the hearing is required and the grounds on which you intend to rely at the hearing. Except by leave of the Board, you are not entitled to appeal a portion of the order or to rely on grounds of appeal that are not stated in the Notice requiring the hearing.

4.3

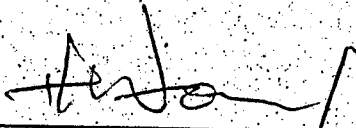
Written Notice requiring a hearing should be served personally or by mail on the following:

The Secretary
Environmental Appeal Board
112 St. Clair Avenue West
Toronto, Ontario
M4V 1N3

Director
West Central Region
119 King St. W, 12th Fl.
P.O. Box 2112
Hamilton, Ontario
L8N 3Z9

Where service is made by mail, the service shall be deemed to be made on the fifth (5th) day after the day of mailing and the time for requiring a hearing is not extended by choosing service by mail.

ISSUED at *Hamilton* this *14th* day of *July*, 1994


Director, Sections 17, 18, 43, 197
Environmental Protection Act