

OJEN Summer Law Institute 2014

CLASS ACTIONS

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Class Proceedings Act

Ontario legislation in force since 1993

Three purposes:

1. to improve access to justice
2. to litigate mass claims more efficiently and effectively
3. to encourage more responsible conduct

Number and size of class actions have increased dramatically

Why Class Actions ?

- to level the playing field against well funded defendants
- to give plaintiffs security and strength in numbers
- to protect plaintiffs' privacy

What can be Done?

Two examples:

Environmental “Toxic” Harms

- residents in contaminated areas suing large companies

Institutional Abuse

- individuals subjected to common abuse and mistreatment in residential settings

Canadian Toxic Cases



Hollick v. Toronto (City)

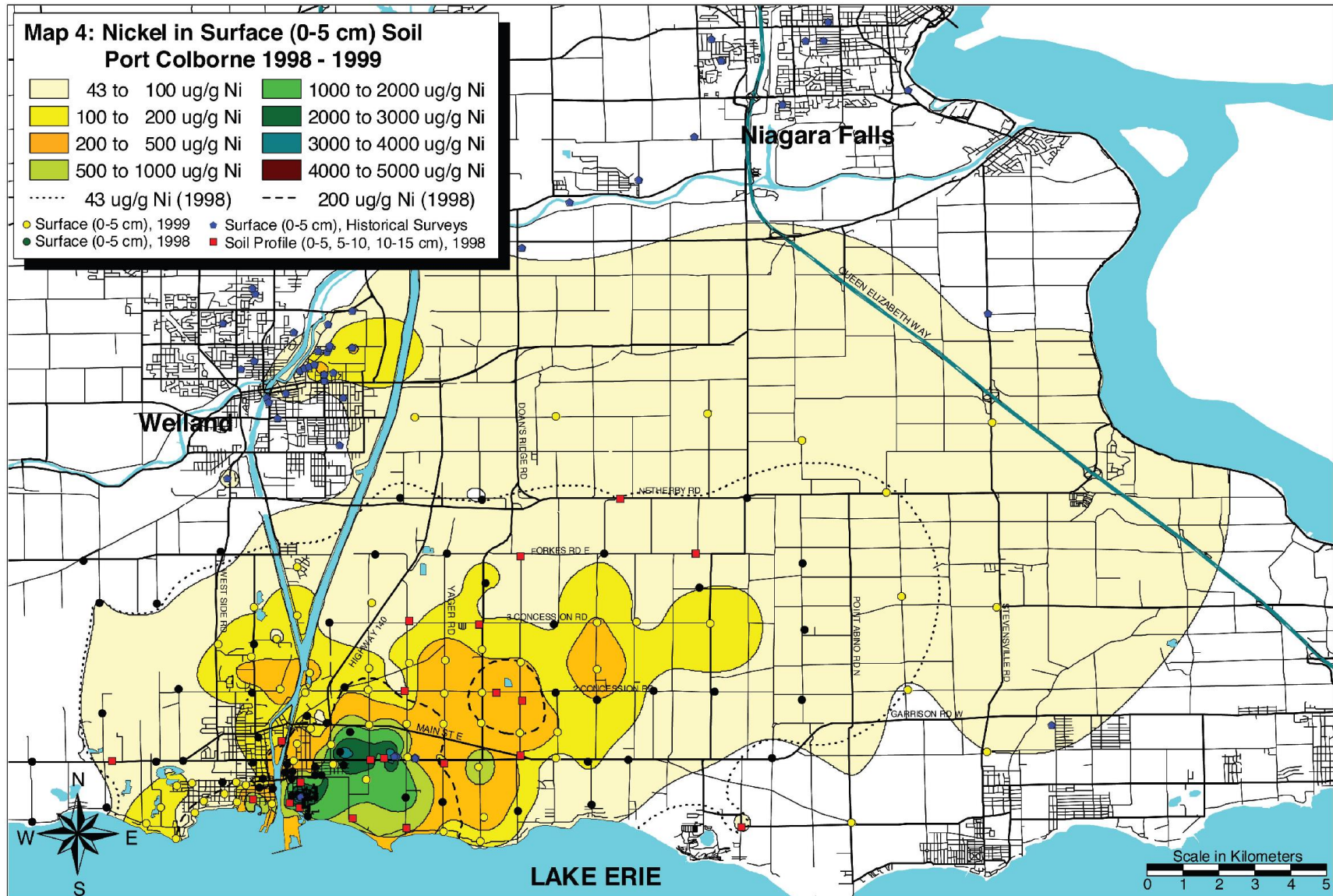
Hollick

- Noise and physical pollution from Keele Valley Landfill
- Proposed claim on behalf of 30,000 residents
- Class action not certified
- ‘Complaints about noise, pollution would be too individual for a class action’

Port Colborne Nickel Contamination

- 7,000 properties affected
- Inco operated refinery from 1918-1984
- Poorest, most contaminated neighborhood beside factory, needed tons of soil removed
- map shows contamination from smoke plume

Contamination Area



Smith v. Inco

- Class not certified for health impacts
- But residents could sue for loss of property value
- 10 years later, residents win \$36 million at trial – then lose everything on appeal

Future “Toxic” Class Actions?

- water contamination from Alberta tar sands...
- water contamination from “fracking” and natural gas exploration...
- inland oil spills from pipelines...
- nuclear waste- Port Hope, Bruce Peninsula
...

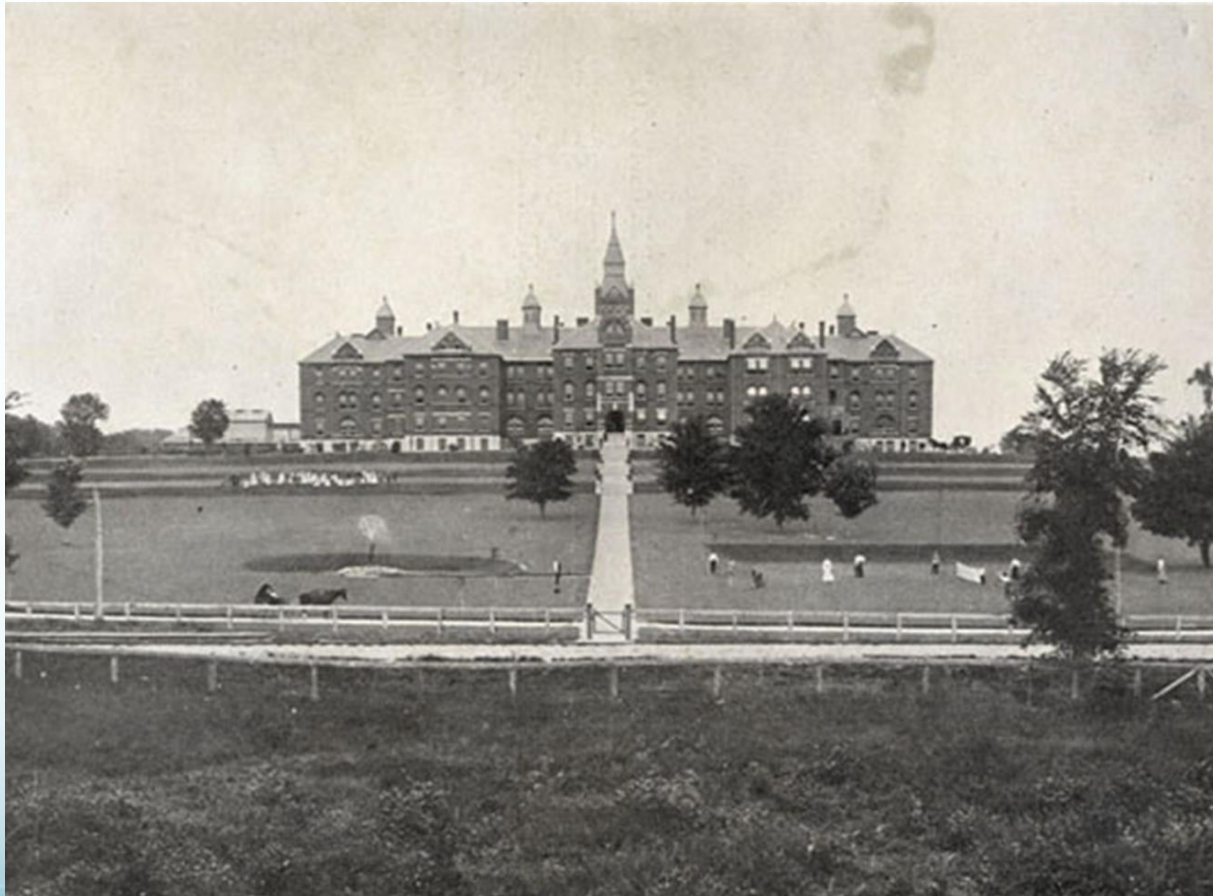
Residential School Settlement

- National settlement for residential school survivors
- Apology from the Prime Minister
- Truth and reconciliation commission
- Residents suffered abuse, destruction of family and cultural bonds
- Ongoing compensation, including:
 - 105,542 applications for compensation
 - Over \$1.6 Billion paid to date to survivors

Rumley v. British Columbia

- Jericho Hill was a residential school for deaf and blind children from 1950-1992
- 1995 report found “sexual abuse was at times widespread” there over many years
- Class action certified for 350 former students
- Class action settled for \$12.5 million

Institutional Abuse Cases



Huronia Regional Centre

- one of three Ontario institutions for those labelled developmentally disabled
- operating from 1864–2009 with up to 2,600 residents
- an unmarked grave yard had over 2,000 gravesites

Hurononia Class Action

- approximately 8,000 former residents
- most class members in their late 60s having spent a decade to a lifetime in Huronia

Settlement: \$67.7 million and an apology from Premier Wynne