



P.O. Box 181
Youngstown, New York 14174
www.loowrab.org

June 8, 2008

Representative Louise Slaughter
1910 Pine Avenue
Niagara Falls, NY 14301 FAX: 716-282-2479
Washington, DC FAX: 202-225-7822
Also sent by certified mail to Niagara Falls Office

Dear Representative Slaughter:

I am writing, as Chair of the LOOW RAB, representing the Steering Committee, to ask for a meeting and consultation with you and your staff regarding the relationship between the LOOW RAB and the US Army Corp of Engineers Buffalo District Command. The central question raised by current controversies regarding USACE and the LOOW RAB relationship centers around the means to effect the public's right to know and understand, and participate in USACE planning and investments in remediation and cleanup. The present USACE plan to interact with the public is using a minimal, and failed strategy which simply leads to mediocrity. Your predecessor, John LaFalce, was active in the issues surrounding the effectiveness and structure of the RAB, and we feel similar attention on your part is needed at this present point.

I am willing, as are other LOOW RAB Steering Committee members, to meet you in Niagara Falls, Rochester or Washington DC. We have been trying to obtain the opportunity to meet with your staff, and have not been able to get a response. We ask for a rapid response for a meeting before June 14th.

As you know, Commander John Hurley, of the US Army Corp of Engineers Buffalo District Office, has undertaken a process of consultation of a portion of the community regarding his proposal to unilaterally dissolve the current DOD LOOW RAB, without following proper procedures, and to form a new RAB. His proposal not only includes considering a new and potentially confusing and competing organization, but limits the activity to a few public meetings a year to present USACE results. As they say, been there, done that, and it's failed before.

I would also note a recent report that Commander Hurley has announced he is stepping down, to be replaced in mid July by Lt. Col. David Snead, according to an article in Friday (June 6th) Tonawanda News. Thus, Commander Hurley's process of avoiding the LOOW RAB and planning a process to create a new RAB is certainly called into question.

A fully functioning LOOW RAB allows for detailed public input into the planning and executions of studies and remediation planning, with expert analysis and the human resources, knowledge and history of community members who have put years into understanding the issues. The LOOW RAB is made up of appointed membership representing stakeholders and elected legislatures of affected towns, villages and Niagara County, including agency representatives from the State and EPA. I myself am the appointee of the Lewiston Porter School District, which is a very serious stakeholder in terms of potential human impacts on children, parents and staff, and geographic location, directly adjacent to LOOW sites.

Several members of the Steering Committee discussed our concerns with your staff member, Christopher Zeltmann, in March, who then indicated that no action in response to our concerns would be forthcoming. While Mr. Zeltmann noted your commitment to support the Community LOOW study, which has high value, that study of data analysis and data gaps does not help us address the IMMEDIATE needs to plan

for the near term future of USACE actions at the two areas of the LOOW site that are the responsibility of the USACE.

Subsequent to that meeting, the New York Attorney General, Andrew Cuomo, wrote Commander Hurley with a detailed objection of the current plans, based on a careful analysis of the 2006 DOD regulations governing RABs and court cases surrounding federal law. We learned May 22nd that the USACE responded to the Attorney General in mid April, simply acknowledging receipt of the Attorney General's comments. The letter included a very detailed review of the legal issues surrounding the Corp's actions with respect to the RAB, and the Corp's letter was unresponsive to any of the issues raised by the Attorney General.

We believe that the Attorney General's analysis requires all of us to look carefully at the situation and evaluate the USACE's position in the community on LOOW related work.

In the presence of an existing RAB, issues about the charge and effectiveness of the RAB must be resolved by engaging a facilitator, which we have requested for over one year. The mechanism of finding outside facilitation worked in 2002, and is a requirement of the DOD regulations promulgated in 2006. Interestingly, according to Commander Hurley, these regulations form the basis for his position.

The issues are raised by Commander Hurley's steps to dissolve the RAB and form a new RAB are critical, given the extensive set of USACE studies on the LOOW site that have been released recently, and must be evaluated by and for the community. I have 15 binders of data in my office, and multiple CD's of databases to read and evaluate, to effectively transmit this information to the stakeholder on the RAB that I represent, the Lewiston Porter Schools.

We have heard from other RABs across the country that see the action taken by Commander Hurley as threatening to their structure. We expect that you will be receiving a letter from a variety of national interests and RAB members elsewhere about their concern.

We request that you meet with the LOOW RAB leadership and hope you will respond quickly. As mentioned above, members of the Steering Committee, including myself, are willing to meet you in Washington, Rochester or Niagara Falls, to make it convenient within your very busy schedule.

Sincerely,



Joseph A. Gardella, Jr., Ph.D.
Chair, LOOW-RAB Steering Committee

cc:

RAB Steering Committee Senator Charles E. Schumer Senator Hillary Rodham Clinton State Senator George Maziarz State Assemblywoman Francine DelMonte Niagara County Legislature Chairman William Ross Niagara County Legislature Vice Chair Clyde Burmaster Town of Lewiston Supervisor Fred Newlin Town of Porter Supervisor Merton Wiepert Village of Youngstown Mayor Neil Riordan Linda Shaw, Somerset Group	Abby M. Snyder, Director, NYS DEC Region 9 Michael Basile, U.S. EPA Region II Neil Patterson, Tuscarora Environment Office Lewiston-Porter School District Acting Spt. Don Rappold NYS Dept. Of Health, Matthew Forcucci Niagara County Health Dept. Director Dan Stapleton Gary Smith, Modern Corporation Becky Zayatz, CWM Chemical Services John Hildebrand, Occidental Chemical Mark Agle, National Grid Paul Bencal, Niagara County Farm Bureau
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