

Love Canal trial is taking new twist

Carolyn McMeekin

Niagara Gazette

Did the U.S. Army dump toxic waste in Love Canal?

The Occidental Chemical Corp. says it did. So do many of those who lived or are living in the neighborhood of the former chemical dump.

For 13 years, the federal government has denied playing any role at the canal. But after a federal judge issued a scathing statement last week and ruled to unseal more than 100 secret documents, the momentum of the 7-month-old Love Canal liability trial has taken a distinctive swing in Occidental's direction.

...

Wayne D. Morgan remembers being 7 years old and playing on the barrels in his neighborhood.

"We were playing and a green truck came by," Morgan, now 39 and living in Love Canal, recalled yesterday. "It said 'U.S. Army' on it. I wouldn't get out and dump barrels in the canal. They've known. Everybody in the neighborhood saw the trucks out there dumping."

WITNESSES continued on page 8A

Love Canal documents

Here is what some of the documents say:

"I am beginning to see significant gaps in this agency's prior studies on Army involvement in the Love Canal contamination problem ... We did not make an adequate attempt to obtain information from residents in the area that could have supported or negated the eyewitness accounts of Army dumping." — Donald L. Pugh, a member of the Officers' Board of Inquiry.

"Mr. X feels that the Army will probably keep these tests secret because of its concern about tort liability. Commercial fishermen use the river." — The 1980 "XY" memo, referring to a highly toxic substance called impregnite being dumped by the Army in the Gunpowder River at Aberdeen, Md. The same substance was produced for the Army at the Niagara Falls Army Chemical Plant on Buffalo Avenue. Investigators later found byproducts from waste made locally were missing.

"No smoking guns as yet but if they exist they could be in these files. Question is, do we want to access those files. Army may be predisposed to conceal, destroy, relocate files if know we are coming or request them." — Notes of EPA official Charles Morgan at 1980 meeting between EPA and Justice Department.

Turn of events sent three into action

By Patrick J. Bradley

Niagara Gazette

Echoes of Love Canal reverberated throughout Niagara County this week as three people whose lives crossed more than a decade ago in the area's worst environmental disaster made the news within days of each other.

On Monday, Frank W. Ventry, 81, of Lewiston Road, died of a heart attack while working in his yard.

In 1978, it was Ventry, a retired operating engineer for the city, who claimed he watched the U.S. Army bury drums filled with waste in Love Canal during the 1940s.

He was furious when the Army denied it. "They're getting me mad," he said on June 27, 1978. "If I have to, I'll go over there and show them

where the drums were filled. They can dig them up if they want to prove it."

U.S. District Court Judge John T. Curtin this week released a slew of documents, which Occidental Chemical Co. says will help prove the Army's involvement at the LaSalle toxic waste dump. They indicate that wastes from the first atomic bomb and an Army chemical weapons plant may have been buried there.

But for Frank Ventry, justification came too late. He died the day Curtin released the first document.

Meanwhile, Lois Gibbs, who turned Love Canal into a one-woman industry, was in Amherst on Wednesday to address the Buffalo Section of the National Council of Jewish Women.

THREE continued on page 8A

2311 or 433-1028 if you have a delivery problem. Monday-Friday 5 a.m. to 5 p.m.; holidays, weekends 6 a.m.-1 p.m.

200-1e

NFSS 08.08 0234_a

SUNDAY
5-19-91

Cont
Fri
Jot
go
fr
at
e

SUNDAY
5-19-91

Witnesses

Continued from page 1A

• • •
The documents, unsealed last week Friday by U.S. District Court Judge John T. Curtin, could implicate the government for dumping wastes from the manufacture of the first atomic bomb and from a local war-time chemicals plant into the canal. The material could date from World War II and the Korean War.

None of the documents prove the Army dumped in the canal. Rather, they suggest the government botched its investigation of itself, Curtin said.

What this all means is the government — and subsequently taxpayers — might have to chip in on the \$700 million tab for Love Canal.

"The documents show a pattern of incomplete investigation," Occidental spokesman Alan J. Hilburg said from his Texas home on Saturday. "Every time the government started investigating and got close to something, somebody said stop."

Occidental, Hilburg said, thinks it can prove that 20 percent — or 4,500 tons — of the chemicals dumped in Love Canal were wastes that the former Hooker Chemicals and Plastics Corp. produced for the government. Hooker is now Occidental. The company does not deny it dumped 22,000 tons of waste in the canal, but it maintains the government dumped there too.

• • •
Former canal residents Loretta Gambino and Nora Preuster remember meeting neighbors who said they saw the Army dump in Love Canal. Those recollections led the two women to start investigating the possibility that Hooker, alone, was not to blame for the escalating crisis surrounding the neighborhood in the late

1970s.

"I always maintained the Manhattan Project (atomic bomb) waste was in the sludge at the 93rd Street School," Mrs. Gambino, now living on 92nd Street, said Saturday. "And we found evidence the old Griffon Manor was radioactive. We asked the state Health Department to test with us there. They tested without us there. We never got the results."

A 1980 federal memo unsealed by Curtin discusses whether the government deeded the school and manor over to Niagara Falls without telling it that radioactive waste may have been buried there. It concludes that it did not deed them improperly; that language in the contract simply meant that if uranium was found there it would remain the property of the government.

Ms. Preuster, now living on Main Street, said she knew people who lived on 93rd Street. "They said they were sitting on their porch and saw the Army dumping," she said. Both women are convinced the government is guilty.

"When Sen. (Albert) Gore was here, I approached him about the federal government," Mrs. Gambino said. Gore toured Love Canal in 1988 when he was running for president. "Then I got a call from the Justice Department. They said they were going to subpoena me. They never did."

• • •
Since the canal litigation began in 1979, the government has maintained it did not dump in Love Canal.

When witnesses at the canal trial said it did, government attorneys were quick to point out that many people wore surplus Army clothing and drove olive-green jeeps after World War II.

'The documents show a pattern of incomplete investigation. Every time the government started investigating and got close to something, somebody said stop.'

— Alan J. Hilburg
Occidental spokesman

After the documents were unsealed last week, the Justice Department refused to comment. All spokesman Amy Casner would say is that it would not appeal Curtin's decision to make the documents public.

The Army, meanwhile, told the Associated Press — through spokesman Col. Joseph Allred — that its "position hasn't changed. We're not aware of any documents that ever existed that the Army was dumping anything."

• • •
When the trial resumes on May 28, Occidental will begin its case against the federal government. On May 29 and 30, the company will call six eyewitnesses to testify that the Army dumped in Love Canal, spokesman Hilburg said Saturday.

It would have called seven, but Frank W. Ventry, 81, whose charges led the government to investigate itself in 1978, died last week of a heart attack.

So far, only Occidental has been found liable by Curtin for the canal's leaking in the late 1970s. Pending before Curtin are the company's claims that the state, City of Niagara Falls and its school board are also liable. Occidental says the actions of those parties, like building a highway, roads, sewers and a school at the site, contributed to its leaking. No deci-

sion is expected until sometime this summer.

Eventually, another trial will be held to determine how much each faulted party must pay.

• • •
Curtin, in his ruling to unseal the documents, faults the Justice Department for giving the Army the opportunity to destroy documents related to canal dumping, if such documents ever existed.

But Occidental, the judge says, is going too far in suggesting that the now-opened documents prove the records ever existed or were knowingly destroyed.

Still, he writes: "The court finds that the public has an acute interest in this particular battle being fought on the public record."

And so it will, starting May 28.

