

## Kline request to state spurs CWM response

by Terry Duffy

The saga of northern Niagara's environmental health concerns dating from World War II era operations at the Lake Ontario Ordnance Works site as well as ongoing hazardous waste disposal activities in the town of Porter continue.

The latest news came this past week, where it was revealed in an exclusive to the *Sentinel* by 12th District County Legislator Lee Simonson of Lewiston that Paulette Kline, director of Niagara County Health Department, has put in a formal request to state health department officials in Albany to withhold judgment on a Dec. 23, 2003, request by Richard Sturges, district manager of Waste Management, which includes Chemical Waste Management. That letter, directed to State Health Commissioner Antonia C. Novello, specifically requests the state to rescind a 1972 New York State Department of Health order

restricting development of lands in and around the CWM property on Balmer Road.

County officials report that the state order was issued back in 1972 in response to concerns at that time of dangerous levels of radiological contamination on the property and the associated threats to public health and safety from earlier World War II-related activities.

Simonson said he was flabbergast-



Shown in the above photo is a distant view of Chemical Waste Management's south-end operations, as seen from across the fence on the back side of the highly restricted, government-managed Niagara Falls Storage Site. Pictured at center is a view of an inactive PCB waste incinerator, used for experimental testing and never fired, which has been on the CWM site for several years. (*Sentinel* file photo taken last year by Brian Garman.)

ed by CWM's Dec. 23 request, pointing to Kline's allegations of up to 614 acres still being affected,

which both claim includes a large part of CWM's Porter operations.

When asked for his response, Sturges, joined by CWM technical expert Rebecca Zayatz, immediately rejected their claims.

"We'll work with the county health department to work through this," Sturges said of Kline's concerns.

"This is a typical process that you would go through to vacate the order," as he pointed to studies performed by the U.S. Department of Energy, where they reviewed the property and found the majority to be acceptably remediated of radiological contamination and acceptable for future use.

"We're going to work with the county health department, the state health department on this matter," he added.

### History

The site is situated on the northern edge of what was once the massive 7,500-acre LOOW site, a World War II-era facility which saw strategic U.S. government operations linked to the Manhattan Project performed there as part of the nation's development of the atomic bombs dropped in Japan that ended the War. As reported in numerous *Sentinel* accounts on this issue over the years, controversies continue to this day on the scope of an ultra-wide variety of contamination, including radiological, that is said to remain on the LOOW site and surrounding areas.

Back in the early 1970s, the CWM lands in question were

owned and operated by Chem-Trol Pollution Services, which had acquired the lands earlier from the U.S. government. In 1973, Chem-Trol was acquired by SCA Chemical Services. In 1986, SCA became a wholly-owned subsidiary of Chemical Waste Management, and today operates as CWM Chemical Services Inc. LLC. The CWM property encompasses 710 acres, of which 630 acres are permitted for hazardous waste activities. Today CWM is in the process of obtaining state Department of Environmental Conservation approval for a series of permits which will allow the company to operate well into the future. The company has been operating under continued amended permits from DEC since the mid to late 1990s. Its current permit structure expires next year.

Questions remain however on whether the radiological contamination which was the focus of the 1972 NYDOH order and a supplemental 1974 state ruling, was ever addressed by either SCA Chemical Services or CWM. The 1974 directive was reportedly promulgated by earlier interest back then of a local resident to develop some adjoining lands.

According to Niagara County Public Health Director Paulette Kline, *continued on page 15*

### Week at a Glance

*Thursday*

Youngstown Village Board Meeting

Red Brick School  
7:30 p.m.

*Friday - Sunday*

"The Cocktail Hour"

Niagara University Theatre  
NU Theatre-at-the-Church  
415 Plain St.

Call 286-6622 for show times.

For a complete listing of area events, visit NFP's Web site at

[www.wnypapers.com](http://www.wnypapers.com)

## CWM pledge to work with county welcomed by Burmaster

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Kline, the 1972 state DOH order "stipulated that the land could not be developed for 'industrial, commercial or residential' purposes and that 'any deliberate or intentional movement, displacement or excavation of the soil of said lands is hereby prohibited.'"

Kline further demanded that the state DOH order continue "in force" until the state health commissioner determined that the "radioactive emissions from the lands have been reduced to levels acceptable to him."

### State Listening

"This situation needs to be reviewed completely, including the boundaries of the 614 acres, and the past assessments need to be reevaluated," Kline said.

Kline stated that she has had a conference call with representatives of the state Health Department to express the county's concerns. "They're listening," she said.

Kline added the Niagara County Health Department is very much interested in seeing the evidence in this case, and that officials on the state level should move slowly and deliberately in making any judgment regarding lifting the restriction.

In addition, the area citizens environmental group Residents for Responsible Government has expressed concern on the findings and endorsed the county Health Department's position. British-born chemist Ann Roberts, chair of the Health Committee for RRG, stated, "The community is entitled to proof that operations at CWM do not pose a risk to the health of our schools and communities."

As noted Simonson, along with 13th District County Legislator Clyde Burmaster of Ransomville, two local officials who have been highly critical of CWM, expressed concern on the county Health Department's findings, saying the

community needs to be adequately informed on issues which impact its health.

"Local residents and groups should have a seat at the table," Simonson said. "There is a wealth of historical data that the state can both share and learn from. Local residents and concerned community groups deserve a chance to ask pertinent questions and be heard on an issue that directly impacts their lives and property. It would also be appropriate to bring in third party experts to review the documentation and provide technical assistance to the residents. It's a reasonable and prudent request."

Burmaster, who in recent weeks strongly blasted the DEC on the Siting Plan and its impact on northern Niagara, came out in full support of the county Health Department's position, reiterating, "the role of Niagara County as being the dumping ground for every bit of cancer-causing and other health hazard material from all over ..." emphasizes the need for review of all health and public safety issues surrounding CWM property.

CWM officials in their response yesterday pointed out that the DOE informed them in a May 7, 1992 letter that it completed both "radiological surveys taken remedial actions to decontaminate the properties in the vicinity of the DOE-owned Niagara Falls Storage Site." The company also provided the *Sentinel* a DOE statement of certification identifying 12 locations on the CWM lands that it says were fully remediated from radiological contamination and future use, along with pages of supporting documents. Three specific locations on CWM's western end, an area encompassing roughly five acres, were not, Sturges as well as Zayatz said they were not addressed at the time by DOE due to inaccessibility from heavy overgrowth. They added the company

doesn't have any future plans for these areas as well as a tract on its southeastern end near Porter-Center Road. Other sites in question on the CWM maps remain under the control of the US government, both pointed out.

"...This certification of compliance provides assurance that future use of the property will result in no radiological exposure above DOE criteria and standards established to protect members of the general public or site occupants. ....," the 1992 DOE letter by Lester K. Price, director Former Sites Restoration Division, to George Spira, at that time vice president and general manager of CWM Porter, read.

### The 2003 CWM Letter

In the Dec. 23, 2003, letter by Sturges to state Health Commissioner Antonia C. Novello, M.D., M.P.H., Dr. P. H. -- he outlined CWM's arguments to partially rescind the order. It reads as follows:

"As described below, CWM Chemical Services LLC, Model City, NY, Facility [CWM] respectfully asks that the New York State Department of Health [NYSDOH] execute an order to partially rescind and vacate a previously issued NYSDOH order dated April 27, 1972, as modified by a Supplementary Order issued in 1974.

"The 1972 NYSDOH order dealt with residual contamination found in soils on the former Fort Conti property in and adjacent to the Niagara Falls Storage Site [NFSS], which was used for storage of radioactive materials, and stipulated certain restrictions regarding the future use of this land. The CWM facility is now located on a portion of this property. Paragraph V of the Order provides that the restrictions contained therein would be terminated once further remedial actions were taken at the site.

"As a result of extensive corrective remedial actions taken at

CWM since the 1972 NYSDOH order, on May 7, 1992, the United States Department of Energy [USDOE] certified that the majority of the CWM property was in compliance with applicable radiological contamination criteria. ... Decontamination was certified for all properties by CWM, with the exception of specific portions of properties designated as E, E(1) and G. ...

"Specifically excluded from the decontamination certification were (1) soil beneath lagoon 6 and the berm surrounding that lagoon on Property E; (2) soil beneath a roadway and PCB storage tanks on Property E (1), and (3) soil beneath the liquid treatment pond on the western edge of property G. Since these areas could not be addressed due to inaccessibility, the USDOE could not confirm that contamination does not exist in these areas.

"Based on the May 7, 1992 USDOE letter, CWM requests that the NYSDOH execute an order to rescind and vacate the 1972 NYSDOH order for all CWM property, except the three specific areas described above. ... It is noted that a similar NYSDOH order was executed on Oct. 25, 1990, for portions of the former Fort Conti property currently owned by Modern Landfill, Inc. ..."

Both Sturges as well Zayatz reiterated that sites adjoining CWM's lands to the southeast and east also were furnished a report detailing the past cleanup by DOE as well follow-up work in the 1990s by the U.S. Army Corps of Engineers under its Formerly Utilized Sites Remediation Program. They add that those sites remain the responsibility of the U.S. government. -- all by the government.

On their desire to work with Niagara County, Sturges was emphatic again on his company's wanting to cooperate with the Niagara County Health Department.

"We're willing to work with the county department of health," Sturges said. "We welcome their input on this issue."

Words of which were strongly welcomed by Burmaster when he heard later on of CWM's response.

"I think the expression by CWM on their willingness to cooperate with the county goes a long way on a continuing discussion of the health issues involved," said Burmaster. "That CWM is willing to sit down with the county says a lot."