

13 AUG 2011

EDITORIAL

Discusses 'important facts' on dissolving LOOW RAB

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I am writing to follow-up on the confusing set of announcements that have been exchanged by parties associated with the former Lake Ontario Ordnance Works Restoration Advisory Board.

As noted in my previous comments last week, the LOOW RAB has been dissolved by a majority vote of the Steering Committee. Some former members have suggested that keeping the organization is important. The Steering Committee disagreed with this idea, for a host of reasons. I would like to note a few important facts.

The US Army Corps of Engineers, which establishes, funds and maintains RABs across the country, has not recognized the LOOW RAB as a Corps committee since at least 2008. A dispute about the status and dissolution process for the LOOW RAB has festered in the community since then. The community supported the LOOW RAB, exemplified by exceptional bipartisan and citizen support from 2008 until the present. Some have noted that the New York attorney general, on March 31, 2008, and in follow-up submissions, presented an extensive opinion that the Corps had violated its own RAB policies and rules. Several years worth of discussions between the attorney general, the RAB Steering Committee, elected officials, the New York State DEC and the Corps' legal team indicated that the Corps had a fully supported Department of Defense legal opinion claiming that the LOOW RAB was not an "official" DOD RAB since its re-inception in 2003. Thus, we are left with competing opinions, and while I feel the attorney general's opinion is correct, only a federal judge can make the final determination as a result of a lawsuit. There were extensive meetings and discussions with all parties, and support for a lawsuit from various stakeholders to the process did not exist. The LOOW RAB Steering Committee has determined that fighting over the status of the LOOW RAB is

unproductive, and will not yield a positive result unless a long court battle is engaged, and the possibility of the New York attorney general pursuing such a court case was diminished by lack of support from various potential participants at the state level. There have been no discussions of a lawsuit from the New York attorney general since the 2010 elections.

During the past two years, the LOOW RAB steering committee has worked with elected officials, the EPA, and the Corps staff to determine a path forward for substantive community input into the future of LOOW properties that are the responsibility of the Corps. With support from UB's Baldy Center for Law and Social Policy, and the John and Frances Larkin endowment in UB's Chemistry Department, two outside speakers came to Lewiston to present experiences with the cleanup of nuclear materials at Fernald, Ohio, similar to those at the Niagara Falls Storage Site on the LOOW properties. Secondly, another speaker presented the nuclear chemistry concerns of permanent storage of such materials. These community driven events proved to the Corps that the Lewiston-Porter and WNY deserved a more substantive process

of technical evaluation and input to the plans for the LOOW site. A major compromise by the Corps was the approval of one of the key requests from the community, the appointment of a technical facilitator. Doug Sarno, the LOOW RAB's top choice, the former facilitator at Fernald, and experienced across the country at nuclear and chemical sites, was appointed.

Sarno has developed a key scope of work for the next two years. With his recommendations and the intent of the LOOW RAB Steering Committee, over the past several months, a plan was developed to constitute a new community based committee to replace the LOOW RAB. The Corps has committed technical staff time to the monthly meetings for the new group. This is one of the key reasons why the LOOW RAB lost success. Further, the LOOW RAB, when it was recognized by the Corps, was limited to one set of projects by the nature of its funding, and was not to be involved with the

Niagara Falls Storage Site. The new organization will be able to engage all projects at the LOOW site, regardless of funding source. The new organization can obtain outside funding from foundations and other sources to fund its activities, the RAB could not. The new organization will have the technical support of a facilitator supported by the Corps.

Now we are at a critical stage. The plans for remediation for the Niagara Falls Storage Site will be developed over the next two years. We have an important opportunity to develop a timeline and plan which removes nuclear materials from our community. The new process is open to all and will be a full community effort. The community will continue to have access to information and input on all Corps activities, however the major efforts over the next two years will be on the Niagara Falls Storage Site activities.

Some have suggested that "retaining" the LOOW RAB to deal with other studies is useful. The Corps does not recognize that committee, and that is a key reason the Steering Committee voted to dissolve the organization.

There are many advocacy and community organizations in Lewiston and Porter dealing with hazardous materials on the former LOOW site. Many community meetings occur with a wide variety of topics and responsibilities. One of the complexities among citizens is certainly trying to understand what each does, and how they relate to each other. The LOOW RAB Steering Committee, in dissolving the organization, hopes that simplifying community input to the US Army Corps Buffalo District through one organization that the Corps supports, is a benefit. I hope that community members will agree.

In the next two weeks, pending details to be announced, this new organization will hold another public meeting to continue its formation by agreeing on a new name, and format. Further, we will prepare for the first of several meetings of the Corps to present information related to the Feasibility Study for the Niagara Falls Storage Site, the blueprint for considering remediation and cleanup plans. I personally hope all citizens of this region will come to participate in providing important input from the community to the new organization and the Corps.