

April 25, 2007

**TOXIC IN TONAWANDA**

[REDACTED]  
Buffalo, New York 14223  
Phone (716) 833-0961

.....  
For Immediate Release Corps of Engineers Meeting April 25, 2007- Tonawanda H.S.

Hon. Congresswoman Louise M. Slaughter  
28th Congressional District  
New York

[REDACTED]@MAIL.HOUSE.GOV

[REDACTED]  
Community Liaison  
465 Main Street  
Buffalo, New York 14203

Dear [REDACTED],

I am respectfully hoping to place into record at tonight's Corps of Engineers meeting the below referenced documents that I am hopeful will help to lead to a call for a long overdue congressional investigation.

There are many allegations of governmental official secrecy and controversial operations involving Tonawanda's politicians and the U.S. Corps of Engineers nuclear FUSRAP radionuclide remediation programs.

Please accept my utmost thanks for helping our community cope with the immense ongoing cancer cluster dilemma that Tonawanda's residents have been facing for many years.

I am very grateful and thankful that you have taken the time to educate yourself and Rep. Slaughter on the health consequences we are now facing involving long term health outcome for area residents, Especially children-  
Emphasis added!

[REDACTED]  
Ref. 1. [REDACTED] NRC Commission comments Renaissance Hotel Austin, Tx 1999

2. E-Mail to [REDACTED] from [REDACTED] USMC Ret. February 01, 2007

CC: Hon. Lt. Col John [REDACTED] U.S. Corps of Engineers Cmdr.

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BUFFALO,

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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7 1999 ORGANIZATION OF AGREEMENT  
8 STATES MEETING

9  
10  
11 Renaissance Hotel  
12 Wedgewood Room  
13 Austin, Texas  
14 Friday, September 10, 1999

15  
16 The meeting convened, pursuant to notice, at 8:00 a.m.

17 PANEL MEMBERS:

18  Facilitator  
19  
20  
21  
22  
23  
24  
25

## P R O C E E D I N G S

[8:00 a.m.]

1  
2  
3 [REDACTED]: Good morning, everybody.

4 The theme for this morning is the relationship between  
5 the states and various federal agencies, and our first topic is  
6 what's happening with FUSRAP and [REDACTED] is going to lead that off  
7 for us. We also have Hampton Newsome from the NRC's Office of  
8 General Counsel with us to address this subject, and [REDACTED]  
9 from the state of New York has an abiding interest in the FUSRAP  
10 question.

11 I think we're ready to start, Ed. Do you want to just  
12 start us off? And is there someone from the Corps of Engineers  
13 here?

14 [REDACTED]: Yes. Is there someone from the Corps here?  
15 And if there's not, part of the reason is my fault, because I didn't  
16 get in touch with them soon enough for them to plan to be here. But  
17 if there is someone, I want to share my time with them.

18 It's not fun to fight with anybody if they're not here.  
19 You know, it's hard to get an argument going with yourself, but I'm  
20 pretty good at that.

21 [Laughter.]

22 [REDACTED]: I presume everyone in the room knows what  
23 FUSRAP is -- or fuzz rap. I mean, I've heard more variations of  
24 that. Anyway, F-U-S-R-A-P, Formerly Utilized Sites Remedial Action  
25 Program, these are the sites that were contaminated or otherwise

1 used by the Manhattan Engineering District during World War II for  
2 all kinds of work related to the construction of the atomic bombs,  
3 and those sites are scattered all over the United States but they're  
4 concentrated primarily, I guess, in the East.

5           Those of you who have read a little history of the  
6 project know that basically the Corps of Engineers and General  
7 Groves were given carte blanche to do whatever they wanted to, and  
8 General Groves went out to companies that he felt like could do the  
9 work. And when you look at things like Hanford and realize that  
10 within a year and a half after the discovery of plutonium, they had  
11 those reactors up and running; they didn't have to get an NRC  
12 license, obviously.

13           [Laughter.]

14           ██████████ But among the sites that they had were a  
15 lot of really small chemical companies and so forth, and one of  
16 those sites was the Linde Air Products which is in ██████████  
17 state, and there, as I understand it, the company was into ceramics  
18 and one of the things that they did, of course, was extract uranium  
19 from ore to get some coloring for different ceramics.

20           The Department of Energy was in charge of the FUSRAP  
21 program which meant cleaning up these sites, and quite frankly, the  
22 discussion we had in Arizona a couple of years ago when that  
23 responsibility was transferred to the Army Corps of Engineers was  
24 simply sort of an intellectual, argumentative type thing for me  
25 because the only FUSRAP site in California had already been cleaned

1 up, so I thought it was interesting, you know, about how they  
2 weren't going to get licensed and all that.

3 Well, that came home to roost because the Corps chose a  
4 contractor to knock down a building at the Linde site, Building 10,  
5 and demolish the building and dispose of the debris, and this is a  
6 rather large building with an interesting history, and I think,  
7 quite frankly, the Corps only reads part of the documents about what  
8 actually went on in the building.

9 The building started out -- a rather large building --  
10 with a dirt floor in it, and they brought ore in there, Belgian  
11 Congo ore, as I understand, and processed it, removed the uranium,  
12 converted it to yellow cake U308. In a phase 2 of the project, they  
13 then took the U308, converted it to uranium dioxide, and in the  
14 third phase on the same site, they took the uranium dioxide and  
15 converted it to uranium hexafluoride. So unlike most uranium mills,  
16 they took it a few steps further.

17 Back in the fall of last year, the contract was let to  
18 dispose of this, and the company in California who got the bid is a  
19 RCRA-C facility which has in its permit a restriction on  
20 radioactivity, and the restriction on radioactivity was 2,000  
21 picocuries per gram. That is an old legacy number, as most of you  
22 recognize, related to how DOT defines something that's radioactive.

23 The site was built to accept oil and gas field waste;  
24 it's located in the California Central Valley right off Interstate 5,  
25 north of Los Angeles. It's about a half a mile from the California

1 Aqueduct. Now, the California Aqueduct takes a lot of water from  
2 northern California and sends it down south to grease the fault so  
3 that maybe L.A. will fall into the ocean.

4 [Laughter.]

5 [REDACTED] But anyway, it's within a half a mile of  
6 this aqueduct.

7 The company was successful in getting the bid. They  
8 competed with RCRA sites in South Carolina and South Carolina told  
9 them they weren't interested in it, and they also, as I understand  
10 it and have been told, approached Oklahoma about bringing it to a  
11 RCRA site there. The long and short of it is they basically sent us  
12 a letter saying that they had some norm material that they wanted to  
13 dispose of at their facility, and without getting any response from  
14 us, began the shipments. In fact, the shipments began very quickly  
15 after this letter.

16 In about March, I think it was, I finally woke up and so  
17 forth and sent them a letter saying that there was only one licensed  
18 radioactive waste disposal site in California and that that site was  
19 presently not open and was not operating, and therefore, there was  
20 no place to dispose of FUSRAP waste in California. And I also put  
21 in there that I felt that they had mis-characterized the waste;  
22 they called it norm. And this site, it is true, has taken oil and  
23 gas field waste which did contain norm.

24 The company responded finally and said, Well, hey, we  
25 appreciate your letter but it's already buried. And you know, sort

1 of in retrospect, I wish I had never written the letter because the  
2 trouble that has come about since then is unbelievable. Except for  
3 Paul, I don't know if any of you have ever been on front-page  
4 articles for the Wall Street Journal and the L.A. Times on the same  
5 day.

6           Needless to say, we have a new governor, have a  
7 different party, a party who was not in favor of a low level waste  
8 site, so this immediately got kicked up to the governor's level. At  
9 this point, any letter we write, I write, anybody writes that  
10 mentions one of these companies, the site, the FUSRAP, whatever,  
11 goes to the governor's office for review before I sign it or before  
12 anybody signs it. We have to give a report every day at four  
13 o'clock on what we've done during that day on this project, and  
14 sometimes you have to be real inventive to come up with something  
15 you did. You say "wrote the first preliminary draft of a response  
16 to a letter" or whatever, and the next day it's "wrote second and  
17 third and fourth preliminary draft" of the same letter.

18           Anyway, the waste that came here consisted of 83 train  
19 car loads of waste. It was brought by train from New York which is,  
20 for those of you who don't know, sort of on the East Coast all the  
21 way to California which is sort of on the West Coast. This series  
22 of shipments took place over, I don't know, three, four or five  
23 months, whatever.

24           They took them into the Los Angeles area which is a  
25 fairly large metropolitan area in southern California. They

1 off-loaded them, put them on the interstate, took them over the  
2 grapevine which there's a range of mountains that runs over north  
3 L.A. which in the wintertime can have blizzards and get shut down  
4 and all kinds of stuff, and it's sort of a winding interstate road.  
5 It's the only interstate I know where they cross lanes so that  
6 you're driving -- it's like being in England or something -- you're  
7 driving over here and I think it was typical California engineering.

8           But anyway, it's not a particularly nice highway to be  
9 hauling stuff on, but they hauled these -- which I think ended up  
10 being 200-and-something truckloads of waste -- over that, drove it  
11 up to near a little community of Button Willow, turned left, drove  
12 over the California Aqueduct to get to the site, and disposed of the  
13 waste.

14           When we asked for information about the waste, we were  
15 sent a table that showed 26 samples that were taken out of the 83  
16 train car loads. There were 13 samples of wood and there were 13  
17 samples of concrete. They took up the 26 samples, added up the  
18 concentrations in each sample, and divided by 26, and that was the  
19 average concentration of the material going there.

20           We have been now, however many months, simply trying to  
21 get a survey that shows where those samples were taken in this  
22 building. The samples were taken before the building was knocked  
23 down. We have been told that for each set of 13 samples they took  
24 three samples from hot spots, three samples from background areas,  
25 and seven random samples to come up with these numbers. As I said,

1 we don't have the survey, and as we have been told by the Corps, you  
2 have to average a concentration over some volume.

3           They have told us verbally that they originally intended  
4 to segregate the material out and after they knocked down the  
5 building they had this big huge pile of rubble, so they took a  
6 survey meter and walked over the pile of rubble and they didn't see  
7 anything that was really abnormal about the pile of rubble, so they  
8 literally took front-end loaders and started loading the material  
9 in.

10           Now, yesterday I think it was Ruth that had a very nice  
11 slide that I copied that showed how you get to .05 percent by weight  
12 source material, and it was somewhere in the neighborhood of  
13 300-and-something of natural uranium. At least one of the samples  
14 out of the 13 concrete samples was over 3,000 picocuries per gram.  
15 Now, because we don't know how they took the samples, we don't know  
16 whether this was surface contamination on a concrete plug that was  
17 one-inch thick, ten inches thick, or whatever to begin with. The  
18 wood, we have similar problems: we really don't know how the  
19 samples were taken. In our minds, if you have something that's  
20 3,000 picocuries per gram, you don't push it in a big pile with  
21 something that essentially zero picocuries per gram and average that  
22 out, even if you have equal volume.

23           There's also, I think, some question, when you start  
24 doing picocuries per gram, about the relative density of concrete  
25 and wood, and that would have to be a heck of a lot of wood there to

1 amount for the same total weight to make those samples, even if they  
2 were representative, be able to be divided as equal samples. I hope  
3 I'm conveying my frustration with trying to get simple information.

4 I think the people from New York -- and we have now gone  
5 to New York and visited with Paul Merges' office, Bobby  
6 Youngblood -- they were very nice to us, they threw open their  
7 doors, they had the files there ready for us to look at. We  
8 identified about a thousand pages of documents. They graciously  
9 waived their Public Records Act copying fees, copied them, sent them  
10 to us, and we appreciate their doing that.

11 We then went from Albany -- which I think has one of the  
12 nicest capital complexes I've ever seen -- to Buffalo. Now, Buffalo  
13 is not the prettiest city I've ever been to. I mean, if you want a  
14 picture sort of a rust belt -- and I'm not trying to be bad to  
15 people from New York -- but you could go there and it could be the  
16 poster child for rust belt. I don't think we saw a single new  
17 building under construction, and it's sort of red and so forth, and  
18 there are a lot of buildings with broken windows.

19 So we went there and we went to the Corps of Engineers  
20 offices after we had sent a Freedom of Information request saying  
21 send us everything you've got, and they suggested that that could  
22 take months and months and months for them to do. So we went to the  
23 Corps's districts offices and we went through about 24 linear feet  
24 of documents. Now, to the Corps's credit, they had an index to  
25 these documents. About 12 feet of them related to sites in the

1 various areas which in some cases were very telling because we had  
2 old records where they described these three phases of what happened  
3 there. As the Corps worked on, it got condensed down to simply they  
4 took ores and processed and made yellow cake, so they left off those  
5 two last conversions that occurred.

6 We were able, in about a day and a half, to go through  
7 them. We had a team of three people: a lawyer, and one of the  
8 health physicists, and myself. We went through these records and  
9 identified about 2,500 pages of material. What we didn't find were  
10 some things that we really wanted, like the contract between the  
11 Corps of Engineers and the companies that were involved in the  
12 demolition and disposal. We also did not find that survey that we  
13 wanted to tell us where they took the samples, and so we have now  
14 amended our Freedom of Information to request these contracts and  
15 also these surveys which they claim will be in something called a  
16 completion report that the contractor will give to them.

17 We have been assured that the QA/QC program, the  
18 methodology used to select the sampling points, the sampling  
19 methodology, and all of that stuff will be in the completion report.  
20 Now, this started back October, sometime in that time frame; we are  
21 now approaching a year, and they still don't have a completion  
22 report. It's my impression that the Corps, unlike DOE which would  
23 probably pester want you to death with taking split samples and QC  
24 samples and all, the Corps simply -- we want to see the contract,  
25 but it appears or the impression is that the Corps said we want

1 someone to tear down Building 30 and dispose of the debris, and  
2 there appeared to be no real checking on the quality. In fact,  
3 there's a public hearing record where the Corps says that no, they  
4 took no samples, they did not split any samples, they did not  
5 compare them or anything. So we're really looking forward to this  
6 report.

7           What will happen, we don't know. It's a very political  
8 situation, as you can imagine. California, to most people, is not  
9 known as a state that's willing to take other people's waste. We  
10 sort of have the idea that if we can generate power and dispose of  
11 waste and just have to pay for it and have it done someplace else,  
12 that's the way we like to operate because California is pretty and  
13 all the other states are ugly.

14           [REDACTED]  
15           [REDACTED] So we are waiting to see what information  
16 we get. We are under constant pressure to come out with answers to  
17 the questions, what are we going to do, and we're really tied up  
18 right now waiting on this data that we're trying to get from the  
19 Corps. So we will probably, hopefully, by this time next year be  
20 able to tell you that we have made a decision on what's going to  
21 happen.

22           There are the questions that were brought up yesterday  
23 about 11(e) (2) like material generated before 1976 that the NRC has  
24 issued some documents saying they have no jurisdiction -- which is  
25 very important -- over this material, so if they have no

1 jurisdiction, then they can't object to us having jurisdiction.  
2 However, if they do have jurisdiction -- which I think we actually  
3 believe they should -- then there's going to probably have to be  
4 some additional review.

5           As the attorney for the Corps said to us, Oh, this is  
6 just a drop in the bucket -- and that's really our concern is that  
7 when you start looking at FUSRAP waste, we got 83 train car loads.  
8 I talked to a person in Idaho, they're going to be getting 22,000  
9 train car loads of waste from FUSRAP sites going to a RCRA facility.  
10 I think we were able to -- by the letter at least -- prevent the  
11 company in California from being successful in bid attempts to get  
12 that 22,000 train loads of material.

13           To give you an idea, the Corps went out with a \$400  
14 million contract to dispose of waste, and that is very tempting to  
15 all kinds of companies.

16           I'd be happy to answer any questions, and I'm glad that  
17 the NRC has cooperated with California and put an attorney by my  
18 side. That's the way I've been for the last six months. Did I say  
19 anything that I can be sued? I can always be sued for anything.  
20 Right?

21           ██████████ Why don't we hear from ██████████, if he  
22 has anything to say, and then go to Hampton, and then open it up for  
23 discussion.

24           ██████████ As a state representative I view the FUSRAP  
25 situation as the height of beltway arrogance, and before I get to

1 that, though, I want to point one other thing out is I don't have  
2 the Texas drawl that that guy from California did, so the best I  
3 could do was to wear a cowboy hat picked up by a former New Yorker  
4 who lived in Texas, had a tremendous Texas accent, and was  
5 originally from California and played basketball for Berkeley.

6 [Laughter.]

7 [REDACTED] But anyway, to get back to the height of  
8 arrogance. We have a situation here where what actually happened,  
9 the big picture, is that the Department of Energy, previous  
10 administrators in this administration, played politics with the  
11 FUSRAP program, and they did things like holding press releases and  
12 conferences on letting these contracts and moving money from one  
13 state to another, and bringing in one party and not the other, even  
14 though the other party may have been more involved in the cleanup  
15 than the other side.

16 Well, this led to the Congress and the other party being  
17 very upset with those administrators, and as a result of that  
18 situation, they shifted the program from the Department of Energy,  
19 almost overnight without much consideration, to the Corps of  
20 Engineers which is really not a RAD conscious agency at all.  
21 They're good engineers, they're lousy health physicists, from my  
22 perspective.

23 We had a couple of other problems associated with this  
24 program. The Department of Energy, in the meantime, also turned  
25 over all the FUSRAP material to the Corps of Engineers without a

1 radioactive material license which, from my perspective, in our  
2 society is illegal, including greater than Class C waste at the  
3 Niagara Falls storage site in New York State which this is really  
4 hot stuff which hasn't even been excavated or touched yet by the  
5 Corps. We're talking 1,882 curies of high activity radium waste on  
6 that site alone, to let you know what's coming down the road.

7 At the same time, the NRC has taken the position they  
8 don't regulate pre-1978 11(e)(2) material, even though that's not  
9 necessarily consistent with what they have done in other areas of  
10 the DMTRCA program. Finally, the NRC has also BRC'd the equivalent  
11 of a lot of this material under their recent changes.

12 So what we have is a free release of probably greater  
13 than a million cubic yards of radioactive material on our society  
14 with no radioactive material license behind it and not a radiation  
15 safety officer on any one of these sites, nobody that's guaranteeing  
16 personal dosimetry, no one who is responsible or in charge of  
17 assuring the protection of the public health and safety.

18 Some of the problems that you run into when you talk to  
19 the Corps is the Corps didn't bother reading all the documents that  
20 were turned over to them from the Department of Energy, so when they  
21 got to New York and they told us they were going to clean up the  
22 Colonies site -- which by the way, I have to correct Ed on one  
23 thing. Not all these sites -- there's two of them in particular  
24 that Congress added to the FUSRAP program -- are non 11(e)(2) sites.  
25 11(e)(2) is a section of the Atomic Energy Act which addresses the

1 Manhattan Engineering District waste. But two sites were added to  
2 it: Maywood, New Jersey, and the Colonies site, and they were  
3 basically corporate bailouts by Congress, Corporate Welfare Program  
4 on sites that were contaminated by private industry working under  
5 federal contracts.

6 The Corps didn't bother reading the documents that the  
7 DOE turned over, took the position immediately that they were not  
8 going to clean up these sites for chemical contamination where areas  
9 where only chemically contaminated. They would clean up waste that  
10 was commingled with RAD waste or RAD waste, and we've got to show  
11 them that the DOE had taken positions for the 18 years to the  
12 contrary, and when they finally did realize that, they never admit  
13 that they made a mistake, they always change their directives. That  
14 song by Bob Dylan, is it, about a woman who -- she never -- to heck  
15 with it.

16 [Laughter.]

17 [REDACTED] But anyway, there's no ALARA consideration  
18 on these sites, as far as I'm concerned; as I mentioned, no license  
19 for radioactive material which causes immense problems for the  
20 states as we go along. The application of BASRAD is applied, from  
21 my perspective, without professional judgement, and when we get to  
22 the TNR meeting, I'll have to talk about that with the people in  
23 that. It's very important that you apply these models with  
24 professional judgement and understand what you're doing.  
25

1           That's why I mentioned yesterday we had a situation  
2 where one federal agency seeking a dose of four times less than the  
3 other federal agency ended up ten times greater cleanup criteria on  
4 the same site with the same waste.

5           The averaging -- that's an important one. Ed mentioned  
6 averaging the cores, proposing to average the cleanup on what's left  
7 of the Linde site over three meters depth when the greatest depth  
8 that we know contaminated soils were eight feet and that was only a  
9 very small area, so they try to take credit for a lot of clean soil  
10 in the process of cleaning up these sites and trying to get them  
11 down below to assure that they're below the level that you would  
12 require a source material license. And by the way, Ed didn't  
13 mention that even when they averaged the way they did, I think they  
14 were four picocuries under what would be required for a source  
15 material license that were going to that facility out in Button  
16 Willow -- conveniently four picocuries below.

17           You need to understand that the Corps of Engineers is  
18 very well connected with your federal and state agencies. They do a  
19 lot of work outside the RAD waste area, they're a very powerful  
20 organization, and they're connected with your governor's office and  
21 your legislators and Congressmen because they do so much, and they  
22 do a lot of good work in our society. I'm not criticizing them for  
23 that at all. As a matter of fact, in New York State's perspective,  
24 DOE moved very slowly and the Corps is moving very rapidly in  
25 cleanups in New York State.

1           New York State has basically three major FUSRAP sites,  
2 we have several other smaller sites, and several sites that we would  
3 like to see added to the FUSRAP program. Some of them are going to  
4 be in the tune of several hundred million dollars cleanup. We're  
5 still advancing through the process through the Corps of Engineers.

6           That's another issue: no one was able to explain to us  
7 for a year and a half, until March 17, when an MOU finally was  
8 signed between the Corps and DOE -- only because Congress had hauled  
9 them in to address this issue -- who was in charge of making  
10 decisions on future FUSRAP sites because there are still a lot of  
11 contaminated sites out there. And when you go back through the  
12 historic record on these sites, it's not clear at all and there's  
13 been mistakes made by the federal government on what wastes are on  
14 that site and whether or not they are FUSRAP sites.

15           The Linde site has several associated sites with it. Ed  
16 just addressed Building 30 on the Linde site; there are a whole slew  
17 of buildings that are coming down on the Linde site in the next  
18 couple of years, and there's a lot more waste coming off that.

19           The Seaway industrial site is situated between what was  
20 called Ashland 1 and 2. These were all contaminated by bringing  
21 tailings from the Linde site. And finally, the Town of Tonawanda  
22 site is a landfill that has material that ran off the Linde site and  
23 into a local creek. They had dredged the creek periodically because  
24 of the low flow situation -- the town did -- and the FUSRAP material  
25 ended up in the town landfill as well.

1           That's just one of the sites over in western New York  
2 with the exception of the Niagra Falls site which has 1,882 curies  
3 that I'm quite willing to send to any other state that's willing to  
4 take it -- including California.

5           [Laughter.]

6           ██████████: The Colony interim storage site is a site  
7 that was run by National Lead, and it's about a mile from our office  
8 areas. It's in a very similar situation industrially that the Linde  
9 site is, and Tonawanda. The Corps is cleaning up that site to the  
10 equivalent of one-tenth of what they were proposing to clean up the  
11 Linde site.

12           We have sent a letter in to the Corps recently saying we  
13 cannot concur with the cleanup of this Linde site at the proposed  
14 level, and this is going to cause the Corps immense problems to have  
15 their environmental regulator saying that they cannot accept the  
16 fact that the cleanup level is so high on this particular site.  
17 Their response to that is that they're going to average, by the time  
18 they get done hogging and hauling, they're going to have averaged  
19 down below what would have been the DOE cleanup criteria of 60  
20 picocuries per gram. But DOE would have hogged and hauled and they  
21 would have been well below that 60 picocuries per gram too. That  
22 would have been what their goal would have been, instead of 600.

23           The Corps takes advantage of MARSSI every time they can,  
24 and we're not too crazy about how MARSSI does its averaging for hot  
25 spot criteria, I can tell you that. We would like to see a much

1 simpler approach to it. It's a statistically very complicated  
2 package behind it and we are not supporting MARSSI any longer  
3 relative to these cleanups.

4 I wanted to cover one or two other items and then tell  
5 you where we're going in the FUSRAP program. I mentioned that two  
6 of these sites were non 11(e)(2) material, and that's important  
7 because this was formerly licensed radioactive material and low  
8 level radioactive waste. The whole status of what is this waste now  
9 because both licenses, the NRC and the State of New York Department  
10 of Labor license, were terminated for this site when the Department  
11 of Energy came on the site and took possession of the site.

12 By the way, when they, quote, take possession of a site,  
13 it's a very interesting issue in itself: who owns these sites any  
14 longer, whether it's the Corps of Engineers, whether it's the  
15 Department of Energy. These are the two sites in New York State  
16 that the federal government owns -- and it makes a big difference,  
17 because if it's the Department of Energy, their rules and regs  
18 should really apply to these sites and there should be an oversight  
19 by the Department of Energy on those sites; and if it's the Corps of  
20 Engineers, then it's a different situation, but at least it would be  
21 clarified.

22 Now, you need to understand that when the Corps finishes  
23 the cleanup of these sites that they're going to turn them back to  
24 the Department of Energy and there's going to be a problem down the  
25 road if these sites don't meet DOE guidance on cleanup of a

1 radiologically contaminated site, or if the state regulatory  
2 agencies or EPA stood up at some point in time and said hey, we  
3 don't agree with this cleanup criteria or how it's being cleaned up.  
4 And these are future things that are going to be coming up in this;  
5 it's not a simple little thing.

6           Sending this material to a RCRA-C facility, I mentioned  
7 yesterday, these sites are not designed to guarantee their integrity  
8 for thousands of years, at least even a thousand years. There's no  
9 guarantee that the site owners in the future aren't going to be  
10 putting residences and things on them, and what you actually have in  
11 RCRA is a 30-look-see, and Illinois has faced this with the  
12 Sheffield site in particular. They're actually hoping, I think, to  
13 find radiological contamination at Sheffield because it could extend  
14 it another 30 years. I don't know what happened, whether he ever  
15 did extend the license another 30 years for that site, but that's an  
16 example of the problems you can run into.

17           We have material that's got a very, very long half life  
18 here and it really does need to be in a perpetual care situation by  
19 federal or state agencies, or at the very least, by corporations.  
20 There's no perpetual care program, that I'm aware of, for these  
21 RCRA C facilities, other than the one in New York State which we  
22 regulate, and we don't allow this material into it, by the way.

23           The sites, the RCRA-C facilities, the workers are not  
24 RAD-conscious workers; the sites are not designed to have a  
25 monitoring program that would necessarily pick up the materials that

1 are being sent to these sites. I think that's about all I want to  
2 say with the RCRA-C facilities.

3 I do want to correct one other thing that Ed said that  
4 the \$400 million contract the Corps let was actually a \$500 million  
5 contract. Four hundred went to EnviroSAFE in Idaho and the rest  
6 went to either WCS or Envirocare.

7 Where we're going with this. I believe there will be a  
8 Congressional investigation of what's going on in the cleanup of  
9 these sites, and I also believe that it's going to take heightened  
10 interest by the new chairman, when he comes in, and the Commission,  
11 and I hope that the Commission will change their ways in the future.

12 [REDACTED] Thanks, [REDACTED]

13 Both Paul and Ed mentioned some jurisdictional issues,  
14 and Hampton Newsome from NRC's Office of General Counsel is going to  
15 say a few words for us on that.

16 [REDACTED] I guess the FUSRAP program has raised a  
17 lot of issues -- or the transfer of the FUSRAP program has raised  
18 issues that weren't anticipated when the Corps received the program.  
19 I think in the first couple of years after the transfer, even DOE  
20 and the Corps had different ideas on what was happening, and some of  
21 that has been ironed out through the MOU that someone mentioned.

22 What I'd like to just do briefly is explain NRC's  
23 decisions in this area. We do not license the Corps or its FUSRAP  
24 activities, and since the program was switched, it's always been  
25 NRC's understanding that it was not the intent of Congress for NRC

1 to step in and license the Corps; we haven't been appropriated funds  
2 for that. The issue came to a head last fall when NRSC sent in a  
3 2206 petition to NRC requesting that NRC license the Corps for the  
4 FUSRAP activities, and then in February or March a director's  
5 decision was issued by MNSB that basically concluded that NRC would  
6 not regulate the Corps's FUSRAP activities, and there are three  
7 basic rationales for that decision.

8 The first is that the Corps's appropriation specifically  
9 directs it to conduct the FUSRAP program under Super Fund, and under  
10 Super Fund there's a specific exemption from all state and federal  
11 permits for on-site activity, and that's the first reason.

12 The second one is simply that Congress has not indicated  
13 that NRC should have any role. It is our understanding that there's  
14 no intent there for NRC to get involved. This program was run by  
15 DOE for years and exempt from licensing, and we saw no intent that  
16 that status quo be changed, and in fact, as I understand it, this  
17 year's report language for the Corps's appropriations specifically  
18 indicates, from the House side, at least, that NRC should not  
19 license these activities. We don't have a final legislation on that  
20 this year, but we'll see what comes out of that.

21 Those were the two main reasons: the Super Fund  
22 exemption and the Congressional intent. I think there are 20 or 21  
23 sites, and when we looked at what was there specifically, there are  
24 a couple of sites, as Paul mentioned, that appear to be still owned  
25 by DOE and there's a question there of whether we could license

1 those anyway. Some of the sites involve 11(e)(2) material that  
2 predates the UMTRCA, and it's been NRC's interpretation of UMTRCA  
3 that we don't have jurisdiction over sites that were not licensed at  
4 the time of UMTRCA's passage

5 Then also there was some question about some of these  
6 sites have quantities that under at least current regulations aren't  
7 licensed, but those were ancillary to the basic Super Fund exemption  
8 and the Congressional intent.

9 Now, this pre-78 argument, I should mention this has not  
10 been popular in all circles, and we've recently received an amended  
11 White Paper from the National Mining Association. It's a 60-page  
12 document that reads like a legal brief, basically, taking issue with  
13 this pre-78 determination. And we've also received correspondence  
14 from International Uranium raising the same issues. So this issue  
15 will be reconsidered over the next couple of months in order to  
16 respond to these submittals. I don't know what's going to happen  
17 ultimately with that but it's certainly going to get a second look.

18 [REDACTED] Thanks, [REDACTED]

19 [REDACTED] do you want to say something before we go to [REDACTED]

20 [REDACTED] Yes, if I might.

21 One of the things that has been very detrimental, I  
22 think, to our efforts to explain to people why we're concerned about  
23 this is the letter that NRC sent which basically said we have no  
24 jurisdiction over this material, and therefore, it can't go a RCRA  
25 site as far as we're concerned. And that is not being interpreted

# TOXIC in TONAWANDA

Corps of Engineers Meeting April 25, 2007/Tonawanda H.S.

For Immediate Release

██████████  
165 Oakvale Blvd.  
Buffalo, New York 14223  
(716)-833-0961

Dear ██████████

Was asked by new group CURE headed by ██████████ to thank you for your extremely helpful input as shown by yourself at last "SAVE Committee City of Tonawanda's phone conference regarding radionuclide issues facing parents and school officials.

You have awakened many in our community. Your views have been well received by residents and much appreciated.

One thing! the landfill here when completed can only be used by a person for recreational use 2 hrs per week or 15 min per day so says the Corps.

Thank you for article on "Dust" Planned Test Site

Utmost thanks - Phil.....Gbfa-mpfa

Dear P██████

As I think I said, the road will just delay clean-up. The material will migrate down into the underground water. This will affect well water first, but eventually will pollute nearby streams and even the lake. The real question for the residents is: "How far into the future do you care? Your children? Your children's children? Your children's children's children?"

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The dosimeter badges were taken away from KAPL workers in 1975, so workers would have the image of working in a safe environment. If you folks are living in the environment, as it appears to me, your Mayor should go to the DOE badges for everyone, but especially for pregnant women and children, within a distance chosen by a certified Non-DOE Health Physicist or a member of your Medical community. Better yet see if you can get a Physician from Social Responsibility [PSR] to determine the type badges and the distance.

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Nuclear Physicist/Nuclear Engineer/Manager of Nuclear Safety  
at the Knolls Atomic Power Laboratory [1972-1990] [Retired]  
Nuclear Reactor Physicist of Naval Nuclear Power Plants at KAPL [1959-1972] Retired

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NEWS-LETTER

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It's about our children

It's about doing the right thing.

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PhD., U.S. Army ret-Address to Congress !

Quote! The Army is required by U.S. Law to treat all persons affected and all areas contaminated by radioactive uranium munitions.



U.S.Army AR 700-48/TB9-1300-278

There are no if's or buts

My utmost thanks to Hon. Sen. Clinton, Schumer and Rep. Slaughter for taking a positive heartfelt interest in the welfare of area residents affected by Tonawanda's radio-nuclide contamination/particularly children emphasis added ! My appreciation to the City of Tonawanda School/SAVE committee for giving me the opportunity to speak at their meeting on Feb. 15th 2007. In attendance Dr. Barbara Peters. Hon. Mayor Pilozzi, fire, police and board members. I am especially grateful that I was allowed to telephone-conference the SAVE panel with Dr. Rosalie Bertell PhD. GNSH/noted epidemiologist and expert on high and low level radiation who advised attendees on ingestion hazards/dangers of airborne nuclear particulates to children. In addition she answered questions posing considerations for relocating children attending Riverview elementary school in the event that blood and urine analysis showed to be problematic.

It should be apparent to residents attending tonight's meeting that there is a crucial and life enhancing need to not only test air and soil but also the suspect person."Human Bio-Monitoring" Rep. Louise Slaughter is intensely involved in health issues. A microbiologist with a masters degree in public health, she is a leading expert in congress on genetics issues. Please call Rep. Slaughter's aide Mrs. Kathy Lenihan and let her know that you are in favor of bio-monitoring blood and urine.

Please call Kathy: Kathleen H. Lenihan

Community Liaison- 716-853- 5813

KATHY.LENIHAN@MAIL.HOUSE.GOV

For Immediate Release DEC Meeting/Tonawanda H.S.- May 8th, 2007

TOXIC in TONAWANDA

## **ATTN: N.Y.S DEPT. of HEALTH**

██████████  
165 Oakvale Blvd.  
Buffalo, New York 14223  
716-833-0961

**E'NOUGH ! IS E'NOUGH !** "Its about our children  
and their children's children."

### **YOU SAID IT ! - YOU CONFIRMED IT !**

"But now, the state Department of Health has confirmed what many feared for a long time: Unusually high cancer rates in this post-World War II working-class community - with its own neighborhood school and even town golf course - surrounded by industrial properties just west of Military Road."

"Medical evidence has found that each of those four cancers can be associated with radiation exposure, according to the state Health Department."

**CANCER ALARMINGLY ABOVE N.Y.S AVERAGES**  
NYS DEPT of HEALTH & BFLO NEWS-Sunday edition/ Jan 13, 2002  
Zip Codes 14217 & 14150



### **YOU PROPOSED IT !**

**N.Y.S Human Bio-Monitoring Program**  
Albany NYS DEPT. of Health-Wadsworth Center/CDC/Choboy letter Sep. 3rd. 2002  
Hon. Antonia C. Novello- Commissioner/ NYS Dept. of Health

**Hon. Gov. GEORGE PATAKI SAID NO ?**

**Hon. State Assy. ROBIN SCHIMMINGER SAID NO ?**

## **Parents & Residents Please Send a Message Tonight!**

TELL THE NEW YORK STATE DEPT. Of HEALTH to TEST OUR Children past and present  
who have Attended Holme's and Riverview Elementary

Same testing blood, urine, breast milk, hair as recently passed Ca. Hon. Gov.

Schwarznegger/Ortiz bill SB 1379/2006 by - Hon. Senator Deborah Ortiz/Ca.

"We monitor our air and water for pollution. We monitor fish for mercury. But we don't  
monitor ourselves to determine what chemicals we have accumulated in our bodies".



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

Wadsworth Center    The Governor Nelson A. Rockefeller Empire State Plaza    P.O. Box 509    Albany, New York 12201-0509

Antonia C. Novello, M.D., M.P.H., Dr. P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

RRG - COPY:



September 3, 2002

165 OAKVALE BLVD.

BUFFALO, N.Y.

14223



Residents for a Responsible Government  
P.O. Box 44  
Lewiston, NY 14092

716-833-0961

Dear

You have been recommended to us by of the Citizens' Environmental Coalition to participate in the development of a pilot-scale human biomonitoring program. New York State – through its public health laboratory, Wadsworth Center, and its Center for Environmental Health (CEH) – is currently funded by the Centers for Disease Control and Prevention (CDC) to plan such a program. Over the next 15 months, we intend to (1) identify a number of environmental exposure problems and knowledge gaps that could be better understood or addressed through biomonitoring; (2) identify collaborators who have an interest in participating in an investigation of a problem or knowledge gap; (3) plan a program of a limited number of such collaborative investigations; and (4) secure funding to begin program implementation.

As you know, biomonitoring involves the laboratory measurement of contaminants or biological markers of contaminant exposure in human body fluids and tissues. The application of this relatively new and powerful approach to assessing human exposure has resulted in significant impacts on public health policy and intervention strategies for environmental contaminants such as lead, tobacco smoke, and pesticides. Recent advances in analytical chemistry and toxicology make it possible to discern a great many more biological markers of exposure, and at lower levels of exposure than ever before.

Wadsworth Center, CEH, and CDC have a strong interest in fostering participation of organizations and individuals representing a variety of backgrounds and perspectives in developing a coordinated multifaceted biomonitoring strategy. Toward this goal, we are soliciting advice from, and active partnerships with, environmental health and epidemiology professionals from academia, government, public interest groups, and industry. The guidance we receive will help shape New York State's biomonitoring program. We intend this program to be implemented over the coming years, with several sources of funding, including, in particular, a five-year \$5 million dollar grant from CDC for which we will apply in 2003.

Although there are no strict guidelines, our biomonitoring program could incorporate some of the following investigative directions:

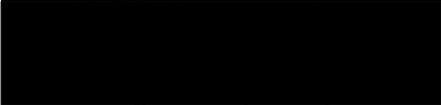
- Epidemiological studies of vulnerable (e.g., children) or potentially highly exposed populations
- Characterization of "baseline" or "background" exposure levels, to provide a foundation for interpretation of the results of future biomonitoring efforts
- Evaluations of trends in biomonitoring measurements over time, such as those that might indicate the effectiveness of exposure mitigation programs
- Improved characterization of relationships between environmental contamination levels, exposure and/or health outcome incidence to facilitate future risk management decisions

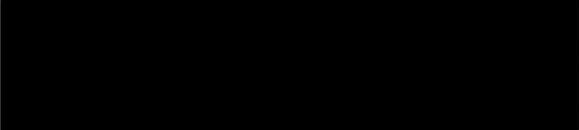
With your input, we intend to identify a number of specific stand-alone or interrelated projects of varying scale that fall into one or more of the above categories. Projects identified and characterized during this initial phase of plan development will be evaluated, prioritized and possibly expanded upon with guidance from a committee of epidemiologists, analytical chemists, toxicologists and environmental scientists from New York State's Wadsworth Center and Center for Environmental Health. The most promising projects in terms of potential public health benefit, collaborative involvement and feasibility will become part of our state biomonitoring plan.

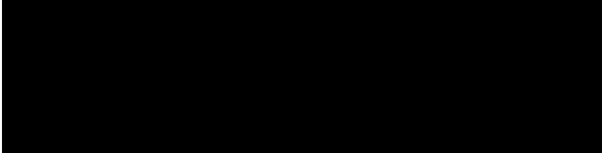
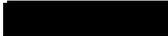
We have enclosed a questionnaire to provide you with a means to share your views on important local or state-wide exposure problems, or significant gaps in knowledge of the relationships between environmental contamination, exposure, and health effects, and potential benefits of biomonitoring. Furthermore, we are actively seeking partners with various perspectives, concerns and available resources who might collaborate with us in the future. In filling out the questionnaire, you may indicate whether you have an interest in such a collaboration, and what role you might be able to play in a study to address a problem or knowledge gap that you have identified. Roles for partners might include study design, community outreach, recruitment of participants, sample collection, or data interpretation. We can contribute investigative leadership or support, as appropriate, and our substantial laboratory resources toward these projects

We hope that this letter has stimulated your interest in participating in the development of a biomonitoring plan for New York State. Please take a few minutes to answer the questions in the enclosed survey and return it to us by postal mail or fax by September 27. If you have any questions, call us or send us an email at [biomonitoring@wadsworth.org](mailto:biomonitoring@wadsworth.org). Thank you for considering our request.

Sincerely,

  
Division of Environmental Disease Prevention

  
Biomonitoring Planning Project  
Division of Environmental Disease Prevention  


  
Biomonitoring Planning Project  
Division of Environmental Disease Prevention  


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NEWS-LETTER

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