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FORMER LAKE ONTARIO ORDNANCE WORKS SITE
DEFENSE ENVIRONMENTAL RESTORATION PROGAM FOR
FORMERLY USED DEFENSE SITES

PUBLIC PARTICIPATION THROUGH
RESTORATION ADVISORY BOARDS

LEWISTON/PORTER, NEW YORK

MARCH 24, 2010

Minutes of Public Meeting held at the
Lewiston Senior Center, Youngstown, New York
on Wednesday, March 24th, 2010 commencing at
6:04 p.m.

APPEARANCES :

VINCENT AGNELLO, Porter, NY

TOM BAIA, Youngstown, NY

AARON BESECKER, Buffalo News

CHUCK BOOS, Lewiston, NY

JOHN BUSSE, Niagara Falls Storage Site and
Lake Ontario Ordnance Works Manager

BILL CHOBOY, Youngstown, NY

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APPEARANCES CONTINUED:

RON CHURCH, Villa Hills, NY
BOB DARR, Support Contractor, SM Stoller
JIM DEVALD, Lockport, NY
DENNIS DULING, Youngstown, NY
GRETCHEN DULING, Youngstown, NY
TERRY DUFFY, Lewport Sentinel
BILL FREDERICK, Environmental Projects Team
Leader
KEITH FOX, community member
JOE GARDELLA, Buffalo, NY
JOEY GILLESPIE, Support Contractor, SM Stoller
JEFF HALL, Project Engineer
KENT JOHNSON, Albany, NY
BILL KOWALEWSKI, Special Projects Branch Chief
ARLEEN KREUSCH, Outreach Team
D.J. LANGLOIS, Lewiston, NY
KENT LEE, Lewiston, NY
ED MCGREEVY, Youngstown, NY
NILS OLSEN, community member
MEGAN PELKA, court reporter
RICK PFEIFFER, Niagara Gazette
JANE RICHARDSON, Youngstown, NY
NEIL RIORDAN, Mayor of Youngstown, NY

1 **APPEARANCES CONTINUED:**

2 MARY ANN ROLLAND, Youngstown, NY

3 CHRIS ROSER, Lewiston, NY

4 JIM RAUCH, Snyder, NY

5 BRUCE SANDERS, Chief of Public Affairs

6 MARY SCHREINER, Niagara University

7 MICK SENUS, Lake Ontario Ordnance Works
8 Program Manager

9 CHRIS ZELTMAN, on behalf of Congresswoman
10 Louise Slaughter

11 LIEUTENANT COLONEL DANIEL SNEAD, Commander of
12 the US Army Corps of Engineers Buffalo
13 District

14 PHILIP SWEET, Buffalo, NY

15 ALLAN VANDENBOSCH, Lewiston, NY

16 CANDY WALTERS, Public Affairs Specialist

17 NATALIE WATSON, Outreach Team

18 LINDA WHITE, Buffalo, NY

19 AMY WITRYOL, Lewiston, NY

20 TERRY YONKER, Youngstown, NY

21 GUY ZACZEK, Niagara Falls, NY

22 BECKY ZAYATZ, Lockport, NY

23

1 MS. KREUSCH: My name is Arleen Kreuzsch
2 and I'm the Outreach Program Specialist for
3 the Corps' Buffalo District in the Special
4 Project Section. I'd like to briefly go over
5 the logistics for tonight's meeting just so
6 that you have an idea. The facilities are
7 over on this (indicating) side of the room.
8 There are two emergency exits in the back and
9 then, there's the emergency exit by the sign-
10 in table as you came in.

11 Please make sure you have a handout
12 package. First, just so you're aware, there
13 are going to be two presentations tonight.
14 One will be the Army Corps of Engineer
15 regarding Restoration Advisory Boards and the
16 second presentation will be for the Department
17 of Energy on the completed Niagara Falls
18 Storage Site and vicinity properties.

19 I have a few -- before I go over the
20 handouts in the handout folder, I just have a
21 few operating principles for tonight's meeting
22 to go over. Please turn off your cell phones
23 or pagers, anything that will beep or buzz

1 during the meeting. Please listen
2 respectfully. Please hold your questions or
3 comments.

4 We're going to be following the same
5 format that we have for our other workshops,
6 so we're going to do the presentations, then
7 we will be doing the poster session to re-
8 arrange the room and then, we will have the
9 workshop portion, so if you could hold your
10 questions and your comments until the workshop
11 portion, we would really appreciate it.

12 MS. WITRYOL: Excuse me, Arleen, is there
13 a way to modify the agenda this evening and
14 maybe put the first presentation which is
15 really repetitive to the last two years at the
16 end of the meeting because I only see one
17 person in the group that is interested in
18 forming a new Restoration Advisory Board and I
19 would prefer if the first portion of the
20 meeting could be spent discussing the issues
21 surrounding the condition of the NFSS and
22 possible leakage and if we have time, I would
23 love to hear from Congresswoman Slaughter's

1 office why she believes the Army Corps is not
2 violating the law by not recognizing a RAB
3 that we believe it illegally dissolved in
4 2008, so that would be my request and I don't
5 know if the Corps would have that flexibility
6 or if anyone else in terms of the community
7 members in the room which perhaps may be
8 outnumbered by the number of contractors and
9 agency representatives, but that would be my
10 suggestion if there's any interest in changing
11 the format.

12 MS. KREUSCH: Okay. Amy, we really would
13 like to stick to the agenda the way it's been
14 published for the last month in the paper.
15 Some people come specifically for certain
16 portions of the meeting and we would like to
17 stick to the agenda the way it is. We will be
18 having the RAB presentation first, then we
19 will have the DOE presentation because we're
20 waiting for Chris Clayton to come from the
21 airport and then, we will go into the poster
22 session and then, the roundtable portion where
23 we will be taking comments and discussing at

1 that time because we have to re-arrange the
2 room for the court recorder so that everybody
3 has a chance to be heard at the microphones.
4 We have a new court recorder tonight and I
5 really would like to keep the agenda the way
6 it is. Thank you, though. We have comment
7 cards. We have an agenda poster right by the
8 door when you come in and if anybody would
9 like to make suggestions that we change the
10 format for our meeting, then you're more than
11 welcome to put a comment on the comment card.

12 MS. WITRYOL: We've made that request in
13 the past, so I -- we've expressed our concerns
14 at every meeting over the format and how the
15 agenda is established, so other than just
16 continuing coming to these meetings and
17 repeating ourselves, I'm not quite sure what
18 we can do, but is there anyone here interested
19 in the presentation on the RAB formation or --

20 MS. KREUSCH: Amy, we've never given this
21 presentation before and I'd really like to
22 start the agenda now, if you don't mind.

23 COMMUNITY MEMBER: Well, I support Amy's

1 suggestion.

2 COMMUNITY MEMBER: I do, too.

3 MS. KREUSCH: I'm sorry, but I'm really
4 not going to change the format of tonight's
5 meeting at this time. I'd like to go over the
6 handouts that we have in our folder for
7 tonight's meeting. I have the acronym list, a
8 copy of the presentation with the slides so
9 that you can make notes to ask questions if
10 you'd like, the Restoration Advisory Board
11 fact sheet and the Restoration Advisory Board
12 RAB rule handbook that has all of the
13 different requirements for Restoration
14 Advisory Boards.

15 On the other side of the folder, I have a
16 newsletter that's going to be going to our
17 people on our mailing list and it also has a
18 comment card on the back that you can tear off
19 and put in the suggestion box tonight for the
20 meeting if you'd like to. I'd like to now
21 introduce Lieutenant Colonel Daniel B. Snead
22 of the Buffalo District Commander.

23 LTC. SNEAD: Good evening and I'd like to

1 thank everybody for coming out today. I know
2 we've got some elected officials here. I
3 thank you also for being here and if you're
4 here on behalf of an elected official, I also
5 thank you for being here this evening.

6 Before I start, I'd also like to just kind
7 of point out, I mean, when we go through this
8 discussion on any interest out there on
9 creating a Restoration Advisory Board, for
10 those who are new, if you look at that slide
11 there, it kind of shows or highlights the
12 property that covers the Lake Ontario Ordnance
13 Works and then, there's a little dotted area
14 called the Niagara Falls Storage Site. So,
15 essentially, we're doing two separate
16 projects, one is potentially a remedial action
17 there at the Lake Ontario Ordnance Works under
18 the Defense Environmental Restoration Program
19 for Formerly Utilized Defense Sites and that
20 takes care of the chemical contaminants and in
21 the second project, as you can see, overlaid
22 with the dotted line is the Niagara Falls
23 Storage Site. That falls under the U.S.

1 Department of Energy's Formerly Utilized Sites
2 Remedial Action Program. That's funded
3 separately than that DERP-FUDS funding and
4 that goes to radiological contaminants. So, I
5 think it's important that you understand that.

6 You'll see that the LOOW or Lake Ontario
7 Ordnance Works in this first presentation
8 referring to the DERP-FUDS program through the
9 Department of the Army and on the second
10 presentation, you'll hear more about the
11 Niagara Falls Storage Site under the FUSRAP
12 that is through the U.S. DOE funded through
13 the Corps of Engineers.

14 I'd also like to thank personally, Skip.
15 He's here with the Senior Center and the
16 Director of the Senior Center for allowing us
17 to have this tonight, an opportunity tonight
18 to have this meeting. Before we go further,
19 I'm also going to introduce our team members
20 from the Buffalo District. Would you please
21 stand when I say your name? First, we've got
22 Bill Kowalewski. He's our Program Manager for
23 our Special Projects Branch. They cover both

1 our projects under FUSRAP and DERP-FUDS. We
2 also have Bill Frederick from the
3 Environmental Projects. He's our Team Leader
4 for Environmental Projects, Steve Bousquet,
5 he's our Environmental Health Section Team
6 Leader and then, Dave Frothingham, our
7 Environmental Engineering Section Team Leader,
8 also John Busse, our Project Manager for the
9 Niagara Falls Storage Site and Lake Ontario
10 Ordnance Works Program, Mick Senus who's our
11 Project Manager for the Lake Ontario Ordnance
12 Works, also Jeff Hall, he's our Project
13 Engineer for the Lake Ontario Ordnance Works
14 and also, Jeff is the Project Manager for our
15 Office of Economic Adjustment Work at the
16 Lewiston Waste Water Treatment Plant, also
17 Andrew Lenox, I think I saw him. There he is.
18 He's Project Engineer for the Niagara Falls
19 Storage Site and Arleen Kreuzsch who introduced
20 the meeting this evening with out Outreach
21 Team and in addition, we have Natalie Watson
22 who's here with out Outreach Team. Bruce
23 Sanders, I think he's here with out Public

1 Affairs as well.

2 Going onto the next slide, the next person
3 I'd like to introduce and she's going to give
4 the quick presentation here on the DoD
5 Restoration Advisory Boards. Candy Walters,
6 she is a Public Affairs Specialist for the
7 Defense Environmental Restoration Program for
8 Formerly Used Defense Sites out of our
9 headquarters in Washington, DC. Candy will be
10 talking with you about the Restoration
11 Advisory Boards.

12 Following that presentation, the U.S.
13 Department of Energy, Chris Clayton will be
14 here from their Legacy Management. In fact,
15 he's on his way here now and he'll go over a
16 current review of the completed Niagara Falls
17 Storage Site vicinity properties. One of
18 Chris' support contractors is here, Bob Darr
19 who is travelling with him and then, I also
20 believe Joey Gillespie is here currently,
21 representing SM Stoller on behalf of the
22 Department of Energy. Welcome. We will then
23 have a poster session after this. That gives

1 us an opportunity to restructure the seating
2 to, kind of allow us to facilitate the Q and A
3 question and answers and discussion after that
4 following the DOE's presentation.

5 So, we're here tonight, first off, to
6 explain what a Department of Defense or the
7 DoD RAB is so that you can understand the
8 advantages and limitations of a DoD RAB for
9 the Former Lake Ontario Ordnance Works Site
10 and make an informed decision on the direction
11 you want us to take in our Outreach Program.
12 We value your input and your participation at
13 these workshops and will continue to have
14 these workshops every three months or so and
15 we'll make sure that we put out the
16 information on when they are and where they're
17 at so you can participate.

18 At this moment, I'll go ahead and turn it
19 over to Candy from our headquarters who will
20 provide the presentation on the RAB.

21 MS. WALTERS: Thank you, Colonel Sned.
22 It's a pleasure to be here tonight. As he
23 mentioned, I am Candy Walters. I'm with

1 Headquarters Corps of Engineers Public Affairs
2 and I have been working with the Defense
3 Environmental Restoration Program Formerly
4 Used Defense Sites for almost 15 years off and
5 on, so I have been working this program for a
6 while.

7 As we've noted, the Defense Environmental
8 Restoration Program OR DERP-FUDS and please
9 forgive me if I do use acronyms, but it comes
10 with working with the programs for a few
11 years, follows the Comprehensive Environmental
12 Response Compensation and Liability Act which
13 is also know as CERCLA. CERCLA encourages
14 public involvement in the decision making
15 process for a site by requiring a public
16 meeting to receive comments on a proposed
17 plan.

18 Because this community has shown a great
19 deal of interest in the Corps' environmental
20 restoration work, the district has actually
21 exceeded this requirement by conducting
22 quarterly meetings to keep you informed and
23 receive your input. For sites being addressed

1 under the DERP-FUDS program, we also follow
2 the Code of Federal Regulations which
3 specifically addresses DoD Restoration
4 Advisory Boards. In 2008, the Buffalo
5 District asked for input from the community
6 about forming a Restoration Advisory Board for
7 the Lake Ontario Ordnance Site. After
8 receiving the input from the community,
9 determination was made that there was not
10 sufficient interest in forming a DoD RAB.

11 MS. WITRYOL: Excuse me, what year was it,
12 what year?

13 MS. WALTERS: 2008. At a clean-up site
14 where a DoD RAB is not currently operating.
15 The Corps is required by law to reassess
16 possible community interest in forming a RAB
17 every 24 months and that's what we're doing
18 tonight, taking the first step.

19 MS. WITRYOL: But you did get feedback in
20 2008 from a multiple of stakeholders
21 representing thousands of people in this
22 County saying that there is a RAB. Could you
23 clarify for us why the Corps took the position

1 in 2008 that there was not a RAB?

2 MS. WALTERS: I can clarify what
3 constitutes a DoD Restoration Advisory Board
4 and that's what these slides will do.

5 MS. KREUSCH: Amy, if you could please
6 hold your questions until the end, we would
7 really appreciate it.

8 MS. WALTERS: Thank you. A RAB provides
9 the community with the opportunity to be
10 involved in the environmental restoration
11 process at Formerly Used Defense Sites, either
12 as a RAB member or through attendance at RAB
13 meetings. RABS offer the opportunity to
14 influence clean-up decisions through
15 discussion and to offer individual input to
16 the decision makers.

17 Because representatives of the
18 environmental agencies overseeing the clean up
19 participate in the RAB, the RAB also offers
20 the community the opportunity to share their
21 questions, concerns and ideas with the
22 agencies who are actually involved in the
23 clean up. Next slide.

1 What is a RAB? A RAB is a DoD sponsored
2 organization that provides input to the
3 District Engineer. A RAB meets on a regular
4 basis to discuss environmental restoration of
5 a specific property that is either currently
6 or was formerly owned by the DoD and it's at
7 those sites where the DoD oversees the
8 environmental restoration process.

9 RABS enable people who live and/or are
10 work within the affected communities
11 surrounding a specific site to exchange
12 information with the representatives of the
13 regulatory agencies, the Corps and the
14 community. The RABS are limited to DERP
15 activities funded by DoD appropriations and in
16 this case, the DoD, the Department of Defense
17 has no authority to establish a RAB to address
18 the Formerly Utilized Sites Remedial Action
19 Program's Niagara Falls Storage Site. Next
20 slide.

21 This slide shows you what we would
22 envision a RAB membership could look like. It
23 represents a cross-section of the community

1 and is designed to reflect the community's
2 diverse make up. It is comprised of
3 representatives of Tribal, Federal, state,
4 local governments and of course, the
5 community. If an individual lives or works in
6 an area that's affected by a site, he or she
7 may be eligible to apply to be a member of a
8 RAB.

9 Examples of community interest that might
10 be represented on the RAB include affected
11 community members, affected business
12 communities, homeowner associations, local
13 environmental groups, environmental justice
14 groups, health officials, senior citizen
15 associations and civic groups. What can a RAB
16 do?

17 Examples of the activities that a RAB can
18 undertake are listed on this slide. A RAB
19 provides stakeholder opportunities to
20 participate in the restoration progress, to
21 monitor and review the restoration process and
22 to make the community views and concerns known
23 to the decision makers. RABS can only address

1 issues associated with the Corps'
2 environmental restoration activities. RAB
3 meetings are open to the entire community and
4 they are designed to be held at convenient
5 time and locations, so even if you're not a
6 member of the RAB per se, you can still come
7 and participate in the meeting.

8 What doesn't a RAB do? First and
9 foremost, RABS are not decision-making bodies.
10 Consensus is not necessary. The Department of
11 Defense is trying to make decisions based on
12 input from as many different people as
13 possible and we appreciate the input of the
14 individual RAB members.

15 The Corps' decision makers will listen
16 closely to and consider the input that the
17 members provide regarding the activities,
18 however, the Corps is not required to follow
19 the recommendations. RABS cannot lobby
20 Congress and RABS cannot address other
21 environmental concerns within the community.
22 As I mentioned previously, there is no
23 authority for a RAB for the Formerly Utilized

1 Sites Remedial Action Program Niagara Falls
2 Storage Facility. Another thing to remember
3 is that a RAB must follow the RAB rule which
4 was published in the Federal Register and the
5 RAB rule is what sets the criteria all
6 Restoration Advisory Boards, whether they're
7 Corps Restoration Advisory Boards, Navy, Air
8 Force, Army, Marines. Everyone within DoD
9 follows the RAB rule. Next slide.

10 Lots of good points on this slide for you
11 to consider. It is suggested that a RAB be no
12 longer than 30 people because we want to be
13 able to maintain a constructive dialogue, but
14 on the other hand, it should not be so small
15 that the community's diverse interests are not
16 adequately represented.

17 The emphasis is placed on the diversity
18 that an individual brings because again, we're
19 looking for individual opinions and we also
20 hope that these people are committed toward
21 achieving the RABS goals. I must add that
22 serving on a RAB is time consuming because not
23 only are the members expected to participate

1 in the meetings, but they will also need to
2 read and comment on the reports and share
3 information with those they represent. Okay.
4 Got ahead of me just a little bit, but
5 potential RAB structure is next.

6 Again, this is what we would say a
7 potential RAB for the LOOW site could look
8 like and you can see there's a lot of
9 different groups represented on this slide.
10 The actual structure, of course, will be
11 determined based on analysis of the input
12 received and the interest expressed. A RAB
13 would be led by the Buffalo District Commander
14 through two co-chairs, one who is appointed by
15 the Corps of Engineers and a community co-
16 chair who is selected by the community members
17 who serve on the RABS and their duties would
18 be equal. They would be perceived as equal
19 co- chairs.

20 The District role in the RAB. Again,
21 there's four bullets here and there's an
22 additional role for the Corps District which
23 is to actually find the meeting space, handled

1 all media logistics -- I'm sorry, not the
2 meeting -- meeting logistics, excuse me and
3 also, to advertise the meeting and all of that
4 because that is a Corps District
5 responsibility. Next slide.

6 RAB member. A RAB member provides
7 individual input in an open, honest and
8 constructive manner, Represents and
9 communicates community concerns to the DoD
10 RAB, acts as a conduit for exchange of
11 information with the public, reviews,
12 evaluates and comments on publicly available
13 documents related to the Corps' environmental
14 restoration activities, represents and
15 communicates RAB issues to the community and
16 serves without compensation. This is a
17 voluntary role.

18 RAB formation criteria. As Colonel Snead
19 indicated at the beginning tonight, anyone the
20 district is looking for your input to form a
21 DoD RAB one of three criteria on this slide
22 must be met a DoD RAB will be formed at LOOW
23 if the community shows it has a sustainable

1 interest in having a DoD RAB. Next slide.
2 Here's the process for actually forming a RAB.
3 These are the steps that need to happen. The
4 District is planning to send out
5 advertisements and letters asking the
6 community if there is interest in forming a
7 RAB.

8 They will start sending this out on April
9 1st and they are asking for the feedback to be
10 back by May 8th. After thoroughly reviewing
11 the input, the District is expecting to make
12 its decision as to whether or not there's
13 enough interest in forming a RAB in June.

14 If it is determined that there is interest
15 in forming a RAB, then the process on this
16 slide will occur to make that happen. The
17 District Commander will contact the EPA,
18 Tribal, state, local government and regulatory
19 agencies to ask them to appoint somebody to
20 serve on the RAB. The Commander will identify
21 the diverse community interests with input
22 from EPA, the Tribes, the state, local
23 government and then, he will organize a

1 selection panel of community members to review
2 the applications and this selection panel is a
3 group that will nominate the RAB members.
4 They will give priority to community members
5 who are directly affected or impacted by the
6 former LOOW site and the thing to remember
7 here is that the members of selection panel
8 cannot serve as a member of the RAB.

9 So, if you have expressed interest in
10 being on the RAB or if you want to be part of
11 the selection committee, you can indicate
12 that. You can do one or the other, but not
13 both. Once the Commander receives the
14 recommended list of potential RAB members, he
15 has two choices and two choices only. One is
16 to accept the list as it was given to him or
17 to reject the entire list. He can't pick and
18 choose. It's all or nothing. Next slide.

19 So, I'm trying to wrap up here very quickly
20 so we can get to the next presentation. In
21 summary, a RAB provides a forum for discussion
22 and exchange of information between the
23 District and the affected community. The RABS

1 offer members the opportunity to influence
2 clean-up decisions through discussion and to
3 provide individual input to the decision
4 makers for the site. Next slide.

5 What if the decision is made not to have a
6 RAB? Again, a RAB is just one forum for the
7 exchange of information. It is not the only
8 tool that the Corps or the Army has at its
9 disposal to reach out and get input from the
10 community.

11 If a RAB is established for LOOW, the
12 District will continue to hold workshops with
13 the community that are solely dedicated to the
14 Niagara Falls Storage Site. There will no
15 longer be the joint meetings because the RAB
16 would address the LOOW site and there would be
17 separate meetings, separate community meetings
18 such as this with discussion panels and things
19 like that for the Niagara Falls Storage Site.
20 Last slide.

21 Here is who you contact for more
22 information to make your views and wishes
23 known. Public participation is a key

1 component of the CERCLA process and the
2 District really wants your input as to what
3 you want them to do. There is a tear-off
4 sheet on the back of your handout that we
5 would encourage you to fill out and provide.
6 You could either complete it tonight and put
7 it in the comment box or you can send it back
8 to the District later.

9 And that concludes my presentation I would
10 like to now introduce Chris Clayton of the
11 Office of Legacy Management for the Department
12 of Energy who is going to talk about the
13 vicinity properties at Niagara Falls Storage
14 Site.

15 MR. CLAYTON: Thank you. First, I'd like
16 to thank you all for being here and allowing
17 me the opportunity to present and follow up
18 from what we committed to on the December 2nd
19 stakeholder meeting. I'd like to thank the
20 Buffalo District for allowing me the
21 opportunity to provide this presentation. On
22 the 2nd of December, we committed to doing a
23 review of the work that the Department of

1 Energy had conducted at 23 or -- not 23, but
2 look at some of the vicinity properties that
3 the Department of Energy cleaned up, six
4 specifically and the two drainage ditches, the
5 central drainage ditch and the west drainage
6 ditch, Joey?

7 MR. GILLESPIE: Yes.

8 MR. CLAYTON: So, I'm here to present our
9 findings. Next slide, please. The rationale
10 that we used for the properties was first,
11 accessibility to the public. That was a
12 underlying issue with several of the
13 stakeholders that presented concerns. The
14 Vicinity Property Q, R, X, the central
15 drainage ditch as well as the west drainage
16 ditch, extreme stakeholder interest for
17 Vicinity Property X and then, adjacent to
18 Vicinity Property X and the Niagara Storage
19 Site proper, it borders the central drainage
20 ditch, Vicinity Property S, T and W and again,
21 for those of you in the back, the graphic is a
22 little small, but within your handout, it's
23 there as well as well as on the CD that we're

1 providing of the report itself, gives a little
2 bit better visual representation. So,
3 apologize for the smallness, but trying to
4 just give you --

5 AUDIENCE MEMBER: Do you have a pointer?
6 It would help.

7 MR. CLAYTON: Basically, the ones shaded
8 in green, ma'am. The one shaded in green up
9 in here (indicating), there's the central
10 drainage ditch, the west drainage ditch and
11 then, Q and R right here (indicating).

12 So, everything surrounding here
13 (indicating), Vicinity Property X was
14 predominant in three of our decision making
15 and then, what bordered W right up here
16 (indicating) and then, T as well as S and
17 then, Q. Access to the public R access to the
18 public. Next slide, please.

19 The objectives of our review was one, the
20 first, to ensure that Department of Energy had
21 complete records for what we did at the site.
22 We then wanted to review the documentation of
23 the assessment, remediation, and verification

1 that were conducted on the completed VPs,
2 focusing on those six VPs that I just went
3 over and then, to confirm that the properties
4 meet the DOE clean-up criteria. Thirdly,
5 determine if any new information indicated the
6 need to refer one of these completed vicinity
7 properties back to the Corps of Engineers for
8 further assessment and/or characterization and
9 then fourth, provide support to you all, the
10 stakeholders and maintain and provide access
11 to the records, response to request for
12 information and capture findings in a report
13 for stakeholders and future land stewards.
14 Next slide, please.

15 Early decontamination work conducted by
16 the Department of Energy from 1970 to 1971,
17 radiological surveys indicated 6.5 acres of
18 the approximate 1,300 acres formerly occupied
19 by the Atomic Energy Commission exceeded the
20 50 micro hour per hour exposure rate. As a
21 result of those surveys, 15,000 to 20,000
22 cubic yards of material was moved to the
23 central Niagara Falls Storage Site and

1 stockpiled there in 1971. Additionally, in
2 1971, aerial surveys identified pseudo
3 wollastonite and cyclo wollastonite slag within
4 the greater Niagara Falls area originating
5 from non-Manhattan engineering district AEC
6 activity. In 1972, following a review of the
7 AEC data, the New York Department of Health
8 placed land use restrictions on all of the
9 excessed properties.

10 In 1978, we followed up with additional
11 aerial surveys indicating no significant off-
12 site gamma radiation except for the drainage
13 ditches. In 1979, the Department of Energy
14 launched a systematic review of all the VPs,
15 performing a comprehensive radiological survey
16 an analysis for each vicinity property. Next
17 slide, please.

18 From 1981 to 1985, the Oak Ridge
19 Associated Universities in Oak Ridge National
20 Laboratory's comprehensive radiological
21 surveys find the gamma exposure rate on 21 of
22 the 26 vicinity properties that exceed FUSRAP
23 guidelines. Most of the contamination is

1 located on the Niagara Falls Storage Site
2 proper and the associated drainage ditches.
3 From 1983 to 1986, the Department remediated
4 23 of the 26 affected vicinity properties and
5 the associated drainage ditches. From 1983 to
6 1984, supplemental residual contamination
7 guidelines were developed for the central
8 drainage ditch.

9 From 1983 to 1989, independent
10 verification surveys were performed for each
11 of the 23 remediated vicinity properties. In
12 1991, DOE submits certification that the
13 completed vicinity properties meet criteria
14 for FUSRAP waste. Next slide, please.

15 FUSRAP waste is generally defined as waste
16 generated by the Manhattan Engineering
17 District, Atomic Energy Commission activities
18 generally occurring from the early 1940's
19 through the early to mid-1960's.

20 Radioactive contaminants are primary
21 low-level uranium, thorium and their
22 associated decay products. Not addressed --
23 and the waste is not addressed under other

1 programs such as the Comprehensive
2 Environmental Response, Compensation Liability
3 Act, CERCLA, the Nuclear Regulatory
4 Commission, NRC or by our sister office, the
5 DOE Office of Environmental Management.

6 Non-FUSRAP related waste is waste that was
7 generated prior to the 1940's and after the
8 1960's. There was no definitive relationship
9 between that waste and any MED or AEC activity
10 at the site and the characteristics are unlike
11 known FUSRAP waste for a given site. The
12 Niagara Falls Storage Site had a particular
13 type of waste stream and associated with that
14 waste stream would have been the associated
15 waste.

16 If it didn't meet that criteria, it was
17 determined to be non- FUSRAP related. Next
18 slide, please. On that, the additional
19 radiological materials that we've have
20 discovered at the Niagara Falls Storage Site
21 and was of particular importance during the
22 2nd of December meeting was the Knolls Atomic
23 Power Lab and the Separations Process Research

1 Unit, SPRU. It was waste stored on Lake
2 Ontario Ordnance Works site from 1952 to 1954
3 and currently, the Department, our office, the
4 Office of Legacy Management is reviewing that
5 with the Office of Environmental Management to
6 determine a path forward for the department.
7 University of Rochester materials, those
8 materials were buried on Vicinity Property G
9 which is an active VP that is currently being
10 addressed by the Army Corps of Engineers.

11 It will be evaluated by the Corps of
12 Engineers to determine whether or not that
13 particular waste stream meets the general
14 FUSRAP eligibility requirement. Slag is also
15 present at metal separations and pseudo
16 wollastonite slag. It was very commonly used
17 in the Niagara Falls area as a construction
18 material and determinations are being made by
19 both state and Federal agencies as to a path
20 forward to address the slag that remains on
21 Niagara Falls as well as associated Vicinity
22 Properties. Next slide, please.

23 Conclusions that we were able to determine

1 through reviewing the records and reports,
2 surveys associated with the six VPs that I
3 presented, our project records adequately
4 define and describe the final radiological
5 conditions on those 26 vicinity properties.
6 The radiological surveys were very
7 comprehensive and extremely thorough.

8 The completed VPs meet the Department of
9 Energy standards for FUSRAP waste that allow
10 for unrestricted use of the property. Other
11 radioactive materials remaining on the Niagara
12 Falls Storage Site VPs will be addressed as I
13 just indicated on the previous slide and
14 additionally, if we are informed either
15 directly or through the Corps of Engineers,
16 that there is additional information, the
17 presence of contamination that was not
18 previously addressed, we will follow the
19 procedures in accordance with the 1999
20 memorandum of understanding that the
21 department has with the Army Corps of
22 Engineers and proceed in accordance with that
23 policy or that guidance. Next slide, please.

1 As was committed to at the December 2nd
2 meeting, the report is currently posted at the
3 www.lm.doe.gov/Niagara/Vicinity/Documents.
4 Joey, we've checked that link and ensured that
5 it is accessible.

6 MR. GILLESPIE: And the Corps sent out an
7 announcement that has an automatic link in it
8 to all the stakeholders, so it should be click
9 on it and go straight in there and the report
10 is dated March 2010.

11 MR. CLAYTON: So, if you do have
12 difficulties, Mr Bob Darr's contact
13 information will be coming up and contact him
14 directly and we'll resolve any issues that
15 you're having. We will accept comments to the
16 report provided by you, concerned stakeholders
17 or other activities up until the 23rd of April
18 at which time we will review those comments
19 and provide a responsiveness summary on
20 whether or not we concurred, non-concurred or
21 what the final disposition of those particular
22 comments were. Joey, without going to the
23 next slide, when would we have that available?

1 MR. GILLESPIE: After April 23rd. Probably
2 within a couple weeks after that, we would be
3 able to finalize that report.

4 MR. CLAYTON: So, about the second full
5 week of May, maybe?

6 MR. GILLESPIE: I would say the 15th of
7 May.

8 MR. CLAYTON: 15th of May, we would have a
9 responsiveness summary available. As I
10 indicated, any comments, issues, concerns
11 should be addressed to Bob Darr at lm.doe.gov.
12 Next slide, please. There is Mr. Darr's
13 telephone number as well as his active e-mail
14 link and with that, that finishes my quick
15 presentation. Thank you.

16 MS. KREUSCH: Thank you very much, Chris.
17 We are now going to re-arrange the room on
18 this (indicating) side of the room, so if you
19 could move back for the poster session, Candy
20 Walters and I will be at the Restoration
21 Advisory Board poster which is on this
22 (indicating) side of the room. Jeff Hall and
23 Mick Senus will be at the Lake Ontario

1 Ordnance Works posters for the Niagara Falls
2 Storage Site. We have John Busse and Andrew
3 Lenox and the Department of Energy posters are
4 on this side of the room. Thank you and if
5 you could please move to the other side of the
6 room while we arrange this side, we would
7 appreciate it.

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(Brief recess)

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MS. KREUSCH: Before we get started, I'd
just like to go over the operating principles
for our discussion portion of the meeting
tonight. Please be courteous, please turn off
your electronics, please listen respectfully,
one person talking at a time, raise your hand
when you want to speak, please state your name
before you actually make your statement so
that the court recorder can put your name in
the transcript and please give everyone a
chance to comment.

22

23

If there's things that we can't address
tonight, we will put them in the parking lot.

1 I know that there's a great deal of interest
2 in the DOE's presentation and there is
3 interest also in the Restoration Advisory
4 Board for comments, so I will let you pick
5 whichever one you would like to address first
6 tonight and we'll probably try and address one
7 and then, address the other, so would someone
8 like to start?

9 MS. WITRYOL: This is Amy. I won't go
10 through the totality of my comments so we can
11 hear from our members of the existing
12 authorized RAB the opportunity to speak, but I
13 do want to clarify this is the third time this
14 presentation has been made to the public.
15 Bill Kowalewski and Joan Morrissey separately
16 and also gave the RAB presentation tools.

17 MS. KREUSCH: Okay. That mike wasn't
18 working, so if you could.

19 MS. WITRYOL: I think it had my name on
20 it. Okay. Just for clarification, this is
21 the third time the public has been given a
22 presentation of the RAB formation rules.

23 MS. KREUSCH: OLSEN?

1 MR. OLSEN: Yes. This probably isn't on,
2 but I can speak loudly. I'm not going to
3 respond to the presentation because it is
4 repetitive. We have seen it a number of times
5 over the more than a decade that we've been
6 seeking to participate meaningfully in the
7 process through a RAB, but I do want to
8 respond a bit to your factual statements in
9 your public involvement plan.

10 I think the fairest thing to do is to
11 characterize your factual statement as
12 revisionist history. As a member, I've been
13 involved in this since the very beginning. I
14 had the dubious honor as serving at the
15 Citizen Co-chair of the first RAB. I've been
16 on the steering committee of the second RAB
17 which we apparently agreed was going to be a
18 community information group, so I'm fairly
19 familiar with the occurrences underlying this
20 very long process that we've undergone.

21 At least The Artist Formerly Known as
22 Prince made his own decision to change his
23 name. I can honestly say that the information

1 community, I guess we're called the community
2 involvement group formerly known as the RAB
3 did not play any role in redefining our
4 process. There was never a mutual agreement
5 that we would relinquish that statute an
6 assume some basically impotent reactive status
7 as an unofficial community group of volunteer.

8 There's no question that the original RAB
9 that was created in March 1999 was
10 dysfunctional and subject to community
11 frustration. This was largely because it
12 employed a very similar process to the one
13 that is being employed in these meetings.
14 There were presentations being read off of
15 slides that were presented and then, an
16 opportunity to respond, not in an engaging
17 way, but to decisions that had already been
18 reached.

19 This led to a good deal of frustration as
20 to those of you who were around 11 years ago
21 can remember. What I object to strongly is
22 the language in your public involvement plan
23 that states after completion of the

1 consultant's report, both the community
2 members and government members of the former
3 DoD RAB reached a consensus that the best way
4 to address the community's concerns and
5 achieve a broader mission was to form a group
6 independent from the Corps and free from
7 governmental restraint or support. I added
8 "Or support".

9 As its membership -- or as a direct result
10 of this joint decision. The Corps ended its
11 membership and withdrew from its leadership
12 role the existing DoD RAB. Instead, it agreed
13 to participate in the new group's meetings to
14 the extent possible. There was never a joint
15 decision that I'm aware of and I was involved
16 in much of this, to dissolve the RAB and
17 transform the group to a reactive rather than
18 participatory and collaborative group.

19 This decision, in fact, was made
20 unilaterally by the Corps. In fact, during
21 the several years after the consultant's
22 report when you were meeting with the RAB as I
23 choose to call it, you were referring to it as

1 a RAB on your website and you certainly never
2 informed us that that was incorrect. So, the
3 dimension of this mutual agreement were, to
4 say the least, speculative.

5 MS. KREUSCH: My mike is on now?

6 MR. OLSEN: I'll complete in just a
7 minute. Moreover, in considering your summary
8 of the process for collecting community
9 interest to re-engage a RAB which was
10 presented in tonight's report, in my opinion,
11 you seriously demean the importance of our
12 community political representation.

13 The village, town, county, state and
14 Federal levels, every pertinent representative
15 has expressed a clear and unambiguous interest
16 in your restoring RAB status to the existing
17 RAB group. This community has the right to
18 expect that as a public entity, you will
19 understand and acknowledge the ability of
20 residents of this community to rely on their
21 representatives to express the community's
22 will and this expression of the community's
23 will was very clear and very unambiguous. If

1 your present practice is to disregard this
2 input, you certainly should inform our
3 representatives so they don't waste any more
4 of their time with meetings and writing
5 additional letters stating their interest in
6 having you work with the RAB as a RAB and not
7 a group of community volunteers. I think this
8 is really important.

9 It's obviously not as important as the
10 Department of Energy's presentation and others
11 will address that, but it is important because
12 the obvious incongruity of your position with
13 those in the community that have been involved
14 and the corrosive and damaging effect that
15 your stated position has on the critical issue
16 of your credibility with respect to fact
17 finding, you really should comply with the
18 long- standing request of the existing RAB and
19 of our community representatives and bring a
20 facilitator to deal with this problematic
21 situation so that we can finally stop talking
22 about process and begin talking about what
23 we're all here about, which is reaching a

1 satisfactory conclusion to the mess that was
2 presented to us certainly against any interest
3 or desire of anybody in the community and I
4 think we spent enough time going over your
5 regulations.

6 I've taught civil procedure for many
7 years. I've never seen a set of regulations
8 that are less flexible and seem more intended
9 to -- direct conversation to the limits of
10 your regulations rather than what we're here
11 to talk about, which is the solution to a very
12 difficult environmental problem with this
13 community has lived with for many years.

14 MS. KREUSCH: Thank you, OLSEN. One thing
15 I'd like to say is that the Department of
16 Defense requires us to solicit interest in an
17 official DoD RAB every two years in accordance
18 with the regulation, so if an official DoD RAB
19 is not formed this time around, in two years,
20 we will be required by law to form -- to do
21 the whole thing over again.

22 MR. OLSEN: That just means two more years
23 of discussing the process.

1 MS. WITRYOL: But that requirement by law
2 only applies when there is no existing RAB and
3 at every municipal entity our major
4 stakeholders. The Attorney General of the
5 State of New York believes that we have a RAB
6 that is existing, whether it perfectly
7 conforms or doesn't conform to subsequent
8 regulation is irrelevant because in 2008, this
9 community was told that in 2002, the Army
10 Corps dissolved the RAB without telling the
11 RAB members, who continued to serve for the
12 next five years that they were serving on
13 something that wasn't a RAB even though they
14 were called a RAB.

15 Every document, every website referred to
16 it as a RAB. So, our disagreement is over
17 whether or not we were secretly, retroactively
18 dissolved and we believe that was illegal and
19 the only party that has sided with the Army
20 Corps' view of the law has been Congresswoman
21 Slaughter's office and again, I invite Chris
22 to explain to us and I believe I saw someone
23 from the Attorney General's office here as

1 well as to the chair of the current RAB, Dr.
2 Gardella why we're even talking about RAB
3 formation when we have an existing RAB?

4 MR. ZELTMAN: I'll address some of those
5 points. Congresswoman Slaughter received a
6 letter from Clyde Burmaster representing
7 community members seeking clarification from
8 the DoD on two specific questions. The
9 Congresswoman had contacted the DoD and asked
10 for a review and response to those questions
11 and that was secured and shared with the
12 community.

13 You know, I -- we're not taking a legal
14 opinion on really this matter. What we've
15 been trying to do is get clarity for the
16 community from the Department of Defense which
17 was a request from the community. You know, I
18 was struck by the comment you made about
19 talking about process and keep moving on with
20 the process and I think in an attempt to try
21 and find a common ground to try and move the
22 discussion from the process to, you know, the
23 work at hand, was an opportunity, you know,

1 for the community to decide whether or not to
2 take this opportunity to, you know, request
3 for a RAB. If that's not the community's
4 preference, that's not the community's
5 preference. I think anything beyond that, you
6 know, the Congresswoman hasn't -- it is not
7 something that we have really been engaged in,
8 so I can only speak to the request from the
9 community for clarification from the DoD and
10 the clarification that we received from the
11 DoD.

12 MS. KREUSCH: Amy?

13 MS. WITRYOL: Since I introduced Chris,
14 just one quick remark because I know there are
15 other folks. I would just add to that request
16 that my -- first of all, let me first say I
17 appreciate, Chris, your being at this meeting
18 and being at the last meeting and also
19 personally, I am very disturbed that someone
20 threw a rock through the window of the
21 Congresswoman's office. That's not
22 appropriate and I've had my vehement
23 disagreements with the Congresswoman's

1 office, but certainly --

2 MR. ZELTMAN: I agree.

3 MS. WITRYOL: And once in a while an
4 agreement.

5 MR. ZELTMAN: More than once in a while.

6 MS. WITRYOL: And that's not typical of
7 this community and not where we want to be.
8 That being said, I'm extremely disturbed that
9 the Congresswoman did a 180-degree turn on the
10 request for a facilitator and at this
11 juncture, I would simply say, given the
12 remarkable legislative feat with health care
13 of the past week, I have every confidence that
14 the Congresswoman can figure out in the next
15 couple of weeks how to legislate a facilitator
16 for this particular site and perhaps offer
17 that as a new request.

18 MS. KREUSCH: Thank you, Amy. Bill, I
19 know you wanted to say something before.

20 MR. CHOBOY: I continue to support --
21 which Bill?

22 MS. KREUSCH: Bill K, I'm sorry.

23 MR. KOWALEWSKI: Sorry. I just wanted

1 to -- with regard to the RAB questions and how
2 the Army handled it, I just wanted to add that
3 all the RAB history at this site was forward
4 up our chain of command to the Washington
5 level and the Army General Counsel, the Corps
6 Counsel, folks who have that national
7 perspective on RABS, their history, their
8 formation, they're the ones who contribute to
9 that letter, that response that went back to
10 Congresswoman Slaughter.

11 So, what has happened here locally has
12 been reviewed vetted at the national level and
13 the answer is what the answer is and we're
14 here to move forward from that point.

15 MS. WITRYOL: That's the history that you
16 provided, your chain of command, not the
17 history that we provided.

18 MR. KOWALEWSKI: Well, we provided all of
19 the history we had including the news
20 articles, the meeting minutes, these sessions,
21 they reviewed it all.

22 MS. KREUSCH: Okay. Now, Bill Choboy.

23 MR. CHOBOY: I continue to support the

1 recognition of the current RAB but if the
2 Corps proceeds with the establishment of a new
3 RAB, I charge that the members of the current
4 RAB be retained. These members serve on the
5 RAB as appointees of local governments and
6 entities, local communities,
7 environmentalists, the Tuscarora Nation and
8 the Lewiston-Porter School Complex are
9 represented.

10 The Corps has stated that the local RAB as
11 they call it consists of members with
12 impressive levels of education and expertise.
13 This is certainly true. Members like Walt
14 Garrow, Professors Nils Olsen, Joseph
15 Gardella, William Boeck and the other members
16 of the RAB are dedicated and have great
17 knowledge to the issues of the LOOW.

18 Their knowledge and years of work should
19 not be discarded, especially now at this
20 critical time when decisions are being made
21 that will affect residents in the community
22 for years to come. The community needs
23 informed representation. Current members

1 should be kept. It shouldn't be difficult to
2 make any adjustments in structure necessary to
3 meet regulations and a community should be
4 able to have a degree of trust that their
5 interests are being protected.

6 In looking at the Sentinel from last
7 weekend about this meeting, it said that one
8 of the following conditions must be met and
9 there are three of them and I feel that the
10 second one where it says, "Federal, Tribal,
11 state or local government representatives have
12 requested a DoD RAB" and we have from January
13 17th, 2009, there was a roundtable in
14 Youngstown and it was signed by every city,
15 town, village and the Niagara County
16 legislature, every one of them and it's right
17 on the back of this resolution and I can give
18 you the -- be it resolved because it covers a
19 couple of things that had been mentioned
20 earlier.

21 Be it further resolved that the Federal
22 government through the United States Army
23 Corps of Engineers provide administrative and

1 technical support to the current Restoration
2 Advisory Board and be it further resolved that
3 an independent, qualified third party be
4 employed by the United States Army Corps of
5 Engineers to facilitate resolution of any
6 existing differences between the Corps and the
7 current Restoration Advisory Board and be it
8 further resolved that once those differences
9 are resolved, the Unites States Army Corps of
10 Engineers and the Restoration Advisory Board
11 resume working together on successful
12 remediation clean up of the LOOW site and be
13 it further resolved that a copy of this
14 resolution be forwarded to Schumer's
15 Gillibrand's, Slaughter's, et cetera, et
16 cetera, et cetera, but it's signed by 47
17 officials on behalf of every city, village and
18 town in the county government in Niagara
19 County.

20 I don't know how much more you need to
21 have than that and we've tried very hard. It
22 contains 47 signatures. It doesn't include
23 Tuscarora who's with us and a number of other

1 people we could get. We could fill this thing
2 out five pages long if necessary.

3 MS. KREUSCH: Candy, I'm going to give you
4 a chance to say anything you would like to say
5 and if not, I will.

6 MS. WALTERS: I think that it would be
7 good -- can you all hear me? I can talk loud.
8 I think it would be good for you to provide
9 that information. Again, if there is, indeed,
10 that much interest in forming a RAB, then we
11 go through the process and again, the
12 important thing -- thank you.

13 Again, the important thing is that the
14 whatever resulting board that is formed is,
15 has both the two co-chairs, both one from the
16 Corps and one from the community and that's
17 really the major thing that needs to happen
18 and that they agree to look at issues that
19 focus only on LOOW and that they come up with
20 their own operating procedures, come up with
21 their own charter and that they get people who
22 are willing to volunteer their time and serve
23 as members of the group.

1 MS. KREUSCH: Thank you, Candy. I'm going
2 to just chime in before we go down the road
3 any further. I need to clarify that a legal
4 determination was made that the Corps had to
5 follow the new regulation. A legal
6 determination was made that the current
7 community group was not an official DoD RAB.

8 We are bound by legislation to follow the
9 regulation. If we have -- we've already made
10 the determination that the current group is
11 not an official DoD RAB. The only way we can
12 get an official DoD RAB is by following the
13 procedure that's established in the
14 regulations to get one which means --

15 MR. CHOBOY: I just cited one out of the
16 paper one of the conditions and this takes
17 care of that.

18 MS. KREUSCH: No, that petition said that
19 you wanted us to recognize a group that a
20 legal determination was made that was not an
21 official RAB.

22 MR. CHOBOY: And this says to appoint the
23 people that were on the RAB.

1 MR. RIORDAN: What court made that
2 determination?

3 MS. KREUSCH: The Army Corps of Engineers'
4 legal staff from the Buffalo District through
5 to our headquarters office and to clarify
6 further, even when we do follow the
7 regulations, I mean we -- anyone that is on
8 the current community group will be able to
9 apply for membership if we have sufficient
10 interest in forming a official Department of
11 Defense Restoration Advisory Board. Mayor
12 Riordan?

13 MR. RIORDAN: I just want to speak to a
14 number of items that have already been spoken
15 to tonight, but Arleen, you were present at
16 the meeting we had last year at this time, so
17 was Colonel Snead and Bill as well and I think
18 you would have to concur with all the
19 representatives that Bill cited and many more
20 that were there as well as the previous
21 meeting that we had in January that it was not
22 an adversarial meeting. It was a meeting of
23 good communications and very constructive

1 critiques and exchange during that two or
2 three-hour session.

3 What disappointed me to this point and
4 then, in the earlier presentation was the fact
5 that it was mentioned that it was determined
6 that there was no community or lack of
7 community interest in forming a RAB and that
8 was in the face of virtually every school
9 board attending those meetings, our Niagara
10 County Health Department, all of our
11 legislators, all of our assembly and senate
12 members as well as the Congressional members
13 and members of the public.

14 All the criteria that was mentioned in
15 terms of interest locally in a community RAB
16 and I really felt when I saw that this evening
17 both hurt and disappointed that in the face of
18 that meeting which I viewed as a genuine,
19 cooperative meeting without any adversarial
20 exchanges on the cause of at least re-
21 instituting a RAB, a RAB, in fact, that met
22 every criteria that has been examined here
23 earlier, but to hear this evening that there

1 was no community interest or was viewed as a
2 lack of community interest on the level of 47
3 legislative representatives, school boards,
4 chambers of commerce as well as local
5 environmental experts that attended that
6 meeting and it was totally non-partisan.
7 These are representatives, residents, civil
8 groups that came out and said, we want a RAB.
9 We want to support the current RAB.

10 In any case, we must be represented by a
11 RAB without question and to hear that earlier
12 this evening that there was no local, interest
13 I thought it was a sham at best and I don't
14 know how you want to address that.

15 MS. KREUSCH: Okay. The meeting that you
16 held and hosted for us?

17 MR. RIORDAN: Yes.

18 MS. KREUSCH: We appreciate that very
19 much. That meeting was held after the
20 decision that we're talking about in this
21 presentation. The decision that was made that
22 we're talking about in this presentation was
23 made the summer before. We asked for input

1 from the community. We received between 21
2 and 25 letters from the community and 18 of
3 them indicated they wanted us to recognize a
4 group that we legally could not recognize and
5 the rest of them did not -- there mixed
6 between those that did want a RAB and didn't
7 want a RAB.

8 MR. RIORDAN: When did they view there was
9 no interest from local community? When was
10 that rendered?

11 MS. KREUSCH: That decision was released
12 in June or July of 2008. Bill K, correct me
13 if I'm wrong. The letter is in --

14 MR. RIORDAN: Was that based on a Corps
15 assessment of community interest?

16 MS. KREUSCH: At that time, yes. It
17 was -- that decision was made before you
18 hosted the meetings for us.

19 MR. RIORDAN: After the meetings we held
20 which is certainly a major part of, has that
21 mood changed? Has that view changed in terms
22 of community interest? I mean, we can well
23 exceed and have the 50 letters native to the

1 community as well as another few hundred from
2 the major representatives of civic groups and
3 so on, so I wondered if the Corps feels
4 differently after attending those meetings and
5 participating in those meetings.

6 MS. KREUSCH: Bill K, did you want to
7 speak to that?

8 MR. KOWALEWSKI: Mayor Riordan, it's very
9 clear. There's no question about the level of
10 community interest and what it comes down to
11 us is not whether or not there's community
12 interest, but whether the community wants us
13 to do what we're required to do and that's for
14 a RAB per the regulations. To ask us to do
15 something that we're told we can't do is not
16 community interest in having a RAB and that's
17 how we're going to have to view any input we
18 get in this coming session is whether or not
19 the community wants the Corps of Engineers to
20 form a RAB for DERP-FUDS or not and if the
21 answer is yes, then we'll follow the process
22 here. If the answer is to go back to
23 recognizing a group that does not conform to

1 the requirements and the regulations that we
2 have, then we view that as a no and we will
3 pursue life in our Outreach Program without a
4 RAB. So, there's no disrespect intended or,
5 you know, lack of acknowledgement of community
6 interest. That's crystal clear.

7 MS. KREUSCH: Dr. Gardella?

8 DR. GARDELLA: So, just for the record, my
9 name is Joe Gardella. I'm a professor in the
10 Chemistry Department in the University of
11 Buffalo and I'm here to speak tonight about
12 the Restoration Advisory Board and address the
13 important aspect visa vie the status of the
14 remediation of the Niagara Falls Storage Site.

15 I serve as the elected chair of the
16 steering committee of the Lake Ontario
17 Ordnance Works RAB, as an appointee of the
18 Lewiston-Porter Schools which are sited on
19 land that was part of the original LOOW site
20 and adjacent to NFSS and chemical waste
21 management. I serve them as an official
22 environmental consultant, serve the Lewiston-
23 Porter School pro bono, governed by the

1 memorandum of understanding approved by the
2 Board of Education in 2005. The real issue we
3 should be discussing at this point is the
4 status of NFSS. As clear and significant
5 evidence based on uranium testing that the
6 site is leaking and that's not on the agenda
7 tonight. Instead, we're going to talk about
8 the RAB and so, I would like to say a few
9 items about that.

10 There are many people, including my
11 distinguished colleague to the left who were
12 in the room when the RAB was re-organized in
13 2002. As he stated, no one was told that it
14 was dissolved until the plan that was
15 disseminated in 2009. That same opinion that
16 came down through Representative Slaughter's
17 office included these kinds of statements,
18 that the RAB was dissolved in 2003, that a new
19 RAB would have membership limited to a very
20 narrow geographic area, completely
21 inconsistent with the RAB rules that were
22 promulgated in 2006. The proposal to consider
23 a new RAB by the Corps of Engineers is thus,

1 steeped in the past several years of loss of
2 trust. The Corps' refusal to cooperate with
3 the LOOW RAB has caused a great loss of trust
4 in the work products and the Corps' efforts on
5 the LOOW site.

6 The position that the Corps has taken and
7 I realize that -- what Bill K's statement is
8 that there is an official statement from
9 Washington, but that position that the
10 reorganization of the RAB was actually a
11 dissolution in 2003 is disingenuous and all
12 but a flat-out lie and that contributes to the
13 lack of trust.

14 Now, I recognize many who advise that the
15 community should go forward in this process
16 not rehash the last several years of history,
17 but I want to advise the Army Corps here and
18 now that that history exists and it has caused
19 a lack of trust. LOOW RAB members, myself
20 included, have met regularly with Corps'
21 leadership during that period attempting to
22 find means for compromise on concerns about
23 roles and responsibility of the RABS and the

1 stakeholders they represent.

2 We've studied the RAB rule and the RAB
3 handbook and consulted with legal experts and
4 RAB experts nationwide and we differ greatly
5 with the positions presented by the Corps and
6 believe they're in violation of their own
7 rules. Despite that, we're advised to move
8 forward.

9 Now, I see many benefits to a functional
10 RAB and they're presently absent in the Corps'
11 public involvement plan. The plain fact that
12 the Corps can establish an agenda and refuse
13 community requests to modify the agenda is a
14 good example and a functioning RAB would have
15 a collaborative process to make an agenda.

16 It's one of the sort of basic issues of
17 participation in decision making and getting
18 the community involved. I'd like to quote
19 the -- and the other thing that would be added
20 by a functioning RAB is access to project
21 plans and results. Right now, the community
22 doesn't get access to plans. Plans are often
23 promulgated and completed before the community

1 can actually see the plan and as a
2 representative of the school district, it
3 makes my job very difficult to advise the
4 district as to what the impact of testing and
5 the results of testing are when I can't see
6 the plan until the plan is completed.

7 The RAB rule calls for the use of
8 facilitator in two cases: When communication
9 has broken down for an existing RAB and where
10 needed for public meetings. Now, it's always
11 been the position of the LOOW RAB that
12 communication broke down for an existing RAB
13 and a facilitator should have been appointed
14 to deal with the issues, an independent
15 facilitator, as Bill Choboy had mentioned.

16 Given the loss of trust in the community
17 over the conflicts for the LOOW RAB status as
18 demonstrated by these letters from all the
19 elected bodies in the region, a RAB should be
20 formed with a strong and independent
21 facilitator to help build trust for the
22 future. With immediate and important
23 decisions about the future of the NFSS and its

1 impact on the LOOW site. It's important to
2 have a trusting relationship with the Corps'
3 staff and their consultants. A functioning
4 RAB with the ability to provide independent
5 and careful peer review of Corps' work
6 products must be an important goal. I urge
7 Commander Sneed to listen and implement the
8 results of the public for the operation of the
9 RAB.

10 All of us can live within the RAB rules,
11 so the statement that the existing LOOW RAB
12 violated the RAB rules and therefore should be
13 ignored is just not correct. Working together
14 will build trust and build trust in the work
15 products that are really important for the
16 future of this site.

17 MS. KREUSCH: Thank you, Dr. Gardella. Do
18 you have that statement and you can e-mail it
19 to us so that we can get it correct in the
20 record, that would be appreciated. Before we
21 go on, I need someone from my technical team
22 to address the integrity of the interim waste
23 contaminant structure. Every evidence that we

1 have from all of our environmental monitoring
2 said that that structure is safe and I would
3 just like someone from my technical team to
4 reiterate that for me.

5 MR. FREDERICK: This is Bill Frederick.
6 We have a series -- we do quarterly as well as
7 annual as well as semi-annual monitoring for a
8 lot of the transport pathways out of the site,
9 primarily surface water, ground water,
10 sediments. We look at -- thank you.

11 We look at ways to find ways to see if
12 radio nuclides are moving off the site, things
13 that would be fingerprinted from the waste
14 containment structure and/or soil
15 contamination that exists on the site,
16 residual soil contamination. We've gone
17 through a fair amount of analysis looking at
18 data trends over, you know temporal periods
19 from going way back into the 90's, even
20 looking at some of the early DOE data just to
21 verify what they were seeing continuing
22 throughout our more recent history as well as
23 to see if we can predict on what could happen

1 in the future. We incorporated some of that
2 environmental data, mainly ground water and
3 surface water information, since they are some
4 of most mobile pathways that would normally
5 leave a site in general and incorporated a lot
6 of those data -- those monitoring data into
7 modeling packages to see if we can make
8 predictive analyses and when we may want to
9 take action or our windows of when we would
10 like to take action.

11 At this time, we don't see any -- we have
12 wells in about three to four rings around the
13 waste containment structure. We've
14 installed -- we, the Corps, I'm not going to
15 say it off the top of my head because I'm not
16 sure because we just went through a whole
17 'nother round where we installed a whole bunch
18 of more wells on the site, is that we're
19 seeing impacts to the ground water, but if you
20 look at the operational nature of the site
21 throughout the 40's all the way through to the
22 80's, you can tie a lot of those impacts
23 outside the waste containment structure to

1 things that occurred on the ground in history.
2 We have aerial photographs throughout the
3 historical period that allow us to make
4 inferences.

5 We can see areas where they stored
6 material on the inside and the outside and the
7 wells that we have in the first ring around
8 the waste containment structure do show
9 impacts, but they don't show increasing
10 impacts that would be indicative of an outward
11 leakage and increasing contamination on an
12 outward basis.

13 It's, basically, legacy plumes that were
14 in place from a lot of DOE in the AEC period
15 that when they put in the waste containment
16 structure, think of it as a cookie cut. They
17 put a cookie cutter into the subsurface where
18 there was already plumes around the material
19 that was stored above surface in the area and
20 around this facility. I mean, it was a
21 storage site.

22 They -- everywhere where they stuck a pile
23 of something for two or three years left an

1 impact on the soil in ground. That leached
2 into the ground water. We went back to
3 historical records and aerial photographs to
4 try to verify why we see the impacts we see.

5 We're not trying to hide anything. It's
6 environmental forensics. We're trying to
7 figure out, gee, did they store something here
8 for a month and a half that impacted ground
9 water and then, they took -- and then, it was
10 moved and taken away and it's just the nature
11 of the beast at that site. It's difficult.

12 DR. GARDELLA: We've looked -- excuse me.
13 We've looked at the data and we don't
14 obviously have the access to your latest data
15 because it hasn't been released to us.

16 MR. FREDERICK: That would be June.

17 MR. GARDELLA: We've done our analyses.
18 We have qualified experts to do the analysis
19 and we think that you can't rule out the
20 possibility that there's leaks and that
21 testing needs to be done to confirm that.
22 You've used models, we have alternative
23 models. So, the point is, with a functioning

1 RAB, with the technical capability, we could
2 get these questions resolved in a way where we
3 don't have to have a debate here at a meeting
4 that as nothing to do with the NFSS

5 MS. KREUSCH: Bill K?

6 MR. KOWALEWSKI: Clearly, you've come to
7 different conclusions on the data than we
8 have, but we've taken those concerns about
9 potential leakage very seriously. We've
10 adjusted our monitoring program. We've
11 initiated an addendum to the investigation
12 we've done to address just that point and a
13 DoD RAB for DERP-FUDS is not going to get you
14 any different information or analysis or
15 results that we can achieve at any of our
16 Outreach meetings today. I don't agree that
17 not having a RAB is going to affect at all
18 what the community gets out of the Corps.

19 MR. KREUSCH: Mr. Agnello first.

20 MR. AGNELLO: Thank you. Vincent Agnello.
21 I'm a resident of the Town of Porter. It's
22 been one year since the March 2009 meeting and
23 I chaired that meeting or coordinated that

1 meeting, demonstrating that there is a demand
2 for a RAB and we're still talking about the
3 process. I'm down to a point where I just
4 want to call it what it really is at this
5 point and excuse my language for being harsh
6 here, but we've had 68 years of occupation of
7 our community by the military, 68 years of
8 contamination, illness, disease and death in
9 our community, but you're still playing the
10 games.

11 Let's end the games now. The RAB,
12 currently not recognized by you, was created
13 under your rules, under your game plan. At
14 the stroke of a pen, it no longer exists. A
15 year ago, you received a resolution duly
16 adopted by the Niagara County Legislature
17 demanding that you restore the RAB and the
18 County represents 2,000 -- I'm sorry, 214,468
19 people living in Niagara County.

20 Now, you have the nerve to ask us for
21 proof of community support. We should all --
22 should we all get on our knees and beg you
23 like dogs? Do we really need to worship you

1 and everything you decide? Do we not live in
2 a democracy or are we considered still under
3 your occupation and control? Do you have the
4 legal authority to disregard the will of our
5 local government? They have been uniform in
6 demanding full restoration of our citizen RAB
7 and full participation in the decision-making
8 process.

9 Your regulations violate the letter of the
10 definition of environmental justice and it's a
11 slap in the face to every citizen in this
12 country. The definition of environmental
13 justice for everyone here, environmental
14 justice is the fair treatment and meaningful
15 involvement of all people regardless of race,
16 ethnicity, income or education level in
17 environmental decision making.

18 Environmental justice programs promote the
19 protection of the human health and the
20 environment, empowerment via public
21 participation and the dissemination of
22 relevant information to inform and educate
23 affected communities. The real question is,

1 what is your hidden agenda? I can conjecture,
2 is it a partnership with CWM for clean up of
3 their site without regard for the protection
4 of our school children and the need to clean
5 up the rest of the LOOW site. Stop your
6 occupation and join us at the table for
7 resolution of the contamination that the
8 military brought us here 68 years ago.

9 MS. KREUSCH: Thank you, Mr. Agnello and
10 if you do have that in writing and you would
11 like to submit it to the court recorder
12 tonight, you can do so. Was there anyone from
13 my team that wanted to say anything? Okay.

14 MR. CHOBOY: I'd just like to briefly add
15 something. At the meeting we had March of
16 last year, Bill K spoke quite a bit and he
17 explained that the various sites across the
18 country are different than this one and are
19 handling it in a different manner and this
20 site is unique.

21 As far as a comprehensive solution, they
22 are trying to be adaptable and flexible.
23 Later on, Francine Del Monte, along with

1 others, had some questions and that's our
2 Assemblywoman, commented on the unique nature
3 of this site as Bill used the term. Is this
4 the only site that has both the FUDS and
5 FUSRAP regulations? The Corps responded by
6 saying that there may be one other site in New
7 Jersey, but it is not on the same scale as
8 this one.

9 This site is unique nationally due to the
10 nature of the contaminants. I don't want to
11 beat on a dead horse, but I have to back up
12 what Vince just said, that this is a unique
13 site, we've had it for 60 years and we need
14 some help and you've got a group of people
15 that are willing to work with you, spend their
16 time, their effort and they don't get paid for
17 it and are trying to protect their homes and
18 generations to come and my God, you want to
19 protect the water in the Great Lakes. Thank
20 you.

21 MS. KREUSCH: Thank you. Yes? I'm sorry,
22 I don't know your name. There's a microphone
23 right there.

1 MR. BOOS: Okay. My name is Chuck Boos.
2 I live on Creek Road in Lewiston, NY. I was a
3 born there up by 104 by the viaduct, so when
4 you're talking about a contamination in this
5 area, I was there when it happened and I used
6 to walk -- I used to walk from my house on
7 Creek by the viaduct up there on 104 and I set
8 traps down on Pletcher Road and the ponds and
9 stuff.

10 That was during '44, '45 and you could
11 have set a trap, you'd have to go pick it up
12 the next day because I couldn't -- didn't have
13 enough time to do it during the week and
14 anyway, you couldn't have them set 24 hours,
15 you'd have to pick it up. So, sometimes, I'd
16 walk through this area up by near Swann Road
17 and there would be a field with maybe five,
18 four, five acres all with graves. I thought
19 they were graves. They were dug out and as a
20 kid, I thought they were sit trenches, so me
21 and a couple of my buddies used to play in
22 them and they'd be three feet wide, six feet
23 long, about four feet deep and they covered

1 maybe 500, 600 in an acre and the next week, I
2 come down through and all those graves would
3 be filled up, so something was buried there
4 and -- during the week.

5 I wasn't supposed to be in this area, but
6 that didn't make no difference and I owned
7 some property down on Balmer Road where right
8 across the street where the Walleye ponds are,
9 there's an ammunition dump and I talked to the
10 lady that used to drive trucks and dump there
11 and they lost one bulldozer and two trucks in
12 that pile, but that's a long time ago when the
13 ammunition is probably all -- won't hurt you.

14 Every once in a while, Balmer Road would
15 catch fire. The powder coming out of the back
16 end of the trucks, they hit it just right and
17 the whole road would flare up and right off
18 the end of Lutz Road, I didn't see it, but a
19 fellow about my same age, his grandfather was
20 employed by the Army Corps of Engineers or the
21 Army and right up about 200, 300 yards right
22 off the end of Lutz Road, he saw a train come
23 in there and they buried it and along Porter

1 Center Road, the phone company tried to bury a
2 cable and they hit Jeeps and half tracks,
3 probably from the first atomic explosion, I
4 don't know and so, they had to get permission
5 to move 100 feet inland to bury a cable for
6 the phone company and I see on the map here
7 that I own a property by the Walleye ponds and
8 also own property down on Balmer Road and I
9 don't know.

10 The reason I think that this area was --
11 had all that stuff brought here is because of
12 the clay. The clay is so dense that you get
13 very little movement of the contamination and
14 when they took the towers down, I worked at
15 Carborundum and when they brought -- I worked
16 with plutonium for five years and I had enough
17 for an atomic bomb and I was the only person
18 in the world that could get at that material
19 and I had clearances all up.

20 When they brought me plutonium, they
21 brought it in two 250 gram containers, lead
22 and stainless steel and this and that and they
23 had them in birdcages to keep them three feet

1 apart in case they got in a wreck some place,
2 they could explode and the guy from the FBI
3 told me that there was \$5 million worth of
4 platinum in those towers that they took down
5 over by where the towers were and the radon
6 coming out of the top is lots, a lot, of radon
7 coming out, but radon has a short half life,
8 so you have to be pretty close to it for it to
9 bother you and after they took the towers
10 down, they got clay from my property on Creek
11 Road to cover them and it's blue clay and they
12 had to use that because it's impermeable. I
13 mean, water won't go through it at all and so,
14 I was in this when where you say 60 years ago.
15 I was here 60 years ago and I played in this
16 area and I got nothing wrong with me.

17 You know, I lived there, used to catch
18 fish in that pond off Pletcher Road and eat
19 them where the shit was coming out of the
20 plant there and going in the big pond there
21 and we used to catch bullheads there and we'd
22 eat them, but that was all right. We never
23 had any problem, so I don't know. I think

1 this area because it was so unique with the
2 density of the clay, that's the reason that a
3 lot of that stuff is here. That's all.

4 MS. KREUSCH: Thank you very much. Jim
5 RAUCH?

6 MR. RAUCH: I'm Jim Rauch. I'm a
7 pharmacist. I actually commented on the NFSS
8 draft EIS in the 1980's out here and I
9 followed the site ever since and have been
10 participating on and off. I've been pretty
11 disillusioned lately by what's going on up
12 here, I haven't been here in a few years. I
13 think -- I also am involved with the West
14 Valley Coalition and a group in Tonawanda
15 that's dealing with the Tonawanda site.

16 I know Arleen from Tonawanda, so I've been
17 at this for 30 years and local nuclear waste
18 sites and a major concern I have is the lack
19 of coordination. I mean, I think the LOOW
20 NFSS site is a really good example of that,
21 the lack of coordination between parties
22 responsible for the various waste sources.
23 You know, it makes no sense at all. Well,

1 first of all, let me just back up. In 1980 --
2 I think the problem here institutional memory.
3 We've got a new NFSS USACE Project Manager I
4 was speaking to during the poster session. I
5 asked him how many Project Managers there's
6 been at NFSS over the years and he didn't
7 know.

8 There's been several DOE Project Managers
9 and then, there's been several USACE Project
10 Managers since '98 when Congress unwisely
11 turned the project over -- the implementation
12 of the liability known as FUSRAP, the Federal
13 legal liability known as FUSRAP which is
14 really not an act. It's simply an
15 appropriation, an annual appropriation of the
16 Senate Energy and Water Committee.

17 That's all it is, to address illegal
18 liabilities, wastes that were left illegally
19 on property by past operations of either the
20 Manhattan Engineering District or the Atomic
21 Energy Commission, all predecessors of the
22 DOE. So, I mean, fundamentally, there's a
23 lack of understanding, even by the people

1 inside, the contractors for DOE that are
2 constantly coming and going, the DOE officials
3 themselves. I've seen this at West Valley.
4 It's the same situation down there and it is a
5 major, major problem. We've got -- where
6 we're sitting today, we're 2,000 curies of
7 radium-226 in the water table and a tumulus
8 that is going to fail. There's no question.

9 I mean, we're arguing whether it's
10 leaking. We can't say whether it's leaking,
11 okay, we really -- we can't because of the
12 description by Bill Frederick earlier. Wastes
13 were just dumped all over the place, on the
14 ground, they blew, they're on vicinity
15 properties now that are the LOOW site. We've
16 got a jurisdictional question here.

17 I mean, properties were exsessed. They
18 were turned over to private hands. It
19 happened to Tonawanda the same way by the GSA
20 and they were turned over not meeting the
21 standards of the day. The Tonawanda
22 properties were turned over with source
23 material in excess of source material

1 guidelines. They had to be licensed, they
2 weren't. There were sold. In fact, the
3 Buffalo News advertised the Haist property
4 which is where the Ashland Oil Refinery
5 structures were along South Grand Island
6 Bridge approach, the Buffalo News which is a
7 member of the Chamber of Commerce which was
8 recruited by the Feds advertised that that
9 property is uncontaminated.

10 It was bought by Frontier Oil, a
11 subsidiary of Ashland Oil. They understood it
12 was contaminated. It was an inside deal. The
13 government looks the other way and put their
14 tank farm up. I mean, the corruption here is
15 incredible. It's absolutely incredible. I
16 suggest people go and look and read the
17 Federal Connection. It's on the web, just
18 Google Federal Connection.

19 Look at the facts website if you want to
20 look at Tonawanda. I've got a website as far
21 as -- and there's a section on nuclear waste
22 issues here in Lewiston. The environmental
23 laws have been broken here. 1980, the

1 original EIS and many of the officials here
2 tonight don't know this, so I'm going to take
3 a little time and explain it and a lot of
4 public doesn't know because they come and go
5 and they're transient.

6 I've been approached by a lot of people
7 that have moved in to the area surrounding the
8 Lew-Port building -- school system that had no
9 idea what they were moving into and that's a
10 failing of the agencies and the political
11 process, but in 1980, there was a draft
12 environmental impact statement under NEPA, the
13 National Environmental Policy Act which was
14 passed in 1969, it's a Federal law that was
15 passed to prevent what has happened here to
16 prevent unnecessary expenditures of Federal
17 tax dollars to avoid to -- before Federal
18 action is taken to look at all the
19 alternatives and to pick the most effective
20 alternative. In the case of a clean up, the
21 most effective, protective, cost-effective
22 clean up.

23 So, what happened in 1980, we have an EIS

1 that identified 870 Curies of radium- 226 ,
2 okay? We now know there are 2,000 Curies of
3 radium-226, okay, in the Niagara Falls Storage
4 Site footprint. 2,000 Curies is enough to
5 contaminate the volume of Lake Erie above the
6 Federal drinking water standard of 5 pico
7 Curies per liter.

8 You know, we're not talking about
9 insignificant waste or low-level waste. The
10 waste classification system in this country is
11 a joke. It's a total joke and fraud. It's
12 based on source, it's not based on life hazard
13 duration, emanation, radioactive hazard, it's
14 ridiculous. There's been a distinction made
15 recently to try to label these materials as
16 NORM, Naturally Occurring Radioactive Material
17 and will not regulate them at all. It's
18 idiotic.

19 In the natural form, they don't occur
20 releasable to the environment in public ground
21 water, okay? They're refined and now, you
22 know, certain individuals in the regulatory
23 agencies want to just treat them as NORM and

1 not regulate them according to the establish
2 EEA regulatory framework. It's ridiculous.
3 This is a significant problem where a National
4 Environment Policy Act which is set down to
5 provide a framework for effectively,
6 rationally, scientifically dealing with this
7 legacy waste. Is just totally trashed.

8 The option presented in that -- now,
9 remember, this 1980, albeit, you know it's 30
10 years ago, they were ocean dumping the waste,
11 okay? Just take everything we've scooped up
12 from the drainage waste and ocean dump it.
13 Well, Britain does ocean dump and some of
14 these country still dump -- ocean dump
15 radioactive material. We wouldn't do that
16 now.

17 The other ones at Oak Ridge or Hanford,
18 take the waste out to other sites. There were
19 public hearings held in Oak Ridge and Hanford
20 because the National Environmental Policy Act
21 required the impacted sites to be consulted,
22 okay, so they held hearings as well. There
23 was a proposal to put electrodes in the ground

1 and do in situ vitrification of residues, in
2 other words, try and create glass matrix with
3 a huge application of hydropower.

4 None of these were decided upon because
5 while this environmental process was going
6 forward and people like me were commenting on
7 it with the full knowledge and participation
8 of Congressman LaFalce, the K-65 residues were
9 slurried from the silo and put in the ground
10 and in the water table in the current
11 foundation of the buildings that are currently
12 in the tumulus. That was a big, serious
13 mistake.

14 So, the final decision for that flawed
15 process was to put a two-foot final cap on the
16 tumulus and walk away from it and we still
17 haven't reached that. You know, we haven't
18 reached that decision. We're here, you know,
19 24 years later on a tumulus when we were
20 supposed to have a decision in ten years is
21 what they said in '86, a final disposition
22 decision for these wastes and you know, it's
23 pretty clear that these wastes can't stay in

1 this environment without causing serious
2 contamination of ground water and soil. It's
3 just going to get worse and worse. The
4 original volume of residues in 1940 or in
5 the -- or 1950 was 10,000 cubic yards of
6 residues.

7 In 1980, the draft was looking at 255,000
8 cubic yards of contaminated wastes and
9 residues and contamination on the site that
10 needed to be addressed by the guidelines in
11 place then. Now, today, there's a larger
12 volume of contaminants. This is just a
13 terrible failure.

14 This is a site that would never be
15 selected today for storage. The Army Corps
16 has admitted on its website that the tumulus
17 they projected will last -- will prevent
18 contamination, significant leakage, for 160
19 years. That doesn't meet the minimum of 200
20 years that's required by law. 200 to 1,000
21 years is required by law for waste that has a
22 hazard life of 500,000 plus years. It's
23 insane to try and control these wastes. Here.

1 We're wasting our time arguing about this.
2 What we need to be doing is developing the
3 community understanding and the political
4 will, okay, if it requires bonding or
5 whatever, to not let this problem get out of
6 hand, where I'm afraid it is already and the
7 Army Corps has just said, well, you know, it's
8 too expensive now.

9 It's too expensive to take that tumulus
10 apart, go and get these wastes out and so,
11 we've got to sacrifice in a very productive
12 area. We're lined up like Savannah River
13 here, which you people aren't familiar with
14 is, you know, a major DOE Federal weapons
15 production site and you know, we've got West
16 Valley that has millions of Curies of long-
17 life waste that is going to contaminate
18 irretrievably the drainage of that site and
19 that's going to affect millions of people's
20 drinking water downstream, including the Erie
21 County. Water intake, the intakes in the
22 Niagara River. So, you know, I mean, why
23 don't we start talking turkey here and you

1 know -- and first of all, when we put out a
2 publication like this report the DOE has put
3 out verifying past activities, why don't we
4 admit, you know, why don't we tell the public
5 really what's happened here and why we're in
6 the mess?

7 Why don't we tell them in our history that
8 these properties were illegally exccessed, they
9 were turned into private hands illegally,
10 because they were. You know, you listen for
11 years and years no, no, they're not -- they
12 weren't illegally turned over and then, we
13 found out they were because they exceeded the
14 standards of the day, licensable source
15 material.

16 So, you know, I participated with the
17 R.O.L.E. group in 1994 in a small, citizen
18 survey along Pletcher Road and we found with a
19 sodium iodide crystal one inch or one and a
20 half inch crystal, you know, we found areas of
21 elevated contamination. I have a few
22 questions that I'd like to direct to Chris
23 Clayton who's representing the DOE here, was

1 our citizen report -- are you aware of it
2 first of all? Was it -- it was produce in
3 1994 after 1991 when you had determined that
4 your activities met your guidelines?

5 REPORTER: I just need one second.

6 MR. CLAYTON: Sir, we'd need the actual
7 title of the report to see if we have it in
8 our --

9 MR. RAUCH: Well, I'm sure it's been
10 provided many times in the past publicly. I
11 guess my question is, you know, we found
12 elevated levels along the west ditch near the
13 KOA Campground, east of the KOA Campground and
14 actually, it's south of Pletcher Road off of
15 the R site in R vicinity property. I would
16 just ask that question. Was our report
17 considered?

18 MR. CLAYTON: Without the exact title,
19 sir, I can't give you a definitive answer but
20 again, one of the things is this and I've
21 shared the bibliography prior to the
22 publishment of this or the releasing of this
23 draft report is -- take a look at the

1 bibliography and those are what we considered
2 in there and I do not recall something
3 specific that was not either generated by the
4 department or possibly the state, so I can't
5 say definitively --

6 MR. RAUCH: And it was 16 years ago and
7 some of the people that participated in the
8 R.O.L.E. group aren't here tonight.

9 MR. CLAYTON: But again, that's one of the
10 things what we want to have you all take a
11 look at and as Ms. Witryol has pointed out
12 before, what did we actually consider, what
13 did we look at. If you've got additional
14 information that we haven't considered or what
15 were unaware of, please share that with us.

16 MR. RAUCH: Okay. That's fine. I'd like
17 to open it up to other people here because --
18 but I would like to make a point that is very
19 important that the public needs to understand.
20 The DOE guidelines are geared to meet 100
21 millirem per year public radiation maximum
22 exposure above background due to the
23 contaminant sources. I want to point out that

1 the NRC, when it's cleaning up sites now
2 today, for example, West Valley, looks at what
3 they call the license termination rule which
4 provides a 25 millirem cap on exposure, okay?
5 100 millorens is not protective, plain and
6 simple.

7 I realize DOE is self-regulating and Army
8 Corps isn't even looking at AEA regulatory
9 regime. They're just looking at CERCLA. They
10 did that at Tonawanda, they do their own risk
11 analysis and they say based on zoning, you
12 know, current zoning, when we've got a 500,000
13 plus year hazard, we're going to say this is
14 recreational use. We can leave behind very
15 high concentration. We don't have to clean
16 up, okay and that's the problem here as well.

17 All these areas are going to see intensive
18 reuse over the -- well, well, well before the
19 hazard period is over. They're all going to
20 see intensive reuse and in my opinion, they're
21 all going to see residential reuse and so,
22 that means that what was done in the early
23 days of addressing this problem by bother NRC

1 and DOE needs to be adhered to, not this risk
2 analysis that's being done under CERCLA. What
3 needs to be adhered to is sound science that
4 was developed early on that determined NRC had
5 a branch technical position in 1983 on on-site
6 storage of uranium and thorium wastes that
7 determined that it had several options.

8 Option one provided for unrestricted use
9 under a residence scenario and in that
10 scenario, the clean-up criteria are five pico
11 Curies per gram soil contaminants for the
12 whole uranium-238 decay chain, U-238, U-234,
13 thorium-230, radium-226 right on down. That,
14 they felt, was protective of the public and
15 it's questionable whether that would be meet
16 the 25 millirem NRC standard.

17 This is what we need to be working toward
18 here. The community needs to be working
19 toward this, Congressman Slaughter's office
20 needs to be working towards this. You know, I
21 note in this report that hot spots, this hot
22 spot exemption in the DOE guidelines are going
23 to be left. They went and verified that

1 they've got hot spots and they're going to be
2 left because when we averaged them over, 270
3 square foot or less hot spots are going to be
4 less. That's not acceptable.

5 That's not acceptable on a rational
6 scientific basis by anyone in the public that
7 understands it. It's not acceptable and it's
8 stupid to find this stuff and leave it.
9 That's Been found in both the wet -- the
10 supplementary standards that were put in place
11 for the central ditch don't meet the test of
12 science to protect the public in the long
13 term. The west ditch had 17 to 42 microrem
14 per hour exposure. That doesn't meet the 10
15 microrem per hour above background standard of
16 the DOE and yet, you verified it. I find that
17 a contradiction.

18 MR. CLAYTON: Again, sir, the main thing I
19 can say is point those out or submit that to
20 us in your review and we will address it and
21 we will give you a response based on what we
22 find and any further investigation that
23 precipitates from your recommendations and/or

1 descriptions.

2 MR. RAUCH: I will do that and my main
3 focus and my comments tonight, though, are
4 we've got to get a handle on this major, major
5 problem and I don't like to see more and
6 more -- I don't like to see the Army Corps
7 saying that -- focusing on it's okay, you
8 know, it's not leaking, we're okay and then, I
9 die and then, Amy dies and then --

10 MS. WITRYOL: I'm not going anywhere.

11 MR. RAUCH: My point is, at West Valley
12 and at all these sites, technically-oriented
13 members of the public aren't being replaced by
14 the younger generation. The just simply
15 aren't being replaced and we have this merry-
16 go-round of agency officials that never come
17 up to speed and we're going to wind up with a
18 sacrifice, so thank you.

19 MS. KREUSCH: Thank you, Jim. Amy?

20 MS. WITRYOL: Just for the record, my
21 father is in his 61st year of teaching, so I'm
22 just getting started. The -- going back to
23 the most important issue which is getting the

1 NFSS residues out of here, anyone involved in
2 the early 80's in putting them in this
3 temporary storage cell today is shocked that
4 we're even sitting around talking about what
5 to do with this stuff.

6 With respect to Bill Frederick's comments,
7 while we certainly have said many times in the
8 past that Army Corps contractors have really
9 done some excellent work on this site, there
10 has been a lot of gaps and regardless of the
11 various iterations of RAB since 1999, the
12 Corps really has no public confidence or trust
13 because as Dr. Gardella said, we never get the
14 sampling plans in advance, we never get to
15 comment on them and as a result, we see
16 taxpayer dollars being expended towards going
17 back to do things that, you know, we've
18 recognized in terms of gaps, but we're
19 provided the document only after the decisions
20 were made and the field work was begun. We
21 had a December public meeting, now a March
22 public meeting.

23 We had the second most critical remedial

1 investigation regarding the NFSS take place
2 last fall. Nobody told us about it until
3 after it started and only now are we looking
4 at the final scoping document and finding more
5 gaps.

6 Again, Bill, we're appreciative of the
7 additional 23 wells and we disagree that with
8 23 new wells we really have any sort of trend
9 line in which to conclude that the cell is not
10 leaking. Plus, we have no fate and transport
11 analysis on which of the these radio nuclides
12 are going to, you know, travel faster than
13 others over a period of, you know, the 60, 70
14 years since they've been there, so the whole
15 discussion of, you know, what we've been able
16 to characterize an whether or not it's pre-
17 existing, we don't have enough data and what
18 we do have raises very significantly the
19 specter of whether or not we believe that the
20 DOE just totally missed the boat while running
21 around the perimeter of the cell with Geiger
22 counters when constructing the IWCS in the
23 early 80's and because we don't have an

1 effective public participation process on the
2 FUSRAP side, which was really the best part of
3 the current RAB that we did have, you know,
4 monthly conference calls so as not to
5 inconvenience the Army Corps' travel schedule
6 and some very effective participation which
7 Bill Frederick participated in, so that we
8 could make comments on modeling and have
9 things incorporated to the extent that we
10 could get dribs and drabs of what was going --
11 what was planned by the Corps before it
12 happened.

13 That being said, I'd like to move on to
14 some comments with respect to the vicinity
15 properties and want to preface those comments
16 with, I guess, an advance apology to CWM which
17 has participated faithfully in the RAB. Becky
18 is here and she participates on the
19 radiological committee I'm sorry Joe Gardella
20 isn't here. As difficult as my relationship
21 is with CWM outside of the RAB, Joe Gardella
22 will tell you that I have most vigorously,
23 more than anybody else, defended CWM's

1 stakeholder position in the RAB and reminded
2 the RAB at every opportunity that when they're
3 looking at communicating various stakeholder
4 positions, that whether or not CWM is the
5 majority or the minority, their opinion should
6 be solicited and should be communicated and
7 shared with the community.

8 That being said, I make no apologies to
9 the New York State DEC and their long-standing
10 failures and manipulation of Army Corps work
11 at the site for the benefit of their primary
12 interests, which are highly conflictive. We
13 shouldn't even have permitting people for
14 hazardous waste at the DEC involved in
15 oversight of Army Corps work and I was very
16 disappointed during my conversation with Kent
17 at the break to be told that he couldn't share
18 information about the DEC's positions on the
19 LOOW site because he didn't want to poison his
20 relationship with the Army Corps. That
21 underlies the fundamental mistrust and
22 conflicts that are so disturbing to this
23 community and the cherry picking of what laws

1 and regulations the Buffalo Installation
2 decides to tell us that they must enforce.

3 There are facilitators at DoD RABS all over
4 the United States from Virginia to Alaska.
5 They have told us that a facilitator makes all
6 the difference and I was in Commander Snead's
7 office, you know, days before this surprise,
8 you were dissolved six years ago letter was
9 issued and when we talked about the
10 facilitator and how we thought it would A,
11 help the Army Corps use their time much more
12 efficiently because we recognized we weren't
13 making very efficient use of the Corps' time
14 and B, inspire more trust and confidence that
15 stakeholders, all stakeholders, would be
16 treated fairly and even-handedly in this
17 process and his response was, "That will take
18 another year. We really don't want to go
19 through that. We're not satisfied with what
20 we're getting out of this" and that was,
21 basically, the outcome of that meeting from my
22 view.

23 MS. KREUSCH: Amy, could I just interject?

1 MS. WITRYOL: Sure.

2 MS. KREUSCH: That was Colonel Hurley.

3 MS. WITRYOL: I apologize.

4 LTC. SNEAD: I'm trying to recall in the
5 back of my mind and I just can't remember

6 MS. WITRYOL: Yes. Well, it wasn't in the
7 60's. So, in any case, I apologize, Colonel,
8 Commander Hurley and thank you very much for
9 that clarification. With respect to the DOE's
10 report, first of all, it's refreshing to have
11 an agency share a draft report with us and
12 make it available before we walk into a
13 meeting, so thank you very much for that
14 courtesy. We appreciate it.

15 In that report, there are obviously many
16 gaps on 23 properties with an incredibly
17 complex history between FUSRAP, non-FUSRAP,
18 KAPL, Rochester the land-filling activities
19 that take place on the site. Thirty days is
20 not going to be enough to comment and let us
21 go through probably 30,000 documents, now
22 seeing what the questions and objectives of
23 your report are, to give you any meaningful

1 input and we hope you're genuine in wanting
2 community input, but, you know, having the
3 response -- when are we going to have the
4 response to comments ready and the answer is
5 oh, two or three weeks, it kind of leaves us
6 with the impression that there's already a
7 plan in place and that the decisions have
8 already been made.

9 MR. CLAYTON: I'll offer my apologies.
10 That's not what I intended at all, Amy. I
11 didn't want you to think that we're dragging
12 this thing out. You all are interested,
13 you've got a viable interest.

14 MS. WITRYOL: Right

15 MR. CLAYTON: You deserve to have a
16 response and that's what I was trying to get
17 on the table was the department's commitment
18 to get you a response to your issues and
19 concerns.

20 MS. WITRYOL: We appreciate that given the
21 fact that we wait years for responses from
22 other agencies. We very much appreciate the
23 sentiment. That being said, one of our

1 biggest problems has been -- at the LOOW site
2 has been in the enthusiasm of agencies to get
3 from Point A to Point B. We end up doing
4 things over and over again and if we took just
5 a little but more time and did it right the
6 first time, we wouldn't keep going back to
7 these properties over and over again leaving
8 exposure behind for the community and spending
9 excessive taxpayer dollars and I mean
10 excessive, not that there's a price on our
11 security, but excessive in that we shouldn't
12 be spending dollars for work that's redundant
13 and could have been done earlier, so I would
14 add that in terms of make sure that you take
15 the opportunity to fully evaluate and
16 understand the comments that you get.

17 What I'd like to do is just express some
18 concerns about the process which has been set
19 forth because this really isn't the forum to
20 go into great detail about the gaps that we
21 feel are in the report, but just this whole
22 process for sending people -- referring the
23 Corps to send -- to spend Federal taxpayer

1 dollars on close vicinity properties. The
2 report says DOE uses the following criteria to
3 determine if a site should be referred to the
4 Army Corps for further assessment, which
5 automatically means resources and dollars.

6 A third-party characterization or survey
7 reveals existing MED or AEC-related
8 contamination that was not previously
9 identified. The only surveys that have been
10 conducted outside of the NFSS and open
11 vicinity properties are surveys conducted only
12 by CWM Chemical. Your second criteria is a
13 review of historical records indicating
14 potential for existing MED/AEC contamination
15 not previously identified.

16 In our view, this is the entirety of the
17 LOOW site and I can remember sitting in DEC
18 Region 9 in 2003 with Kent Johnson and John
19 Mitchell imploring them to consider problems
20 at close vicinity properties and we were
21 basically dismissed. So, this whole process
22 has only come about since CWM has made
23 requests to the Department of Energy to

1 revisit closed vicinity properties.

2 MR. CLAYTON: I have to correct you there.
3 CWM has never made a request to the Department
4 of Energy to address any close vicinity
5 properties.

6 MS. WITRYOL: I would say technically,
7 you're correct, but from the community's --

8 MR. CLAYTON: We've got CWM's
9 representative right here.

10 MS. WITRYOL: Let me finish, Chris. I
11 didn't mean to --

12 MR. CLAYTON: You're casting an aspiration
13 that there's collusion and --

14 MS. WITRYOL: Before we get to the
15 collusion issue, while I do have some
16 aspersions, they're not with respect to DOE
17 and I'm going to talk a little bit about the
18 Army Corps and the DEC's participation in
19 this, but the bottom line is this process was
20 not begun and discussions between the DEC and
21 the Army Corps about what to do about the
22 closed vicinity properties, did not take place
23 and this site has been ignored by the New York

1 State DEC until it interfered with CWM's
2 expansion application. The third criteria
3 that's set forth in this report says that an
4 individual with credible, institutional
5 knowledge provides information that additional
6 MED/AEC contamination might exist that was not
7 identified in previous assessments.

8 What -- the message that sends to us is
9 that the DOE will give credence to DEC and
10 Army Corps' input, but can exclude a County
11 Health Department or an Attorney General's
12 Office and that an institutional knowledge may
13 exclude a referral based on public input and
14 certainly, Chuck gave us some examples tonight
15 of input that may have some very serious merit
16 and in my view, needs to be evaluated and
17 considered whether or not it's endorsed by the
18 Army Corps or the DEC.

19 From my view, the process that's outlined
20 in the draft report is unacceptable and gives
21 the agencies free reign to lobby DOE for
22 expenditures on closed vicinity properties
23 absent transparency and meaningful input. The

1 recommendations that we would have would be
2 each request and comment from the agencies,
3 whether DEC, the Army Corps, et cetera must be
4 transparent and available before, not after
5 DOE decisions are made to refer close vicinity
6 properties to the Corps.

7 The public must be given a reasonable
8 period in which to comment on information
9 provided by any agency or stakeholder issuing
10 a request for a referral. Secondly,
11 potentially responsible parties and agreements
12 on amicable taxpayer cost must be identified
13 in advance of any approval to allocate Federal
14 resources to a closed vicinity property.

15 Third, referrals and associated funding
16 should be appropriated for investigations into
17 vicinity properties impacted by potential
18 migrations from the NFSS and publicly-owned
19 properties. The size of a corporation, you
20 know, such as CWM and its affiliations dwarfs
21 the financial capacity of the Village of
22 Youngstown or the Town of Lewiston to do the
23 surveys and do the sampling that CWM has done

1 which it is doing anyway as a requirement by
2 our state agencies to make an application to
3 expand its landfills and we're also
4 disappointed that the agency has not exercised
5 its authority, the state agency and made
6 acceptable until it interfered with the
7 application, some of the radiological
8 contamination problems on CWM vicinity
9 properties.

10 Referrals associated for funding should be
11 appropriated for investigation, therefore,
12 where we may have some data gaps and two years
13 ago when I discussed with Kent Johnson
14 concerns about Vicinity Property X and the
15 need to support a request to the Army Corps,
16 the DOE or whoever the responsible agency was
17 to look more closely for problems at the
18 Lewiston property was dismissed.

19 I don't want to diminish Kent's concerns
20 about the physical hazards, but we got no
21 help, again, until a request came from the
22 neighboring property and lastly, funds should
23 not be appropriated where state regulatory

1 authority is already available to require
2 investigation and remediation by a responsible
3 party.

4 According to Bill K, FUSRAP does not
5 require a potentially responsible party
6 process in advance of investigating and
7 remediating contamination. It would be
8 inappropriate for DOE to refer the Army Corps
9 to spend Federal taxpayer dollars if CWM and
10 then later, if ever, tried to collect this
11 insulated subsidiary company which has only
12 toxic assets, both literally and figuratively
13 in this case.

14 The report did not acknowledge in listing
15 the sources of radiological waste at the site,
16 did not acknowledge that CWM has landfilled
17 radiological waste, has imported contaminated
18 material for construction on its property, has
19 accepted waste from an Knolls old atomic power
20 lab and other weapons reduction sites and that
21 their scanning of incoming material for gamma
22 detection is insignificant to the volumes
23 received.

1 This is, you know, the type of comments
2 obviously that we'll pass along and again,
3 we're very appreciative that you issued a
4 draft instead of a final, but my view is, we
5 give you all this information and the way this
6 report is written, once that happens, the
7 requirement for public participation is over
8 and then, DOE sits behind closed doors with
9 the New York State DEC which has conflicts at
10 this site and the Army Corps of Engineers
11 which has its own set of objectives for the
12 site and they provide whatever information
13 they want to that may not be shared certainly
14 based on historical practices won't be shared
15 with the community until after the decision is
16 made and we'll, basically, be appointing DOE
17 to areas where data is available which has
18 only been promulgated by the more financially-
19 endowed stakeholders as opposed to the areas
20 that we believe have the highest risk and are
21 publicly accessible. This report does not
22 limit referrals of future contamination and
23 information to these publicly-accessible

1 vicinity properties that's why I've come to
2 the conclusion that this process was really
3 created not to deal with the risk in the
4 closed vicinity properties, but now that
5 finally because of the New York State Health
6 Department order, that the problems on the
7 closed vicinity properties have interfered
8 with a landfill application that now finally
9 we have some cooperation from the DEC and the
10 Army Corps and again, that's not to cast
11 aspersions on the DOE because to-date, you've
12 conducted public interaction that is very
13 different from what we've been used to with
14 the Army Corps at this site and we're
15 appreciative, so thank you very much.

16 MR. CLAYTON: Thank you. The one thing --
17 I don't know, I talk loud enough anyway, but
18 in all honesty and complete sincerity, the
19 vicinity properties for all intents and
20 purposes probably around 1990, 1991, from 1990
21 to 1991, the Department of Energy for all
22 intensive purposes treated those properties as
23 closed, finished, records only. A little bit

1 of tweaking here, there. I mean, there was
2 not like at an UMTRCA site where there was a
3 constant DOE presence, a constant monitoring,
4 a constant surveying, a constant interactions
5 with stakeholders.

6 The Corps of Engineers alerted us that
7 there was a stakeholder interest within the
8 vicinity properties and we started taking more
9 of an active role within these vicinity
10 properties. We took a very active role within
11 these vicinity properties when a -- one of
12 your fellow stakeholders submitted a letter to
13 the department and made its way to my desk.
14 It concerned the central drainage ditch.

15 We reviewed the data that we have
16 provided, our recommendations back to the
17 stakeholder, provided a copy to the New York
18 Department of Health, provided them with our
19 assumptions on how we came to our conclusions
20 and we started taking and even more active
21 interest when Bill notified my office that
22 there was even an increasing interest within
23 the vicinity properties, I stepped up DOE's

1 involvement for that and again, my intent is
2 to demonstrate transparency within this.
3 Congress has defined the particular rules that
4 DOE must follow, what the Corps of Engineers
5 must follow and then, what DOE must follow
6 once the remediation is completed.

7 Congress left intact the Department of
8 Energy's ability and authority to identify new
9 sites for inclusion into FUSRAP and to look at
10 completed sites which these we're looking at
11 now fall into and see whether or not they have
12 sufficient information to warrant a --
13 referring to the Corps of Engineers, for
14 additional assessment and/or characterization.

15 Once we do that, the Corps of Engineers
16 would then look at our data, look at our
17 historical data, conduct their own historical
18 data searches, do their own assessments and
19 probably conduct a preliminary assessment, a
20 site investigation and Bill, I apologize, I'm
21 not trying to speak for the Corps, I'm just
22 giving my interpretation of the process. If
23 the Corps of Engineers concurs with our

1 decision, they will then formerly admit the
2 site back into FUSRAP and start getting
3 approval for an appropriation to expend
4 taxpayer dollars on addressing the residual
5 contamination at those sites. If they
6 non-concur, then the process starts back again
7 and we would have to look as see if there is
8 any other additional information that would
9 change the Corps of Engineers' opinion or not.

10 MS. WITRYOL: What about the PRP issue?

11 MR. CLAYTON: The PRP issues, we do not
12 get involved in the PRP issue. When and if we
13 refer a site to the Corps of Engineers, the
14 way they address PRP is totally upon them.
15 They are an autonomous agency and they follow
16 whatever regulations and guidelines that are
17 inherent to how they do business

18 MS. WITRYOL: Given, what we've seen of
19 the manner in which the Army Corps has done
20 business and the fact that the Department of
21 Energy-controlled site at Fernald, was able to
22 take those same K-65 residues and move them to
23 Texas, there's some feeling among some

1 residents in the community that we should be
2 asking our Congressional offices to move the
3 responsibility for this site back to the
4 Department of Energy which has a track record
5 of successfully removing these residues
6 because we're not confident at this point that
7 the Army Corps can handle that, that just --

8 MS. KREUSCH: Bill K first.

9 MR. KOWALEWSKI: With regard to the Corps'
10 involvement in theradiological processes here,
11 a few things to stress. This week, Michelle
12 Barker our Chief Scientist has been down in
13 Texas at the WCS facility meeting with them in
14 preparation for our feasibility study which
15 will look at disposal options around the
16 country, so I don't want the impression to get
17 out that the Corps is somehow unable or
18 unwilling to look at a long-term decision down
19 the road.

20 Earlier, there was made mention that, you
21 know, because of the 160 year life span on the
22 interim waste containment cap, the Corps has
23 made its decision and it's done. That is not

1 true.

2 There has been no long-term decision on
3 that IWCS. We've briefed for years now what
4 the process is. It's laid out in back how
5 we've altered the process for more public
6 involvement and I welcome any scientific input
7 on what level of data it's going to take to
8 convince people, be it the methodologies, the
9 amount of data, the location of the data,
10 volunteer -- give that to us now so we can
11 build it into our planning and I'm not
12 finished.

13 The ICWS is the Corps of Engineers' number
14 one priority at the former LOOW site and the
15 Niagara Falls Storage Site. If today, given
16 the data that we have, a closed vicinity
17 property were referred to the Corps
18 hypothetically, there is no data or public
19 risk out there that would cause us to get
20 distracted off of the IWCS. There is not the
21 public health risk or threat to cause us to
22 change priorities, so there is no effort to
23 accelerate any work on a open or a closed VP

1 at this point with what we have. Until we get
2 to a decision on the IWCS, unless there is
3 some imminent and very clear and present
4 danger to the public, we're staying focused on
5 that IWCS and I want to make sure everybody
6 understand that. So, any perception that
7 there's a shift in priorities or some other
8 business going on that indicates we are
9 accelerating consideration on VPs is not true.

10 MR. RAUCH: Do I understand you correctly,
11 you mentioned 160 years, are you saying that
12 that satisfies the CERCLA requirement or the
13 10 CRF Appendix A requirement --

14 MR. KOWALEWSKI: No. That's what I heard
15 and I am telling you that is not the case.
16 The Corps' decision will come in the form of a
17 record of decision for that IWCS --

18 MR. RAUCH: Can you appreciate where I'm
19 coming from?

20 MR. KOWALEWSKI: Let me finish, please --

21 MR. RAUCH: No, let me --

22 MR. KOWALEWSKI: Let me finish. You've
23 had --

1 MR. RAUCH: No --

2 MS. KREUSCH: Jim, Jim, let him finish.

3 MR. KOWALEWSKI: The 160 year life cycle
4 was simple engineered -- not a simple, was
5 merely an engineering -- a technical
6 evaluation of that cell as it is today. It
7 was not a precursor to any future decision.
8 It was not a decision. It is simply an
9 evaluation from the Corps' experts. The
10 decision on the long-term fate of that IWCS is
11 coming in the coming years. We have not even
12 started to evaluate all the options available
13 to us.

14 MR. RAUCH: To any rational organization
15 based in scientific principal who understand
16 the site conditions, who understand the
17 current existing siting regulations, that site
18 does not meet 10 CFR Part 40 Appendix A
19 pending state criteria for a long-term
20 storage. It will not meet and so, you know,
21 further delay simply raises the long-term cost
22 of dealing with it. That's all I have to say
23 and I would agree entirely with what Amy --

1 with Amy's point that the Army Corps is not
2 the one here. Congress made a serious mistake
3 in 1998 when it turned this site over to the
4 Army Corps and Louise Slaughter was involved
5 in that, so I would suggest that the community
6 seriously look at Louise Slaughter. She is
7 not delivering on this site. Thank you.

8 MS. KREUSCH: Additional comments,
9 questions or statements?

10 MR. ZELTMAN: I'll just make one other
11 statement, you know, to that comment about
12 delivery on the site. You know, there's been
13 a number of different issues and issues that
14 the Congresswoman has contributed that have
15 been concerns of the local community we've
16 heard from in response to concerns we had for
17 funding that was needed for the community LOOW
18 project.

19 The Congresswoman had helped secure the
20 funds to make that possible and as well, a
21 long-standing concern with the Town of
22 Lewiston on the former waste water facility
23 with hazards that that posed, she was able to

1 work to secure funding this year to address a
2 lot of those hazards, so, you know, I would
3 clarify that paramount are the safety and the
4 health of the residents in the district and
5 that's paramount to Congresswoman Slaughter.

6 MS. KREUSCH: Thank you. Mr. McGreevy?
7 I'm sorry, I can't read your name tag. Could
8 you state your name for the court recorder?

9 MR. MCGREEVY: Ed McGreevy. I was
10 listening to Mr. Clayton's remarks. I don't
11 pretend to understand the issues as some of
12 the people around the table, but I thought I
13 was getting the message from Mr. Clayton that
14 his agency had received from community and
15 community stakeholders very valuable tips,
16 questions, issues that they were not aware of
17 and were able to follow up on and that the
18 communication from the community to the
19 governmental agencies has been valuable and I
20 think that that is very interesting to hear as
21 we're talking about RAB and community and how
22 we could be working together, listening to
23 each other. Seems to me that he endorsed that

1 concern.

2 MS. KREUSCH: Thank you. Mrs. Rolland?

3 MS. ROLLAND: Yes, this is just before we
4 leave. I don't understand about this plume
5 of -- the green spot that's over there on your
6 chart. Can you just briefly explain, is that
7 something that we need to be concerned about
8 long range?

9 MS. KREUSCH: Bill Frederick, she's
10 talking about the poster.

11 MR. FREDERICK: The ground water plumes
12 that are on the poster back there?

13 MS. ROLLAND: Yes, right.

14 MR. FREDERICK: There's a series of
15 plumes. Those are total uranium plumes which
16 is the metallic -- one of the metals that was
17 in the residues and material that was handled
18 on the storage site.

19 MS. ROLLAND: Right. Are they leaking
20 out?

21 MR. FREDERICK: That stuff is already in
22 the ground water and some of the material that
23 may have caused those plumes like made the

1 stuff to leak down into the ground water and
2 then, move with ground water, that stuff is
3 predominantly gone.

4 There may be some soil residual material,
5 meaning there's like, a little bit left over
6 that we will end up cleaning up, but the
7 plumes themselves are kind of like the cat out
8 of the bag and so, there's certain levels of
9 certain concentrations of the uranium in the
10 ground water that caused a concern relative to
11 drinking water or other risks, risks from
12 incidental exposure, if you dug a hole and you
13 got it on you, that kind of thing.

14 So, we are looking at both the extent of
15 those plumes. Some of them -- one of them in
16 the northeast corner way up by the Baker Smith
17 area and the northeast corner appear to be
18 going off site. We put in a few wells up in
19 that corner up there off site and on site and
20 found out there is movement off site. It's
21 not at high concentrations. That's a good
22 thing. The gentleman over here and I can't
23 remember his name and he had left on us talked

1 about the very tight clay, the clay that
2 doesn't allow things to move very readily. In
3 some ways, with the contamination, that did
4 occur on the surface, the material that was
5 stored around here and there.

6 I guess the positive that came out of that
7 is the clay material that's made up of the
8 soil underneath the storage site, there's so
9 much of the clay in the soil that it doesn't
10 allow that flow to occur very quickly at all.
11 In some cases, maybe a few feet a year which,
12 in ground water terms is not a whole lot,
13 which is a good thing.

14 So, what that does is that allows us to
15 basically monitor it, take samples of it, know
16 how much material is in the water and then, in
17 turn, give us an idea, you know, do we have to
18 clean it up right away or can we put it inside
19 of a broader scheme to work with just, you
20 know, when we clean up the site in general.
21 So, the slowness of that water movement is
22 actually a positive.

23 MS. KREUSCH: Her question basically is

1 does she need to be worried right now.

2 MR. FREDERICK: No, not right now. I'm
3 sorry.

4 MS. ROLLAND: Did you plan remediation of
5 that at all?

6 MR. FREDERICK: It's part of the
7 feasibility study that we're putting together
8 now where in those -- some of the information
9 that will be coming out in the feasibility
10 study which kind of gives you a laundry list
11 of things to -- ways to potentially remediate
12 those concerns will be coming out in the next
13 year to two years.

14 MS. ROLLAND: Thank you.

15 MR. FREDERICK: And those will be
16 articulated in the further meetings. In the
17 June meeting, we're going to present some of
18 the findings that we learned last fall, just
19 because we've only gotten the data and started
20 digesting it and making our new maps and stuff
21 like that.

22 MS. KREUSCH: Okay. We're going to be
23 beginning to start resembling the room at

1 about 9:15. I know Amy has something else to
2 say, but does anybody that hasn't had a chance
3 to speak tonight want to say something before?
4 Okay. Mr. Duling?

5 MR. DULING: That's right. I'm fairly new
6 at this, so I don't know 1 percent of what
7 most of the people in this room know, but I do
8 think that there are different ways that
9 decisions are made and they're very clearly
10 two different philosophies of the way
11 decisions are made in the room, one is from
12 the bottom up and the other is from the top
13 down and that becomes clear when you introduce
14 a process that appears to be from the top down
15 and is controlled from the top down and the
16 bottom up doesn't figure in the formation of
17 the process itself, am I making myself clear?
18 So, that's bound to create problems with the
19 way in which we think about these things.
20 It's like "Cool Hand Luke", there's a failure
21 to communicate here. So, I'm hoping as you
22 think about this, if you're are going to
23 control the process, that you somehow figure

1 out a way that those of us that think
2 differently, let's say, much more in line with
3 traditional democratic process can
4 participate, okay? That's all I have to say.

5 MS. KREUSCH: Okay. Thank you very much.
6 Anyone else that hasn't gone yet that would
7 like to make a statement before I let Amy talk
8 again?

9 MR. FREDERICK: I actually want to ask a
10 question to the -- I'm going to be politically
11 correct to my employer, the former RAB
12 individuals. You have confidence in the
13 representatives that signed that letter that
14 you met with a year ago as well as other
15 leaders of the community, correct?

16 MR. AGNELLO: Yes.

17 MR. RIORDAN: Yes.

18 MR. FREDERICK: Now, if we were to solicit
19 for a new RAB, when we solicit for a new RAB,
20 some of those people being community leaders
21 will probably most likely, if they choose end
22 up being on the selection committee.

23 MR. CHOBOY: And let me just add, many of

1 those people were appointed by the
2 communities.

3 MR. RIORDAN: So, the people that are on
4 the previous RAB were supported by all the
5 community leaders that you're citing.

6 MR. FREDERICK: Right. I'm just asking.
7 The question is that if you have confidence in
8 them and you have their ear and there are some
9 of these -- themselves or loyal minions I
10 guess if you want to call them will be on the
11 selection committee. I don't see a whole lots
12 of disconnect with getting back -- your desire
13 to get back some members of the old RAB. So,
14 I guess it comes down to, you know, your
15 communication upwards to them to, you know,
16 bring it to fruition.

17 MR. RIORDAN: The energy is there, the
18 people are there. I mean, the debate up to
19 this point certainly has been re-establishing
20 something that has met the criteria to begin
21 with. What you're suggesting and what we're
22 suggesting is that be the case. If there's no
23 other way around it, then we'll just have the

1 same bodies that we have trust in
2 environmentally and in terms of their
3 expertise, scientifically and so on, would
4 just re-institute their applications to the
5 Corps and to those select individuals and
6 restart what was once done and that's pretty
7 much what you're saying. The confidence is
8 there and the community leaders, the Health
9 Department and so on, bring them back and
10 re-institute them. That would be our full
11 intent.

12 MS. KREUSCH: Mr. Duling?

13 MR. DULING: Am I to understand that the
14 people on the selection committee cannot be on
15 the RAB and the people who were on the RAB
16 cannot be on the selection committee?

17 MR. RIORDAN: That's correct.

18 MS. KREUSCH: That is correct.

19 MR. DULING: At this juncture --

20 MR. RIORDAN: I think he's saying some of
21 the community leaders could be on the
22 selection committee but not on the RAB, so you
23 could have some people in support of some of

1 the individuals who were on the RAB
2 previously, they may well be on the selection
3 committee, yes, sir. It's another detour, but
4 looks like we have to take it.

5 MS. WITRYOL: Well, that's not the point
6 of the biggest objection. It's not just the
7 membership of the RAB, it's the absence of a
8 facilitator and it's the failure of every
9 reorganization that we've had of the RAB since
10 1999.

11 So, going back to what doesn't work and
12 still not having an independent facilitator to
13 hold the Army Corps accountable to the
14 standards that it sets and to be consistent
15 and to have that monitored by someone, an
16 honest broker that the community has faith in
17 and it's certainly not the Army Corps of
18 Engineers, it is certainly not the New York
19 State DEC is the biggest obstacle and we've
20 been asking for something four years now, a
21 facilitator which is granted by the current
22 regulations that the Army Corps summarily
23 dismiss because they can do better negotiating

1 without someone who really knows what's going
2 on and can point out in consistencies. We're
3 terribly out manned, out-lawyer ed, out-gunned
4 and even a promise with identical RAB
5 membership is not going to create the trust
6 and confidence that we think we need to make
7 this work and make it effective.

8 Why call it a RAB or not a RAB if we're
9 still not having the opportunity for input, we
10 still don't have the access for information
11 and we still don't have the -- an independent
12 arbiter so-to-speak to make sure that this
13 whole process works effectively from my view?

14 MS. KREUSCH: Candy, can you address the
15 role of the facilitator according to the
16 regulations?

17 MS. WALTERS: From what I understand of
18 the regulations, the role of the facilitator
19 is to come in to a Restoration Advisory Board
20 that has already been established under the
21 RAB rules with the co-chairs, et cetera, et
22 cetera who, where there is a dysfunctioning
23 board where there are problems, but the idea

1 is that you do not go into forming a
2 Restoration Advisory Board thinking that you
3 are going to have problems.

4 You go into the forming the board with the
5 idea that it is going to function well, that
6 everyone is going to be committed from the
7 very beginning to making it work and then, if
8 there are problems after it's already been
9 functioning and is underway, then you bring in
10 a facilitator, but the idea is to get the
11 board functioning and then, if there's
12 problems, there may be a need to bring in a
13 facilitator.

14 MS. KREUSCH: Bill K?

15 MR. KOWALEWSKI: I just want to add from
16 what I've heard now from the legal
17 discussions, it's what a facilitator does not
18 do within the Corps' authority and a DERP-FUDS
19 RAB and that would be to facilitate the
20 inclusion of FUSRAP into the RAB to facilitate
21 changes to Federal regulations or laws or
22 policies. That's something that the Corps
23 does not or the DoD does not enlist a

1 facilitator to do and so, I just want to make
2 that clear, that that would not be something
3 that would be supported.

4 MS. WITRYOL: What's happening here is the
5 Army Corps is prejudging what a facilitator
6 might do and there's nothing in regulation
7 that precludes the facilitator requests that
8 we're making. So, it's a matter of the Army
9 Corps being selective about when it does and
10 does not want to exercise its discretion.

11 There's nothing in the regulation that
12 prevents addressing the request of a
13 facilitator for this purpose and to start, you
14 know, throwing out issues that may be
15 obstacles and making assumptions as to where
16 the stakeholders are going to be in that
17 process is the whole reason why we ask for a
18 facilitator to begin with.

19 It's certainly the only thing that has
20 worked in the past 11 years and yet, we want
21 to -- we're talking exclusively about going
22 back to those things that haven't worked.

23 MS. KREUSCH: I do believe that we did

1 send a letter to your group and ask you to
2 specify to us what you wanted facilitated and
3 we did not get a response

4 MS. WITRYOL: Well, I think you might want
5 to revisit that with Dr. Gardella. Secondly,
6 it's not my group. I haven't been a member of
7 the Restoration Advisory Board for a couple of
8 years. It's a stakeholder group and broadly
9 inclusive. I'm just a very active resident
10 that has only been involved in -- there are
11 probably 100 people in this community who have
12 served on the RAB over the three different
13 iterations in 11 years who are not here
14 because they're frustrated and they have no
15 confidence in the Corps to make it work and I
16 take Candy at her word.

17 I know that she sincerely wants to find
18 people who are committed to make it work, but
19 we've pretty much gone through everybody in
20 the community at this point and would hope
21 that it would occur to the installation that,
22 you know, that maybe there's a way to bring in
23 somebody independent to facilitate that and I

1 see Keith Fox.

2 MS. KREUSCH: Okay. Mr. Fox, let Bill K
3 say something and then Mr. Fox and then Mr.
4 Duling and then, we're going to have to wrap
5 it up.

6 MR. KOWALEWSKI: I just conclude with, you
7 know, message received but it's not within the
8 Buffalo District's purview to take on these
9 changes to CFR's, policies or regulations at
10 the national level, so what is within our
11 purview is to follow the regs as ordered and
12 form a RAB and the argument you have is not
13 necessarily with the Buffalo District, but
14 it's with the Corps at a higher level and
15 where we left the March meeting, the
16 roundtable meeting was that there was
17 consideration at the local level of taking on
18 those Federal standards and regulations and I
19 don't believe that that's moved forward.

20 MS. WITRYOL: But you've made no
21 recommendations.

22 MR. KOWALEWSKI: It's a legislative
23 process that we don't perform.

1 MS. WITRYOL: Right, but you made a
2 recommendation to Congresswoman Slaughter's
3 office for a grant and while I'm disappointed
4 you didn't make this, recommendation we'll
5 revisit the recommendation to legislate a
6 facilitator and maybe that's the best
7 solution. Would the Corps have any objections
8 to that?

9 MR. KOWALEWSKI: The Corps doesn't comment
10 on what you'd like to do with your elected
11 representatives. Please do.

12 MS. WITRYOL: And if they ask you how you
13 feel about it, what's the response?

14 MR. KOWALEWSKI: We don't give opinions on
15 legislation. We follow our orders.

16 MS. KREUSCH: Mr. Fox, Mr. Duling and
17 then, we're going to have to start clearing
18 out the room.

19 MR. FOX: You know, I woke up the other
20 morning kind of singing, "This is the army,
21 Mr. Jones", you know and as I'm dealing with
22 this, okay. I printed your restoration
23 advisory fact sheet off the Internet and okay,

1 I thought boy, maybe we can work something out
2 here. Okay. So, what does a Restoration
3 Advisory Board do and I'm quoting your
4 information here, discusses exchange of
5 information, reviews, evaluates, comments and
6 so on of materials available to the general
7 public.

8 Okay. Well, that tells me that there's
9 other information that's not available and
10 what are you hiding, okay? I'm curious. I
11 follow the input on restoration studies and so
12 on, would go through these different people ad
13 so on and so forth and then, it goes down and
14 says, but they are not a decision-making or
15 advisory body.

16 Okay. Well, why are we calling it an
17 advisory board if you can't advise? So,
18 you're going in a circle here and saying --
19 so, okay. It ends up that there isn't really
20 much of anything there and I'm not sure that
21 we want a lot of our very technical people are
22 willing to enlist in your Army process and
23 that's all I will say.

1 MS. KREUSCH: Okay. Thank you.

2 Mr. Duling?

3 MR. DULING: This is a bit anti-
4 climactic, but the 2007 handbook, what was in
5 operation when the supposed RAB was formed
6 earlier? Being a newcomer, I don't really
7 know that, but it seems to me like this is
8 what we call *expo facto*, that is, you have a
9 new set of rules put into place afterwards and
10 then, you apply them which denies the validity
11 of what was operating initially and that's a
12 general principal that is denied in our
13 democratic traditions again.

14 MS. KREUSCH: Okay. There was Corps
15 guidance in the early years for Restoration
16 Advisory Boards and when the regulation went
17 into effect, the Corps' guidance was no longer
18 in effect and so -- oh, I'm -- one short
19 comment because we need to go.

20 MS. RICHARDSON: I've been observing this
21 all night and one thing has become very
22 obviously to me and that the whole big problem
23 here is a lack of communication. The

1 residents are frustrated and they mistrust the
2 Corps. The Corps is on the defensive and
3 they're shielding themselves with all these
4 regulations and formalities and stuff.

5 What you really need to do is drop all
6 that formality, get together some time and
7 have an informal -- over a cup of coffee,
8 let's get acquainted on a first-name basis
9 type of thing, nothing chiseled in stone or
10 anything, just a, more or less, a get
11 acquainted where you could develop a little
12 repore, build up a little trust, get to know
13 each other, get to unload a little bit and not
14 feel that you have to be behind a regulation
15 or something that you could just let us say,
16 share ideas, nothing formal, nothing to get
17 put in print or anything.

18 It would go a long, long way towards
19 solving a lot of trouble here because the
20 bottom line is lack of communication, which is
21 generating mistrust and defensiveness.

22 MS. KREUSCH: Thank you. Could you state
23 your name for the court recorder?

1 MS. RICHARDSON: Jane Richardson. I live
2 on East Avenue east of the Village of
3 Youngstown northwest -- about one mile
4 northwest of the LOOW site.

5 MS. KREUSCH: Okay.

6 MS. RICHARDSON: And I have lived here
7 most of my life. I've been -- well, I was on
8 East Avenue back when it was the old poverty
9 ridge and a dirt road. I've been here 73
10 years.

11 MS. KREUSCH: Thank you very much for
12 your input. With that, I would like to thank
13 everyone for coming and we will have to re-
14 arrange the room and get out of here by 9:30,
15 so thank you very much.

16
17 (The meeting concluded at 9:25 p.m.)
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