

## Responsiveness Summary

The U.S. Department of Energy (DOE) released the *Formerly Utilized Sites Remedial Action Program Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches* on April 23, 2010, for public comment. Report availability was announced through a message to stakeholders sent on behalf of DOE by USACE. The announcement provided a 30-day comment period, closing on March 19, 2010. DOE extended the comment period to June 14, 2010, in response to multiple requests for additional time to review FUSRAP documentation.

Twenty comments were received, of which five were from one stakeholder and two from another. The following is a summary of comments received and DOE's response to each. Comments are grouped according to those addressing protectiveness and site conditions and those addressing the roles, responsibilities, and procedures followed by DOE and USACE for FUSRAP. Actual comments are provided at the end of this Responsiveness Summary.

All comments are attached in chronological order at the end of this Responsiveness Summary and numbered to correspond with the comment numbers provided in parentheses at the end of each comment summary below.

### Protectiveness

**Comment:** One stakeholder asked DOE to demonstrate the proper remediation of portions of the Central Drainage Ditch, citing a presentation in the Community LOOW Report that showed the dose rate exceeded State of New York limits. Note: this comment was received before the subject report was issued for public comment but is included because it addresses public concerns about the safety of the remediated NFSS VPs. (Comment 1)

**DOE Response:** (Sent via e-mail April 8, 2009)

Thank you for contacting DOE to express your concerns about a remediated portion of the former Lake Ontario Ordnance Works. I hope to address your concerns and assure you and other nearby residents that you have access to DOE to receive answers to your questions about the work DOE performed before 1997 to control the radiological hazards that originated during the 1940s.

In your March 26, 2009, email, you included a link to a 2007 presentation that summarizes the information provided in the Post-Remedial Action Report for the Niagara Falls Storage Site Vicinity Properties – 1983 and 1984, published in December 1986. I wanted to let you know that this document is posted on the DOE Office of Legacy Management public website at <http://www.lm.doe.gov>; from there select site-specific documents or go directly to this document at <http://csd.lm.doe.gov/PDFs/NY.17-15.pdf>.

DOE will investigate this issue further by retrieving records from the remediation and searching for the exposure assumptions used for the dose calculation you provided.

DOE has coordinated this response with the U.S. Army Corps of Engineers. Questions regarding DOE activities completed prior to 1997 will be answered by DOE. USACE will respond to questions regarding post-1997 and future FUSRAP activities. DOE and USACE will jointly address concerns such as yours and determine if additional FUSRAP investigations or actions by USACE are warranted to protect human health and safety.

One of LM's primary missions is to assure environmental remedies at all LM sites remain protective of human health and the environment. We will complete the additional investigations noted above to determine if that primary mission is being met at this site. We will provide you with our findings no later than June 15, 2009. Contact information for each agency is provided below.

U.S. Department of Energy  
Office of Legacy Management  
Office of Site Operations  
1000 Independence Ave., SW  
Washington, D.C. 20585  
(202) 586-9034  
Christopher.clayton@hq.doe.gov

U.S. Army Corps of Engineers  
FUSRAP Outreach Program  
Buffalo District  
1776 Niagara Street  
Buffalo, NY 14207  
1-800-833-6390  
fusrap@usace.army.mil

Sincerely,

Christopher J. Clayton  
Office of Legacy Management  
Department of Energy  
(202) 586-9034 - work  
(202) 586-1540 - fax  
christopher.clayton@hq.doe.gov

Follow-up DOE response sent by e-mail June 15, 2009:

In your e-mail correspondence of March 26, 2009, to DOE and the U.S. Army Corp of Engineers Buffalo District, you raised the following issue:

“As a mother and advocate for health and safety of our children and community, I am formally asking for proof of remediation of radiological anomalies on the drainage ditch along Lutts Rd. in the former Lake Ontario Ordinance Works site. If you do not have proof of proper remediation, I am asking for a cooperative effort among you to protect our community and remediate the radiological anomalies left by DOE. Our community in WNY has been burdened since early 1940's and it's time for real environmental justice for our community. One of the main concerns I have is the ditch along Lutts Rd that drains into the Four Mile Creek and into Lake Ontario.”

On April 8, 2009, DOE responded to your e-mail, stating that DOE would review existing records and evaluate the findings in a presentation included by reference in your inquiry. DOE

also included links to information about final conditions, which we hope you found useful in addressing your concerns. After careful review of the presentation, Radioactivity on the LOOW Site, by Mr. R. Harris, and Dr. M. Resnikoff, to the Community LOOW Project on June 13, 2007, and based on the existing records on the site, DOE is providing the following response.

DOE is assuming that the anomalies noted in your inquiry are the elevated concentrations detected at seven discrete sample locations in the portion of the ditch where DOE performed remediation. DOE also assumes that the data provided in the referenced presentation refer to a different portion of the ditch (“unexcavated portion”) where DOE determined that remediation was not required.

In the December 1986 report, *Post Remedial Action Report for the Niagara Falls Storage Site Vicinity Properties—1983 and 1984*, DOE concludes that the anomalies in the remediated portion of the ditch and the low levels of contamination in the unexcavated portion of the ditch pose no unacceptable risk to children or adults. Assumptions in that report describe a worst-case exposure scenario along the unexcavated portion of the ditch, which entails building a residence on sediment removed from the ditch. The calculated dose is less than current guidelines for any federal or state agency. Because concentrations in the remediated portion of the ditch are much lower, the dose from exposures there would also be much lower.

The presentation you provided indicates an annual dose at the unexcavated portion of the Central Drainage Ditch to be 57.6 millirem per year. The presentation references reports concerning the cleanup but did not provide details and assumptions used in the dose calculations. DOE finds that the resulting dose estimate used in the presentation can be obtained by assuming continuous exposure (i.e., every minute of every day) to the average levels of radionuclides detected in the unexcavated portion of the ditch. In contrast, DOE’s dose estimate recognized that an individual such as a child playing in the ditch would spend much less time in the ditch (DOE assumed 4 hours per day through the summer months at the area of highest concentration) and therefore would receive a lower dose of 1.2 millirem per year. The dose estimate for the remediated portion of the ditch would be much lower (based on lower average concentrations), even taking into account the several anomalous locations.

We recognize the concerns of you and your neighbors. We also recognize that the previous surveys at the site were conducted more than 20 years ago and that site conditions may have changed during that time; however, based on the existing documentation for the site, DOE believes that the remediation of the Central Drainage Ditch resulted in conditions that continue to remain protective based on reasonable exposure patterns.

DOE will continue to work with you and other stakeholders, including USACE and state agencies, to address any concerns that remain about the work DOE performed at the former Lake Ontario Ordnance Works. Please feel free to contact me at (202) 586-9034 or at Christopher.clayton@hq.doe.gov if you have questions concerning this response. If you have questions about current remediation activities, you should contact USACE at their Buffalo District office.

Sincerely,

Christopher J. Clayton  
FUSRAP Manager  
Office of Legacy Management  
Department of Energy  
(202) 586-9034  
(202) 586-1540  
christopher.clayton@hq.doe.gov

**Comment:** One stakeholder commented that the report infers that KAPL material was left on the site because the report indicated it was not eligible for remediation under FUSRAP, and asked if the KAPL waste was remediated from the completed VPs. (Comment 8)

**DOE Response:** Non-FUSRAP material that was co-mingled with FUSRAP material would have been remediated with the FUSRAP material. Once the FUSRAP-related material was remediated, if KAPL-SPRU-related waste was still present, this material would have been left in place. DOE reviewed the vicinity property records concerning these wastes and has concluded that KAPL material has not been identified at concentrations that would trigger assessment or remedial action. Regarding eligibility of KAPL material, DOE acknowledges that the KAPL waste stream was generated as a result of MED/AEC activities. However, this same waste stream is being remediated by the DOE Office of Environmental Management at the KAPL facility in Schenectady, NY. Therefore, USACE would have to determine if KAPL residuals at LOOW should also be addressed by this other program. If that is determined to be the case, the waste stream would not be eligible for remediation under FUSRAP.

**Comment:** One stakeholder asked if FUSRAP addressed contaminated groundwater. (Comment 8)

**DOE Response:** All eligible contamination in any environmental medium is addressed under FUSRAP. Groundwater contamination was identified on the closed-off site properties VP-H' and VP-E' during the assessment phase of their evaluations. USACE will address contaminated groundwater at NFSS, including any spillover onto the closed vicinity properties, as part of their remedial actions

**Comment:** One stakeholder asked about a 2005 USACE report that additional contamination was found on VP-H'. (Comment 18)

**DOE Response:** DOE has reviewed the 2005 USACE report and finds that the radiological data are insufficient to refer VP-H' to USACE for additional assessment and, if necessary, remedial action. Therefore, DOE intends to request that USACE collect additional radiological data under Article IV of the 1999 MOU, "Further Assistance," to determine if contamination remains that would trigger referral of the property to USACE (the MOU is posted at [http://www.lm.doe.gov/pro\\_doc/references/framework.htm#fusrap](http://www.lm.doe.gov/pro_doc/references/framework.htm#fusrap)).

**Comment:** One stakeholder asked if additional testing would be performed on the 30-inch water discharge line and the 42-inch water supply line. (Comment 17)

**DOE Response:** USACE is characterizing these lines as part of their investigation of the former LOOW.

**Comment:** One stakeholder asked if his son's melanoma resulted from contamination at LOOW. (Comment 16)

**DOE Response:** DOE regrets that it does not have public health information to address this comment. DOE has seen reports of cancer incidence rates and believes the commenter should contact county or state public health officials for guidance in answering this question. The commenter may also wish to visit the Energy Employees Occupational Illness Compensation Program website at [http://www.lm.doe.gov/Office\\_of\\_Business\\_Operations/EEOICPA\\_Program.aspx](http://www.lm.doe.gov/Office_of_Business_Operations/EEOICPA_Program.aspx).

**Comment:** One stakeholder provided a 1994 report of elevated gamma activity along Pletcher Road. (Comment 7)

**DOE Response:** DOE has reviewed Mr. Rauch's report and concluded that the data presented corresponds to slag within the road base. Discussions with the state agencies involved with the slag issue, the New York Department of Health and Department of Environmental Quality confirm that the issue is prevalent in the area and that it is currently being addressed during road reconstruction or improvements. DOE has also reviewed a preliminary survey of Pletcher Road (Berger 1983), a report from the ORNL mobile gamma scanning of all transportation routes to the LOOW (ORNL 1984), and a report on radiological measurements taken in the Niagara Falls, New York area by ORNL in 1986 to support its determination. The levels detected by Mr. Rauch are well below DOE remediation guidelines (essentially twice background or approximately 2 pCi/g). Unless Mr. Rauch has already been in contact with the state agencies, DOE suggests that Mr. Rauch contact the New York Department of Health or the New York Department of Environmental Quality to address his concerns. If however, the state agencies determine that the material is FUSRAP related then DOE will perform the necessary evaluation to refer the areas to USACE in order to address the problem.

**Comment:** One stakeholder indicated that sample locations for KAPL material were incorrect because of incorrect information about historical activities; in particular, the railroad loading platforms were not properly investigated. (Comment 5)

**DOE Response:** KAPL storage areas located on VP-X consisted of Building 446 (former paint shop), Building 447 (former tool house), Building 448 (former Lord Electric shop), as well as the wastewater treatment plant Building 435 (former pump house) (Aerospace 1982; King, 2008). The bulk of the waste stored on VP-X consisted of combustible KAPL waste (38,500 cubic feet) located in Buildings 446 and 448. No incineration took place on the VP-X area. Additional KAPL storage and shipment took place on the property south of VP-X which is known as the Baker Smith Shops area on NFSS proper. DOE acknowledges that KAPL materials were apparently handled in the railroad loading platforms on the current VP-X and NFSS Proper boundary.

The 1984 assessment (DOE 1984) was completed in accordance with an approved survey plan (DOE 1981). Prior to the surveys, historical information was reviewed, and the surveys were designed according to waste-handling practices for each VP. This included review of available radiation characterization reports and engineering drawings and assessment data for all the VPs.

Walkover surface scans were performed over all accessible areas of the property. Records indicate the assessment did not exclude any areas on VP-X. The assessment survey consisted of beta-gamma dose rate measurements and soil sampling at each node of a 40-meter survey grid over the property, a gamma scan over the entire property, and surface soil sampling where gamma activity was elevated. Gamma anomalies were targeted with soil borings to determine vertical extent.

Four soil borings were placed along the southern boundary, including the railroad platforms area (Borings H6, H14, H15, and H16). Gamma activity measured in the boreholes indicated that contamination was limited to the upper 15 to 30 centimeters (cm) of soil. Gamma logging data were not used to quantify radionuclide concentrations in the subsurface soils because of the varying ratios of Ra-226, U-235, U-238, Cs-137, and Th-232 occurring in the soil in this area. Only borehole H15, at grid location 392S and 352W, contained a subsurface Ra-226 concentration exceeding 15 picocuries per gram (pCi/g) (17.9 pCi/g including background) at the 15-cm depth. At 30 cm below ground surface the net Ra-226 level dropped to 12.8 pCi/g. Cs-137 concentrations were within the range of background in all surface and subsurface samples.

Water grab samples from four of the boreholes contained gross alpha and beta concentrations ranging from 0.55 to 4.54 picocuries per liter (pCi/L) for gross alpha and 1.25 to 6.23 pCi/L for gross beta. Sample W-3 from the boring H6 near the southern boundary contained gross alpha of 0.55 pCi/L and gross beta of 1.25 pCi/L. All subsurface water values for the site were well below the EPA Interim Drinking Water Standard of 15 pCi/L gross alpha, 50 pCi/L gross beta, and 3 pCi/L Ra-226.

In addition, the surveys provide no indication of significant spillage along the former rail lines or the former platform areas. Data do not indicate if borings were placed in the alignment of the railroad tracks.

Post-remediation and verification samples demonstrate that U-238, Ra-226, and Th-232 concentrations were all less than the cleanup standards. Post-remediation and verification samples were not analyzed for Cs-137 because there were no elevated results identified during the assessment (Bechtel 1986; ORAU, 1989). Gamma exposure rates were less than 20 microrentgens per hour ( $\mu\text{R/h}$ ). During the verification survey, gamma scans were performed over a large portion of the southern boundary in the area of the railroad platforms. These scans revealed no areas of elevated contact exposure rates (contact exposure rates ranged from 7 to 12  $\mu\text{R/h}$ ). Depth of soil removal was 0.5 feet in the areas of remediation.

After remediation was complete, surveys were performed on all haul roads and included the west and central drainage ditches to confirm that no cross contamination had occurred.

Additional information provided by the USACE RIR and Addendum reports confirms that relatively minor amounts of Cs-137 remain in the areas south of VP-X on the NFSS. (USACE 2007)

On the basis of the above information, DOE finds no indication that KAPL waste residuals remain in the railroad track or platform areas.

## Processes and Procedures

**Comment:** Six stakeholders (one twice) asked for additional time to comment on the DOE report. (Comments 10, 11, 12, 13, 14, 15, 19)

**DOE Response:** In a message to stakeholders sent May 4, 2010, DOE extended the public comment period to June 14, 2010. DOE informed stakeholders that DOE would accept information about radiological conditions at any time, even after the public comment period closed. If necessary, DOE would revise the report to incorporate new information.

Text of message:

### **DOE to Extend Comment Period for NFSS Vicinity Properties Review of Radiological Conditions Preliminary Report**

In response to the requests of several stakeholders, the U.S. Department of Energy (DOE) will extend the public comment period for the preliminary report, *Formerly Utilized Sites Remedial Action Program, Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches*, through June 14, 2010.

DOE conducted this review in response to stakeholder inquiries concerning the completeness of the cleanup conducted by DOE at the Niagara Falls Storage Site vicinity properties. The review demonstrates that the properties are protective with regard to contamination remediated under the Formerly Utilized Sites Remedial Action Program (FUSRAP). DOE also confirmed that documentation supports the conclusions reached during the remediation of the vicinity properties. Therefore, on the basis of available information, DOE will not refer a completed vicinity property to the U.S. Army Corps of Engineers (USACE) for additional assessment. The draft report is available for review on the DOE website at <http://www.lm.doe.gov/Niagara/Vicinity/Documents.aspx>.

One of the objectives of this review was to solicit additional information from stakeholders to ensure that all information was considered in the review and to augment the DOE records collections for use by future custodians. The bibliography in the final report will include all information received from USACE and stakeholders. USACE documentation used in the DOE review is available on the Buffalo District website.

Completion of this report in no way reduces or limits the public's ability to comment on the radiological conditions at the completed vicinity properties or the documentation used for the review. DOE will accept information from stakeholders at any time and will address any information indicating changed radiological conditions appropriately to ensure the continued protection of human health and the environment. If new information is obtained after the report is completed that could change the report's conclusions, DOE will revise and update the report.

Thank you for your interest in supporting the DOE review of completed NFSS vicinity properties. Please forward comments to Bob Darr, SM Stoller, at [bdarr@lm.doe.gov](mailto:bdarr@lm.doe.gov).

**Comment:** Five stakeholders (one twice) requested that DOE provide stakeholders an opportunity to comment on decisions to refer a completed VP to USACE for additional assessment and, if necessary, remedial action. (Comments 6, 10, 11, 12, 13, 15)

**DOE response:** DOE must follow the protocols set by the congressional directive assigning responsibilities under FUSRAP and in the Memorandum of Understanding between DOE and USACE. Although public participation is not addressed in the legislation or the MOU, DOE is committed to maintaining a transparent public process and posts all documents concerning FUSRAP referrals to the DOE Legacy Management website. DOE is responsible for determining whether any site meets the eligibility criteria for FUSRAP. If a site is determined to be eligible under FUSRAP, DOE then refers the potential site to USACE to determine if the contamination is eligible for remedial action under FUSRAP. DOE is reviewing the protocols for execution of FUSRAP (<http://www.lm.doe.gov/default.aspx?id=874>) to reflect current roles and responsibilities. As part of this review, DOE will evaluate the referral process to ensure that it includes an opportunity for stakeholder input.

Several of the preceding comments were received in a letter from U.S. Senators Schumer and Gillibrand. DOE's complete reply is attached behind their letter, which is numbered Comment 10.

**Comment:** One stakeholder asked twice that DOE determine Potentially Responsible Parties before referring a property to USACE. (Comments 6, 12)

**DOE Response:** In the 1999 MOU between DOE and USACE, Congress assigned responsibility to recover costs from Potentially Responsible Parties to USACE. Congressional action is required to change this provision.

**Comment:** Three stakeholders requested that DOE make all documentation available for public review. (Comments 9, 11, 14)

**DOE Response:** DOE provided links to documentation and informed stakeholders that DOE will provide any documentation that stakeholders cannot access from the links.

**Comment:** One stakeholder commented that DOE should use only appropriated funds to investigate referrals concerning contaminant migration to a completed property, a referred property should be addressed by the state if that authority exists, and it would be inappropriate to refer a property to USACE for taxpayer-financed remedial action and then try to recover costs from a responsible party. (Comment 6)

**DOE Response:** DOE does not respond to referred properties; rather, the Department evaluates a potential property to determine FUSRAP eligibility under the mandates of federal law and the Memorandum of Understanding with USACE and refers appropriate properties to USACE for evaluation. USACE will conduct cost recovery actions if they determine that another party is responsible for waste on a FUSRAP site.

**Comment:** One stakeholder commented that DOE has not provided documentation of meetings between agencies and regulators. (Comment 10)

**DOE Response:** DOE conducted a telephone conference with representatives of USACE, NYDEC, NYDOH, and USEPA to discuss a path forward for addressing the KAPL waste, University of Rochester waste, and slag that have impacted LOOW. DOE initiated this to try to resolve a long-standing issue for the FUSRAP portion of the LOOW, so that DOE could address any portion of this issue that was DOE's responsibility. In the meeting, the various parties affirmed their responsibilities:

- USACE was responsible for University of Rochester waste under FUSRAP.
- The State of New York was addressing the issue of slag used throughout the Niagara Falls region.
- DOE would address the KAPL waste because that waste stream was already being remediated by DOE at the KAPL Schenectady facility.

This information was presented to the public at the USACE meeting on March 24, 2010.

**Comment:** One stakeholder thought that KAPL and University of Rochester wastes were eligible for remediation under FUSRAP. (Comment 18)

**DOE Response:** DOE agrees that KAPL and University of Rochester wastes were generated as a result of MED and early AEC activities and appear to meet some eligibility criteria for FUSRAP waste. The DOE Office of Environmental Management is remediating the KAPL site in Schenectady, NY. Because KAPL waste is being addressed by another program, it appears to be ineligible for remediation under FUSRAP. USACE will address the remaining residual KAPL wastes during the Feasibility Study process. USACE will remediate University of Rochester waste as they complete remediation of the three active VPs and NFSS proper. DOE will revise the report to reflect these determinations.

**Comment:** One stakeholder indicated that the slag found on the former LOOW that contains naturally occurring radioactive material is a federal responsibility. (Comment 5)

**DOE Response:** Slag at the site contains naturally-occurring radioactive material and will be addressed by the New York State Department of Health, in conjunction with a broader effort to investigate the use of the slag in the region.

**Comment:** One stakeholder asked if DOE is satisfied with USACE collecting five samples to characterize KAPL waste in Building 401. (Comment 4)

**DOE Response:** DOE has no authority to intervene or formally comment on USACE activities.

Comment Number 1

-----Original Message-----

From: Judith Mokhiber  
Sent: Thursday, March 26, 2009 2:25 PM  
To:  
Subject: Radiological concerns on LOOW Site  
Importance: High

To: Kent D. Johnson, Engineering Geologist, NYS DEC  
Thomas Papura, Environmental Radiation Specialist NYS DEC Bureau of Hazardous  
Waste and Radiation Management  
Public Affairs Office U.S. Army Corp Buffalo District  
Derick Cunningham, DOE  
K. Martin, U.S. EPA Region 2

Dear Government organization representatives,

As a mother and advocate for health and safety of our children and community, I am formally asking for proof of remediation of radiological anomalies on the drainage ditch along Lutts Rd. in the former Lake Ontario Ordnance works site. If you do not have proof of proper remediation, I am asking a cooperative effort among you to protect our community and remediate the radiological anomalies left by DOE. Our community in WNY have been burdened since early 1940's and it's time for real environmental justice for our community.

Here is the document I am taking about.  
<http://www.niagaracounty.com/Health/docs/meeting3presentation3.PDF>  
Additional information is available on the this link:  
<http://communityloowproject.com/viewer.htm>

The conclusion of the report compiled by Niagara County Community LOOW project specifically Dr. Resnikoff's analysis shows radiological levels above EPA guideline which is now public properties or Town of Lewiston and Porter properties. The anomalies in the report have not been proven to be remediated along the ditch on Lutts Rd. and other areas claimed to be "certified" clean and released for public use and ownership.

One of the main concern I have is the ditch along Lutts Rd. drains into the Four Mile Creek and into Lake Ontario.

The congressional representatives, county and state representatives have been notified for action on this issue.  
Project Manager (LOOW): Bill Kowalewski, U.S. Army Corp has also been notified of my concern. Mr. Kowalewski has told me DOE must be solicited to put the areas back on FUSRAP site to be cleaned up and investigated. This is my formal request for all parties to do what is necessary to clean up what was left behind and forgotten by DOE for the sake of our health and safety.

Please do not wait for elected representatives to contact you, act accordingly to your mission which is to protect the public and our environment.

Yours sincerely,

Judith Mokhiber  
Member NYS Advisory Council on Children's Environmental Health and Safety and most importantly a mother

cc: President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Comment Number 2

-----Original Message-----

From: Amy Witryol  
Sent: Thursday, August 27, 2009 2:49 PM  
To: Clayton, Christopher  
Cc: christopher zeltmann  
Subject: DOE and CWM property

Hello Chris -

Two weeks ago I asked what areas were being evaluated, and, why. Today I learned that you've already furnished some or all of your analysis of the Central Drainage Ditch and area VPs (CWM) to another member of the community.

1. Could you forward me copies of your exchanges with Ms. Mokhiber?
2. could you forward me anything else that is relevant to CWM property? (I have all the 1980's DOE surveys and published USACE data - you may have additional draft data.)

Please do not feel the need to limit your responses to direct CWM-DOE communication.

Thank you again,

Amy

-----Original Message-----

From: Clayton, Christopher  
Sent: Tuesday, August 25, 2009 2:52 PM  
To: Amy Witryol  
Subject: RE: LOOW FUSRAP

Amy,

As I have previously indicated, the DOE has not received anything from CWM regarding their VP's. CWM contacted both the DOJ and USACE to address their concerns. DOJ has responded and indicated that CWM should contact DOE. I have not seen the USACE response to CWM's letter.

With regard to the NFSS VP's, the only work that is scheduled is for the 3 VP's currently assigned with USACE when FUSRAP remediation was transitioned to them in 1997.

DOE did take a look at the previous surveys and subsequent remediations that were conducted at the VP's located near the Central Drainage Ditch area.

Since CWM has not contacted me, specifically, or DOE, in general, I do not know what their plans are for their VP's.

As I had previously indicated, I will keep you posted as to any new developments concerning the CWM VP's.

Thanks,

Chris

Christopher J. Clayton

Comment Number 2 (continued)

Office of Legacy Management  
Department of Energy

-----Original Message-----

From: Amy Witryol  
Sent: Wednesday, August 12, 2009 12:18 PM  
To: Clayton, Christopher  
Cc: christopher zeltmann  
Subject: LOOW FUSRAP

Hello Chris -

Since our last exchange, I obtained a copy of the June 15th letter from DOJ to CWM, attached. Also attached is the original April 17, 2009 letter from CWM.

1. CWM is insisting the federal government remediate radiological contamination which CWM, not the federal government, placed in the areas identified during construction of its facilities (and in doing so may have violated state law.) In addition, CWM is presently beginning a MARSSIM survey and investigation of the same area, which will inevitably increase the amount of contamination, ergo expense it will seek to attribute to the federal government. (The survey referenced in CWM's letter was not MARSSIM compliant.)
2. Agencies have privately alluded to a DOE re-evaluation of closed vicinity properties at the LOOW - one suggested it would be completed this month. what is this evaluation? a) what areas are being evaluated and why? b) when will it be completed? c) what information is being used to conduct it? d) what decisions may be made as a result of this evaluation and when? e) will we have an opportunity to comment? any meaningful comment would depend on an understanding of the evaluation.

There are many, many other issues beyond those noted in item 1 above which may influence the allocation of federal taxpayer responsibility and CWM responsibility for radiological contamination on CWM - I would appreciate the opportunity to discuss those with DOE in advance of any decisions regarding CWM vicinity properties. [Note: With respect to the Town of Lewiston vicinity property, there has been no such soil movement or soil import by its property owner.]

I look forward to your reply.

Sincerely,

Amy Witryol

Comment Number 3

-----Original Message-----

From: Amy Witryol  
Sent: Tuesday, November 03, 2009 2:01 PM  
To: Clayton, Christopher  
Subject: CWM and Vicinity Properties

Chris -

In the past 60 days have you had any conversations with Bill Kowlewski about radiological issues on closed vicinity properties, or your review of them?

I ask because we were just notified that DOE would be making a presentation at the Corps 12/2 public meeting about its review - so I assume you've reached some conclusions by now. What input did Bill or Corps staff provide you?

Amy

Comment Number 4

-----Original Message-----

From: Amy Witryol  
Sent: Monday, February 22, 2010 8:05 AM  
To: Clayton, Christopher  
Cc: Gillespie, Joey; Darr, Bob  
Subject: NFSS Bldg 401 - missing info

Hi Chris -

Please let me know if DOE is satisfied with five (haphazard) samples to characterize knolls waste in the Building 401 structure proposed for demolition - attached are results from those samples. Or, if DOE is prohibited from weighing in, please advise.

Thanks,

Amy

From: Amy Witryol  
Sent: Monday, February 22, 2010 9:02 AM  
To: Kreuzsch, Arleen K LRB  
Subject: Building 401 follow-up

Hi Arleen -

Could you please transmit this letter and its attachment to LTC Snead and the team?

Thank you.

Amy

**Gillespie, Joey**

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**From:** William Boeck [mailto:boeck@nrc.gov]  
**Sent:** Sunday, March 21, 2010 5:59 PM  
**To:** Darr, Bob  
**Cc:** [mailto:boeck@nrc.gov]

**Subject:** Radioactivity on Vicinity X ( Lewiston property)

**Attachments:** LewistonPropertyIssues.pdf; Comments onLewistonWWTP.doc; commentWWTPcleanup.doc



LewistonPropertyIssues.pdf (2 ...  
sues.pdf (2 ... ewistonWWTP.doc (nup.doc (26 KB)...

I am unable to attend the public meeting on March 24, 2010 to discuss these issues in person. I will be at the baptism of a grandchild in California.

There is strong evidence that the 1954 survey of vicinity property X had serious omissions because the survey design ignored documentary evidence of prior activities when choosing the locations to sample for spilled radioactive materials.

I will reference three documents:

Appxf.pdf (posted by Legacy Management)

LewistonPropertyIssues.pdf (attached)

Comments on LewistonWWTP.doc (attached) these are comments for each slide in the above PDF.

a) Figure 2 on appxf page 4 omits significant locations of activities relevant for spills of radioactive materials.

Evidence:

1) Page 1 of Lewiston property and comments.

The track, loading platforms and vicinity shops used for storing waste are omitted from the cleanup survey plans.

2) See also figure 5-1 of main LM report for aerial photo showing rail line bedding.

3) Page 3 of Lewiston property and comments has a photo of the loading platform that was used for KAPL and MED shipments. The appendix appxf does not even mention the existence of the foundations for these structures used to store KAPL waste. After the pictures in LewistonPropertyIssues are the lists and diagrams of radioactive contaminated locations. The diagrams are followed by documents describing the KAPL operations and a relevant letter.

b) There was significant radioactive spillage immediately south of the property X. (p10 of LewistonPropertyIssues) These Baker-Smith shops locations were artificially separated from the rest of the shops near the WWT by a fence line installed well after the areas were contaminated by usage.

c) Appxf page 25 Table 9 lists a contaminated area of 980 sq meters. It contains no evidence that the platforms were surveyed in spite of the obvious fact the cleanup stopped about 5 meter east of the edge of the loading platform. It defies common sense to stop decontamination on a grid line and not sample the soils between the railroad platform and the spill location. How did barrels unloaded on the platform get to a location adjacent to the platform?

d) The track bed. There were no samples taken of soils under or adjacent to the track bed. Again common sense says leaking barrels of radioactive sludge or tailings could contaminate the track bed. A sieve could separate the radioactive slag used for the track bed from the contaminated soils. Even if the slag was brought to the site before the Manhattan District activities it still is a Federal responsibility.

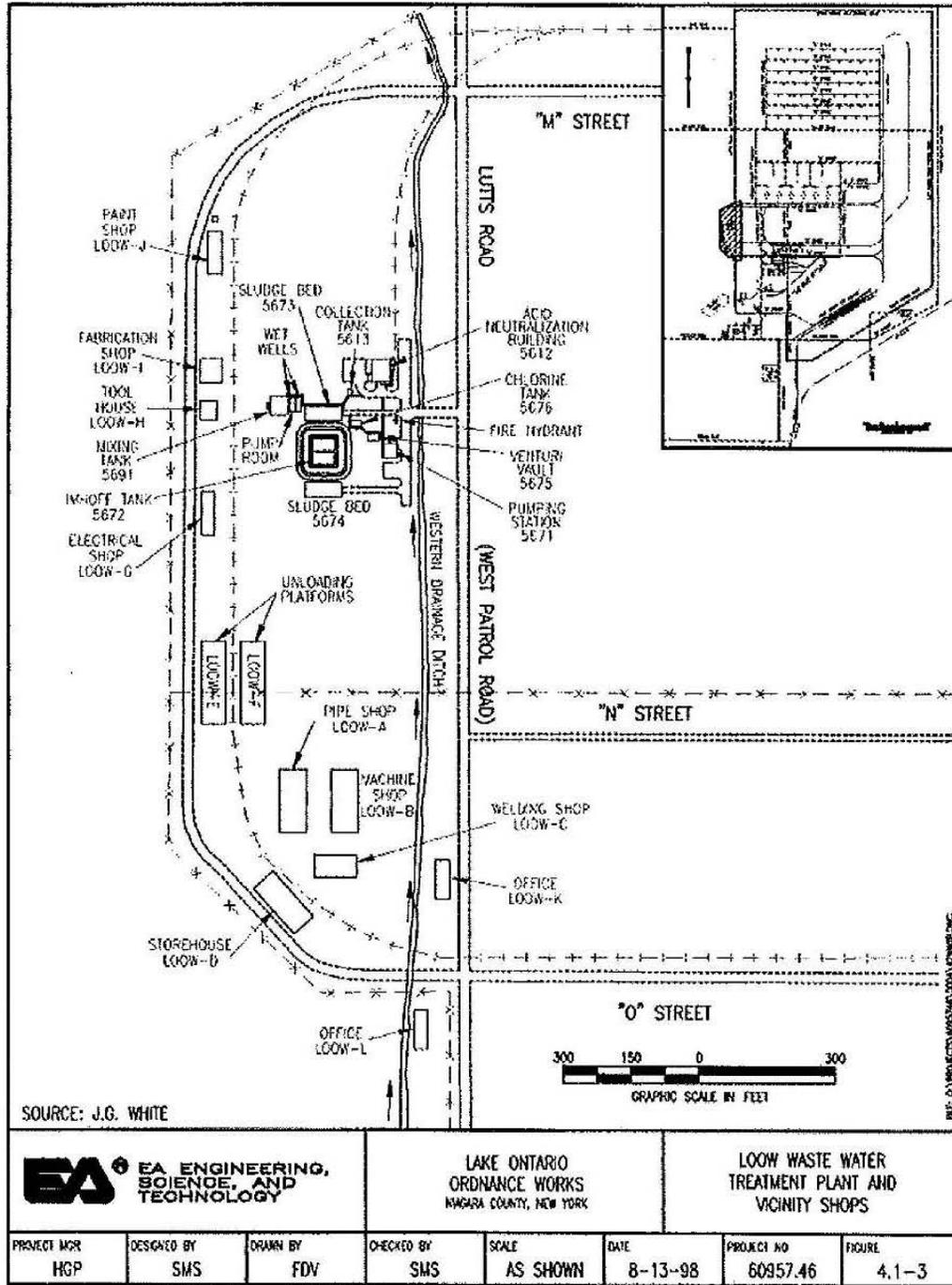
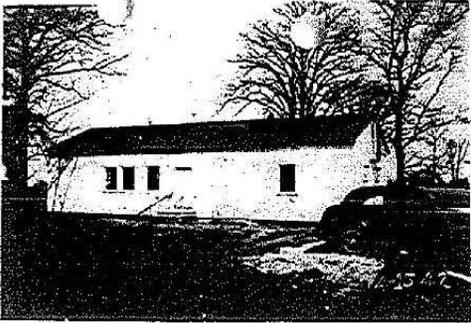
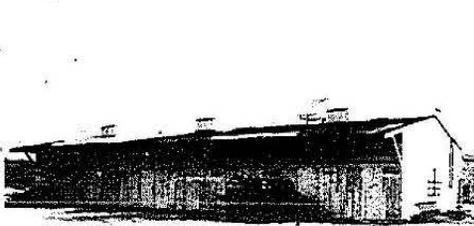


Figure 4-1: LOOW Former WWTP Vicinity Shops



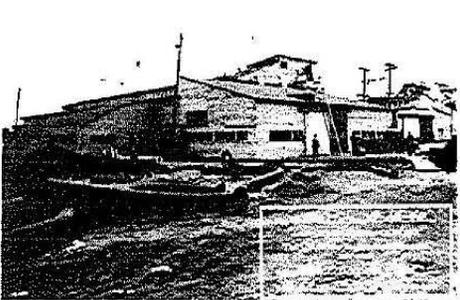
BAKER SMITH FIELD OFFICE (LOOKING NORTHEAST)



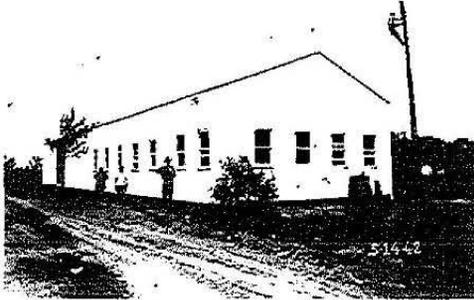
BAKER SMITH AERIALING SHOP (LOOKING NORTHEAST)



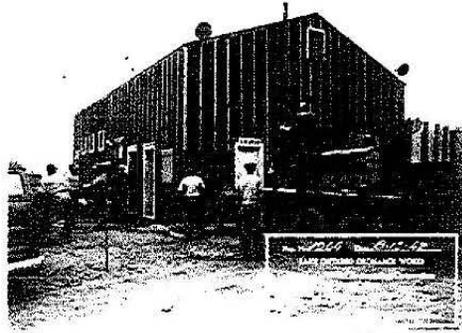
BAKER SMITH MACHINE SHOP (LOOKING SOUTHWEST)



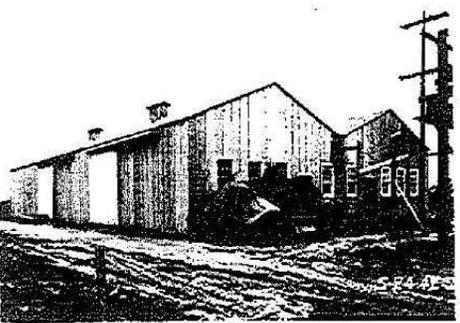
BAKER SMITH PIPE SHOP (LOOKING NORTHEAST)



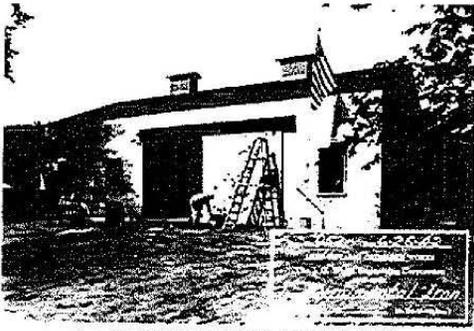
LONG ELECTRIC FIELD OFFICE AND SHOP (LOOKING NORTHEAST)



J. G. WHITE RIGGING SHOP (LOOKING SOUTHWEST)



J. G. WHITE FABRICATION SHOP (LOOKING SOUTHWEST)



J. G. WHITE MECHANICAL SHOP (LOOKING SOUTHWEST)

MECHANICAL SHOP AND SHOP IN CONSTRUCTION ON THE AREA



J. G. WHITE PAINT SHOP AND STORAGE (LOOKING SOUTHWEST)

557

PLATE XXVI

Comment Number 5 (continued)

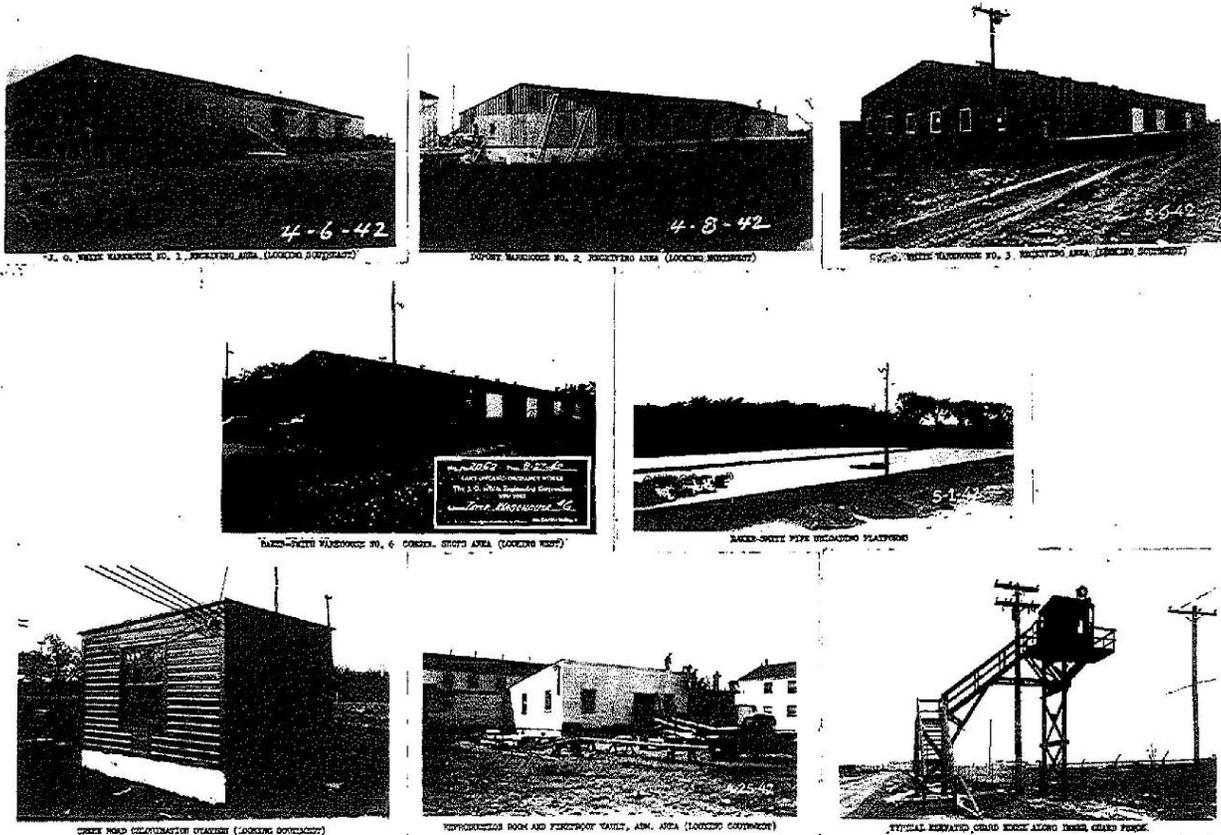


PLATE XXVII

558

Comment Number 5 (continued)

Present Building No.	Former Building No.	Figure B-1 Location No.	Building Name	Material Storage
401	401-1	1	Boiler House	KAPL Waste
403	709	2	Fire House	Miscellaneous Storage*
408	5421	3	Fire Reservoir	Uranium Scrap** (U-Material, stainless steel outside)
410	5435	4	Filter Building	P-54, P-56, P-58 in drums, Middlesex Sands and Miscellaneous Sludge in Bulk
411	5421	5	Cooling Water Reservoir	L-30 in Bulk
412	5434	6	Accelerator	L-50 (3 drums moved in 1979)
413	5433	7	Accelerator	L-50 in Bulk
414	5432	8	Accelerator	L-50 in Bulk
419	411-1	9	Inciinerator Building	Askes From KAPL Waste**
420	713-1	10	General Storehouse	K-65 in Drums (East of building), Empty K-65 Drums in Building, Uranium in Building
421	714-1	11	Material Shed	K-65 in Drums (South of Building), Uranium rods in Building, Uranium in Dirt Floor
422	725-1	12	Parking Garage	Miscellaneous Storage,* Uranium Rods**
423	716-1	13	Garage & Repair Shop	Motor Vehicle Storage*
425	733-1	14	Meeting House	Janitor Supplies & Storage*
427	723-1	15	Laundry	General Storage*
428	722-2	16	Millwright Shop	General Storage*
430	717-1	17	Combined Shops	Uranium Billets, Useable Scrap*
431	None	18	Vault A	Uranium Rods
432	None	19	Vault B	Uranium Rods
433	843-1	20	Wash House (radium vault)	Radium Sources*
438	842-1	21	Cooling Water Storage Tower	K-65
443	-	22	Welding Shop	L-30 in Drums; KAPL Waste
444	-	23	Storage Building	L-30 in Drums; KAPL Waste
445	-	24	Pipe Shop	L-30 in Drums; KAPL Waste
446	-	25	Lord Electric Shop	KAPL Waste
447	-	26	Tool House	KAPL Waste
448	-	27	Paint Shop	KAPL Waste
458	707-3	28	Change House	Safety Equipment*
460	718-1	29	Locomotive Shop	Locomotive Storage*
(North of 445)	-	30	Machine Shop	L-30 in Drums
-	5437	31	Recombination Pit	P-52
-	707-5	32	Change House	Titanium Alloys Manufacturing Co. Storage*
(North of 457)	722-1	33	Riggers Shop	Uranium Saw Dust**
-	814-1	34	Box Factory	Marshaw Material*
-	822-4	35	Change House	Electromet Storage*
-	845-1	36	Compressor House	KAPL Waste
-	877-4	37	Change House	Linde Storage*
-	877-4	38	Change House	Electromet Storage*
-	9050	39	Igloo	K-65
-	-	40	Loading Platform near Igloo	K-65

\* Material listed is not known to be contaminated  
 \*\* Not verified, but inferred from documentation.

KAPL = Knolls Atomic Power Laboratory

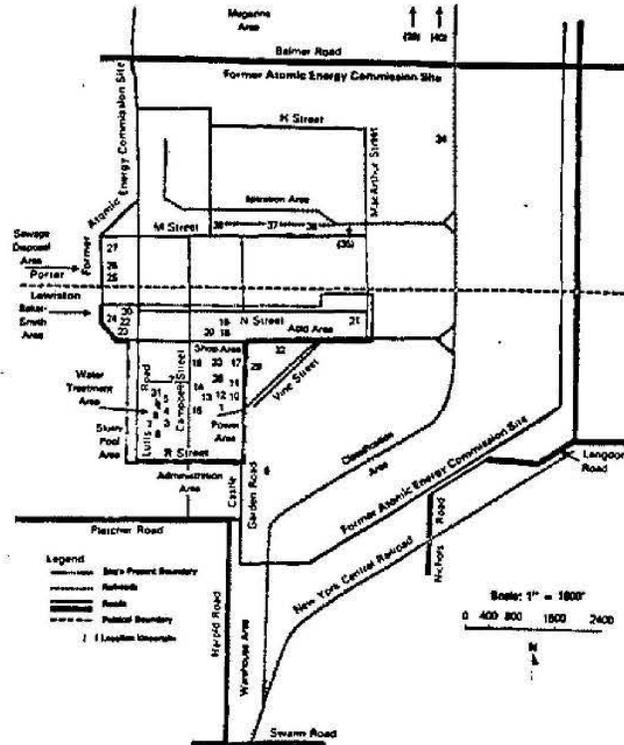


Figure B-1. Buildings Used for Residue or Scrap Storage

B-3

Comment Number 5 (continued)



### Knolls Atomic Power Laboratory Waste

The Knolls Atomic Power Laboratory wastes were semisolid neutralized radioactive waste, consisting of fission products from evaporator bottoms of a pilot plant fuel reprocessing operation placed in stainless steel and carbon steel drums. Crates of combustible and noncombustible waste were also received at Lake Ontario Ordnance Works from January 1952 until September 1954 (Sparks, 1954). Plutonium waste was placed inside 1-gallon cans and packed inside drums that were specially marked (Manieri, 1958).

The first shipment of Knolls waste was stored in a 41- x 96-foot blockhouse (Building 845-1) 20 feet north of M Street in the compressor house area (James, 1952). Later receipts were stored in two adjacent wooden buildings (Greenhalgh, 1952) and the boiler house (Building 401) (Eisenbud, 1953; Showalter, 1953).

With the plans to convert the boiler house to a boron-10 plant and the proposed use of the northern sector by the U.S. Navy, the Knolls wastes were moved in late 1953 (Malone, 1953; Klevin, 1955; Sapirie, 1953). Although documentation suggests outside storage of the drums near the pumping station of the sewage treatment plant (Building 435) (Gorman, 1953), it appears that the only buildings used for storage were those marked on the Hooker Electrochemical Company chart (A-D-353, Rev. 2, April 30, 1957; see Appendix B, Figure B-2) in the Baker-Smith area (Buildings 443, 444, 445, 446, 447, and 448).

By 1957, the Baker-Smith area buildings were in a state of disrepair and without adequate fire protection facilities. It was suggested that the Knolls wastes in Building 445 (Pipe Shop) be moved to the thaw house next to the K-85 tower or to Building 421 (Hanner, 1957a). However, in the same month, it was decided to send the 38,500 cubic feet of waste (350,000 pounds) in Buildings 446 and 448 to the Oak Ridge disposal grounds (Hanner, 1957b; Seager, 1957); therefore, it is unlikely that the move to the thaw house took place.

Based on studies and experimental contaminated-waste burning conducted on an open cement pad at the Lake Ontario Ordnance Works, it was discovered that significant volume reduction of combustible wastes could be attained (Harris, 1954; Weinstein, 1954). The Atomic Energy Commission instructed Hooker Electrochemical Company to burn low-level (6 milliroentgens/hour or less) crates and barrel the ashes for shipment to Oak Ridge (Carney, 1958; Hanner, 1958a). The

burning was to be done on a cement pad or in the incinerator (Building 419). Hooker suggested using a loose cinder block concrete outdoor fireplace erected on an existing concrete pad. A metal backstop used for indoor pistol practice was modified to contain a fan-operated water scrubbing arrangement to remove particulate matter that might be carried up the stack (Walker, 1957). It is possible that the pad used for burning the combustible wastes was the change house south of the locomotive shop on Castle Garden Road where Oak Ridge National Laboratory discovered cesium-137 in the soil (Haywood, 1981). No plutonium-bearing waste or unmarked waste was to be burned. (Ashes in crates sent from the Knolls Atomic Power Laboratory were to be buried onsite because they were uncontaminated. It is not clear why this uncontaminated waste was sent to the Ordnance Works (Hanner, 1958b).)

Building 444 waste crates were described as so weathered that the markings were undecipherable. As a precaution, the crates were shipped to Oak Ridge, rather than risk the inadvertent burning of plutonium-contaminated waste (Sweeney, 1958; Hanner, 1958b). Reports indicate that 494 carbon steel drums were so rusted that they had to be placed in larger drums prior to shipment (Sweeney, 1957). (The location of the redrumming operation has not been ascertained.)

Buildings 401 and the block house in the compressor house area were decontaminated to background levels (stated as less than 0.63 milliroentgen/hour). Buildings 446 and 448 were released for unrestricted use in mid-1958. Building 444 (burned, with only a concrete pad remaining on the present Lake Ontario Ordnance Works site) was discovered to be contaminated (1 to 60 milliroentgens/hour) in the 1970 screening survey. A ditch flowing east from the pad was described as contaminated up to 2 milliroentgens/hour for 200 to 300 feet. Cesium-137 (a fission product) was found by analysis to be present. The cesium-137 was again identified in the 1978 aerial radiological survey report (EG&G, Inc., 1979) and in the 1979 Battelle Columbus Laboratories radiological survey with several areas as high as 70 milliroentgens/hour at 1 centimeter.

Offsite vicinity properties associated with the Knolls waste are the buildings in the compressor house area (due north of the K-65 tower on M Street) and those in the sewage treatment plant area. The location of the waste incineration has not been ascertained, but could possibly be a pad south of the locomotive shop on Castle Garden Road or the incinerator (Building 419).

THE FILES

August 31, 1953

Arthur E. Gorman, Sanitary Engineer  
Division of Engineering, Washington

DISPOSAL OF KAPL WASTES AT LOSA

*Loow*

SYMBOL: RD: AEG

While Joe Lieberman was at KAPL August 20-21, information was relayed to him that Art Mathison of KAPL had been advised at a meeting at NYCO that there would be space at LOSA for storage of only three of the nine carloads of miscellaneous radioactive wastes being prepared for shipment. It was requested that this office resolve this matter with NYCO as it appeared to be out of line with information Jim Quidor of NYCO had previously given me.

I called Quidor on August 25 and learned that there had been some discussion between NYCO (or LOSA) with Walton of SOO. The latter had been informed that in the building to which the former shipments from KAPL were to be moved there would not be enough additional space for the entire new shipment if all waste material were placed in covered structures. This apparently was one of the reasons for the KAPL reference to Lieberman.

As I had previously discussed with Art Mathison the feasibility of outdoor storage for some of these wastes - especially concentrates and sludges which were shipped and stored in steel drums - it was suggested to Quidor that storage of drums might be out of doors with or without cover by tarpaulin. Quidor said NYCO had some reservation about storing boxes and bales of combustible radioactive material out of doors, but was agreeable to outside storage of the steel drums holding radioactive sludges. He said if KAPL would approve outside storage of these drums there would be adequate inside storage at LOSA both for all the earlier KAPL waste in boxes and those in the proposed nine-car shipment. This inside storage would be within the area to be reserved at LOSA for current and future use and would include the two areas studied by the USOS as possible sites for a burial ground for radioactive wastes.

I agreed to call Art Mathison at KAPL to reconfirm his position with reference to outside storage of drums. This was done the same day, August 25, and Mathison concurred. This information was telephoned to Quidor late that afternoon.

The Files

- 2 -

August 31, 1953

On August 25 Quidor called again and said NYOO had decided to enlarge somewhat the area to be reserved for its new operations, and this would include the sewage treatment plant of the former Lake Ontario Ordnance Plant. The buildings have been stripped of most of the plant operating facilities such as pumps and motors. It is now proposed to store KAPL combustible wastes in the abandoned pumping station at this plant.

CC: A. Mathison, SOO (1)  
J. Quidor, NYOO (2)

Comment Number 5 (continued)

H6-6

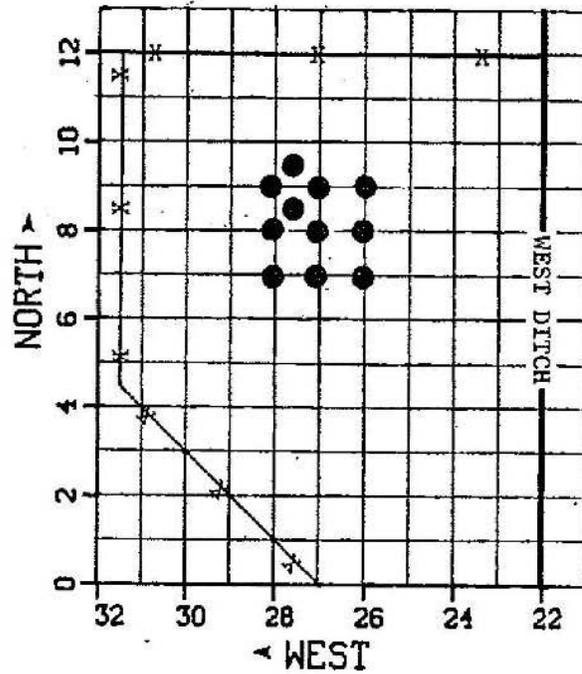


FIGURE H6-1. CORE LOCATION WITHIN THE CONTAMINATED AREA OF THE NORTHWEST QUADRANT

### Radiological History

There is no evidence of contaminated waste burial or storage on property X; however, past surveys have identified elevated direct radiation levels along the West Drainage Ditch and near the southern property boundary.<sup>1-3</sup> Previous runoff from residues stored on the NFSS has been indicated as the source of contamination in the West Drainage Ditch. Elevated radiation levels on the southern portion of the property are believed to be due to radioactive materials still present on the adjacent federal government site. Elevated levels have also been noted near several buildings of the sewage treatment plant. The source of these higher levels may be naturally occurring radionuclides in rock used as fill and for cover roads and parking areas.

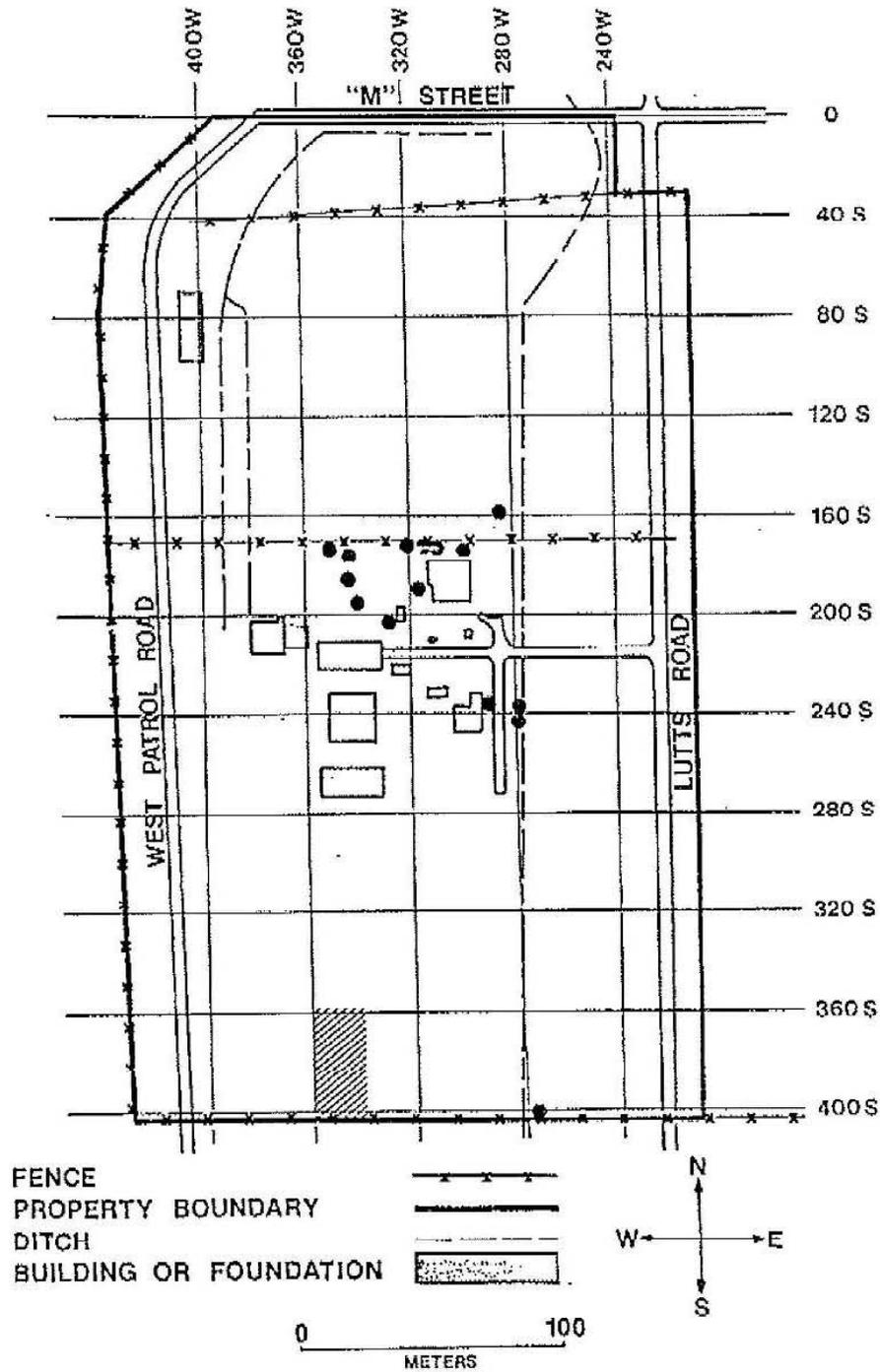


FIGURE 8. Map of NFSS Off-Site Property X Indicating Areas Where Radionuclide Concentrations in Soil Exceed Criteria. (Cross hatching indicates a large general area and dots indicate small isolated areas or "hot spots.")

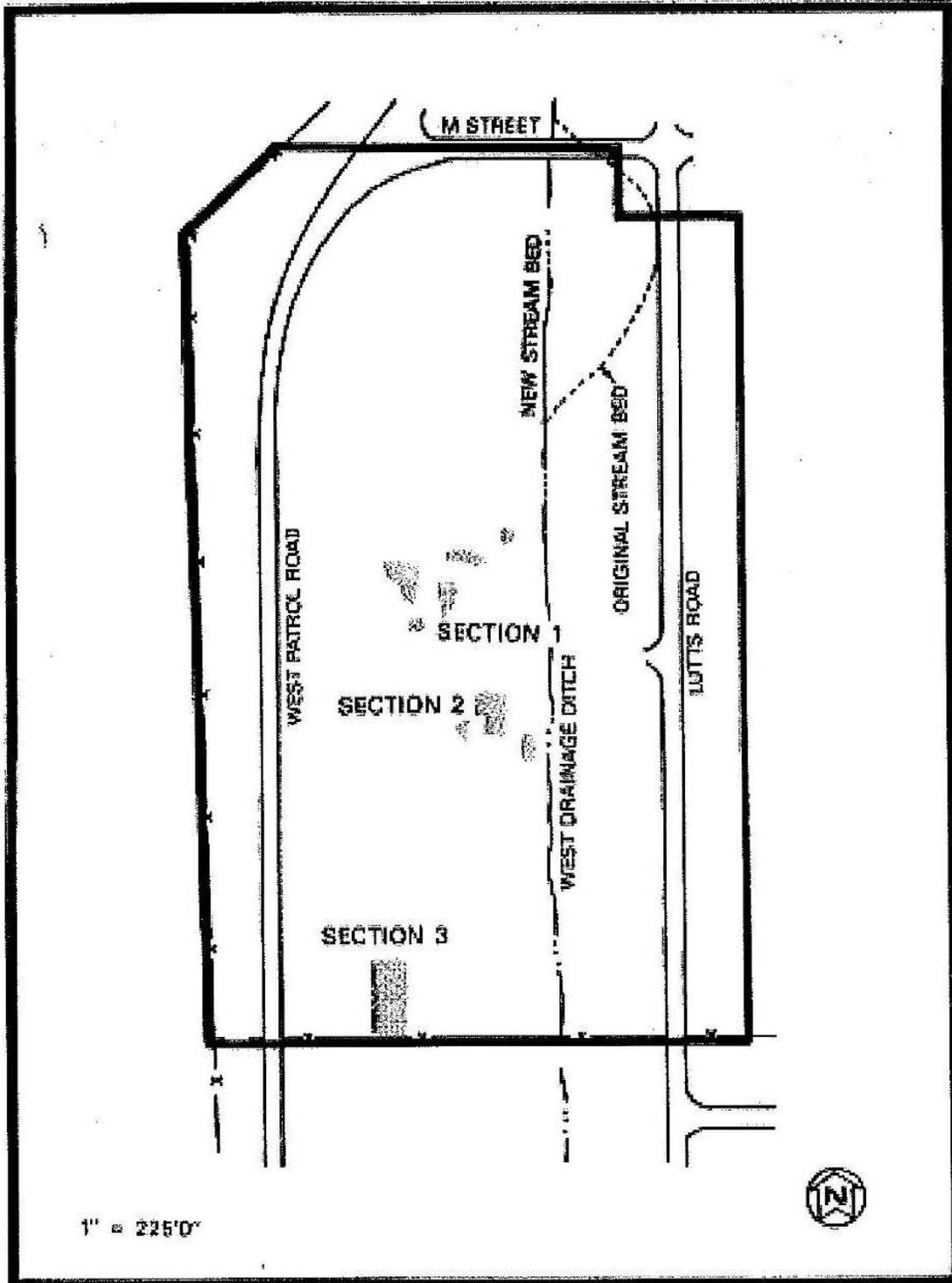


FIGURE 31 EXCAVATED AREAS ON PROPERTY X

### Area 3

Area 3 is a small area between West Patrol and Lutts roads slightly south of the north perimeter of the Site. Surface beta-gamma readings (1 cm) ranged up to 70 mR/hr in very small areas near two small concrete pads. On the grid points, beta-gamma readings ranged from background to 2 mR/hr in the area (see Appendix H, Figures H3-5 and H3-6).

Comment Number 5 (continued)

This area is a small portion of the northwest portion of the Site near two small concrete pads. A summary of the radiological and nonradiological characteristics of the area is given in Table 5-4.

The primary contaminant is cesium 137 ( $^{137}\text{Cs}$ ) (see Appendix H, Table H6-1 and H6-2). The contamination is superficial extending to only 1.2 m (4 ft) in depth in a small area 1 m<sup>2</sup> (10.8 ft<sup>2</sup>) (see Appendix H, Figure H6-1). Other isotopes (e.g.,  $^{226}\text{Ra}$ ) are only present in small amounts and may be associated with the slag used for a roadbed found in the area (see Appendix H, Table H6-1). No  $^{90}\text{Sr}$  was detected in association with the  $^{137}\text{Cs}$  contamination.

Several metals were detected in surface soil (see Table 5-4 and Table H6-3). Copper levels exceeded those occurring naturally by an order of magnitude; however, other elements occurred at or below those occurring naturally.

Comment Number 5 (continued)

389. The work included the necessary clearing and grubbing for the right of way and the following quantities of earth and other materials handled or used:

Stripping topsoil	657,818 S.F.
Subgrade excavation	1,423 C.Y.
Ditch and culvert excavation	675 C.Y.
Embankment and grading	146,564 C.Y.
Slag ballast	62,247 C.Y.
Cinder ballast	34,648 C.Y.
Railroad trackage	75,658 L.F.
Culvert pipe	2,269 L.F.
Turnouts or crossovers	67
Bumpers	26
Derailers	3

Comment Number 5 (continued)

UTILITIES

Roads (Continued)

New Roads (Continued)

374. Clearing and grubbing was done where required and the earth moved and materials used were as follows:

Earth moved	274,468 Cu. Yds.
Earth manipulated only	9,989 Cu. Yds.
Chemical slag	77,917 Cu. Yds.
Slag and stone	190,567 Tons
Sand and stone dust filler	40,266 Tons
Asphalt emulsion	547,663 Gallons
Hot asphalt	287,053 Gallons

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1) The vicinity shops on the Lewiston property as well as the "Baker-Smith" section were the main locations contaminated by reactor waste (KAPL) after earlier use to store L30 uranium residues. Baker-Smith is the name of a contracting company. A letter dated 11/25/1945 regarding Mx (code for uranium residues) states "Barrels and drums stored in the Baker-Smith area are rapidly deteriorating, and it is estimated that by the summer of 1946 a large amount of the material will have to be rebarreled if the sludge is to be moved." This is the L30 sludge (2,579,232 dry weight) from Linde. L30 was originally 12% uranium ore.

The first remediation effort on the Lewiston property took place in 1971 under the direction of the Atomic Energy Commission. Contamination was identified along the entire length of the West Drainage Ditch and in an area 50ft X 50 ft east of the Acid Neutralization Building. No post remediation data has been located in respect of this decontamination.

(See Visit report of William T. Thornton, May 17, 1971 and National Lead Company of Ohio, LOOW Plot Plan Showing Areas of Work, 7.12.71.)

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Of interest in this figure are the vicinity shops on the left side of the map. From north to south there is the Paint shop, Fabrication shop, Tool house, Lord Electrical shop, two unloading platforms. After the property was divided, a fence separated the LWWTTP property from the Baker-Smith section of the NFSS. On the NFSS side are the Machine shop, Pipe shop, Welding shop and a storehouse.

We will come back to the importance of the railroad track adjacent to these buildings

Ref: Summary of Investigations, LOOW, August 2003, Figure 4-1

\*\*\*\*\*

2) There are now pictures and dimensions showing the large size of the buildings used for storage. In particular there is a picture of the large unloading platforms (50 x 204 ft), I claim that these platforms were used to load and unload KAPL waste on the Lewiston property. Plate XXVII center right

- 1 - Paint shop 29' x 83' Plate XXVI bottom left
- 1 - Welding, Blacksmith, & Fabricating 58' x 100' Plate XXVI bottom right
- 1 Tool house
- 1 Electrical Shop (Lord Electric) 29' x 120' Plate XXVI center of center row
- 1 - Pipe (Baker-Smith) 60' x 150' Plate XXVI center left
- 1 - Welding (Baker-Smith) 40' x 100' Plate XXVI top center
- 1 - Machine (Baker-Smith) 60' x 150' Plate XXVI top right
- 1 - Storehouse #6 (Baker-Smith) 60' x 150' Plate XXVII center left

Ref: LOOW Construction Completion Report, 4/1/1943, V2 plates 26 and 27

LOOW Construction Completion Report, 4/1/1943, V1 p. 70

\*\*\*\*\*

3) The Aerospace report lists these buildings as KAPL storage locations and the text identifies them explicitly as the paint shop, tool house, Lord electric shop, pipe shop,

welding shop and Storage building, There may be a discrepancy in identification between the Fabrication shop and the Tool house

Ref: Background and Resurvey Recommendations for the AEC portion of LOOW, November 1982 figures B-1, B-2, and B-3.

\*\*\*\*\*

4) This loading area was a major loading and unloading location the radioactive waste and MED uranium wastes which arrived by train. Other letters refer to the railroad shipments and LWWTP pumping station (adjacent to buildings already storing KAPL waste). A more complete commentary is in the Community LOOW Project report Appendix H Historical Notes Concerning Radioactive Waste from The Knolls Atomic Power Laboratory on the LOOW Site

\*\*\*\*\*

5) A cleanup diagram shows the contaminated soil area is between three buildings (Machine, Pipe and Welding shops) used to store KAPL wastes on "Baker-Smith". Ref: A Comprehensive Characterization and Hazard Assessment of the DOE..., 1981, Figure H6-1

\*\*\*\*\*

6) The Cleanup report for vicinity property X (LWWTP) includes the erroneous claim "There is no evidence of contaminated waste burial or storage on property X." It also claims the elevated levels near the sewage plant may be due to "rock". This same report located a contaminated area adjacent to the Railroad loading platform without mentioning the presence of this pair of 204 foot loading platforms extending from Baker Smith onto Lewiston property. There is no record of finding contamination of the NFSS portion of the platform! No record of sampling the railroad bed for spilled materials!

Note, the only KAPL waste contaminant analyzed for was Cs-137.

Ref: Comprehensive Radiological Survey, Off-site Property X, 1984, p2. p 18

\*\*\*\*\*

7) The contaminated area on Baker-Smith on the NFSS has Cs-137 but not Sr-90. However, the fission product waste from KAPL was known to contain approximately equal amounts of Cs-137 and Sr-90, which suggests testing to date for Sr-90 on the NFSS has been inadequate and requires further review. Radium is associated with slag (railroad bedding). L-30 was also stored in this area.

Ref: A Comprehensive Characterization and Hazard Assessment of the DOE..., 1981, p 5-31

\*\*\*\*\*

8) Who is responsible for bringing the radioactive slag onto the LOOW? Paragraph 389 of the construction report states railroad construction used 62, 247 Cubic Yards of "Slag Ballast". Paragraph 374 states 77,917 cubic yards were of "Chemical slag" were used to construct new roads on the LOOW site. The Federal Government brought the radioactive slag onto the LOOW site.

Comment Number 5 (continued)

DRAFT VERSION

10/7/2010

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Ref: LOOW Construction Completion Report, April 1, 1943, VI, p322, 324

Comment Number 5 (continued)

I am unable to attend the public meeting on March 24, 2010 to discuss these issues in person. I will be at the baptism of a grandchild in California.

There is strong evidence that the 1954 survey of vicinity property X had serious omissions because the survey design ignored documentary evidence of prior activities when choosing the locations to sample for spilled radioactive materials.

I will reference three documents:

*Appxf.pdf* (posted by Legacy Management)

*LewistonPropertyIssues.pdf* (attached)

*Comments on LewistonWWTP.doc* (attached) these are comments for each slide in the above PDF.

a) Figure 2 on *appxf* page 4 omits significant locations of activities relevant for spills of radioactive materials.

Evidence:

1) Page 1 of *Lewiston property* and *comments*.

The track, loading platforms and vicinity shops used for storing waste are omitted from the cleanup survey plans.

2) See also figure 5-1 of main LM report for aerial photo showing rail line bedding.

3) Page 3 of *Lewiston property* and *comments* has a photo of the loading platform that was used for KAPL and MED shipments. The appendix *appxf* does not even mention the existence of the foundations for these structures used to store KAPL waste. After the pictures in *LewistonPropertyIssues* are the lists and diagrams of radioactive contaminated locations.

The diagrams are followed by documents describing the KAPL operations and a relevant letter.

b) There was significant radioactive spillage immediately south of the property X. (p10 of *LewistonPropertyIssues*) These Baker –Smith shops locations were artificially separated from the rest of the shops near the WWT by a fence line installed well after the areas were contaminated by usage.

c) *Appxf* page 25 Table 9 lists a contaminated area of 980 sq meters. It contains no evidence that the platforms were surveyed in spite of the obvious fact the cleanup stopped about 5 meter east of the edge of the loading platform. It defies common sense to stop decontamination on a grid line and not sample the soils between the railroad platform and the spill location. How did barrels unloaded on the platform get to a location adjacent to the platform?

d) The track bed. There were no samples taken of soils under or adjacent to the track bed. Again common sense says leaking barrels of radioactive sludge or tailings could contaminate the track bed. A sieve could separate the radioactive slag used for the track bed from the contaminated soils. Even if the slag was brought to the site before the Manhattan District activities it still is a Federal responsibility.

The S.M.Stoller Corporation  
Contractor to the U.S.Department of Energy

# Memo

**To:** Niagara Falls Storage Site Vicinity Property (FUSRAP Site) Records  
**From:** Joey Gillespie, S.M.Stoller Corporation (Stoller)  
**CC:** Mike Widdop ( Stoller), Bob Darr (Stoller), Chris Clayton ( U.S.DOE)  
**Date:** 4/28/2010  
**Re:** Comments Received from Mrs. Amy Wiltryol

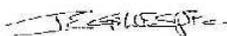
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**March 2010 For Public Comment Only Report Titled: *Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches.***

One page of comments were hand delivered on the evening of March 24, 2010 from Amy Wiltryol to Joey Gillespie in the presence of Bob Darr, Stoller Public Affairs for U.S.DOE and Chris Clayton FUSRAP Program Manager. Comments were received typed on one single sided page without date, time, or author information. Therefore it was necessary for the public record to provide this cover as a memo to file to provide the necessary details.

**Attachments:** Single sided one page of comments on the "For Public Comment Only" document as titled above.

2010.04.28

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From DOE's March 2010 Draft NFSS Vicinity Properties Report:

"DOE uses the following criteria to determine if a site should be referred to USACE for further assessment:

- A third-party characterization or survey reveals existing MED- or AEC-related contamination that was not previously identified; [survey conducted only by CWM Chemical]
- A review of historical records indicates the potential for existing MED/AEC contamination that was not previously identified [the entire LOOW site, ignored by NYS DEC for years until it interfered with CWM's expansion application]; or
- An individual with credible *institutional* knowledge provides information that additional MED/AEC contamination might exist that was not identified in previous assessments." [Allows DEC/Army Corps input but can exclude County Health Dept. or Attorney General; "institutional" excludes a referral based on public input.]

---

**The process outlined in the DOE draft report is entirely unacceptable and gives the agencies free reign to lobby the DOE for expenditures on closed vicinity properties absent transparency and meaningful public input. Recommendations:**

1. Each request, and, comments from the agencies (DEC/Army Corps,) must be transparent and available *before*, not *after* DOE decisions are made to refer a closed vicinity property to the Corps. The public must be given a reasonable period in which to comment on information provided by any agency or stakeholder issuing a request for a referral.

This March 2010 draft provides stakeholders only 30 days to gather information on 26 Vicinity Properties. Thereafter, stakeholders are excluded from review of all information and agency communication used to inform DOE referral decisions.

2. Potentially Responsible Parties and agreements on allocable taxpayer costs must be identified in *advance* of any approval to allocate federal resources to a closed vicinity property.
3. Referrals and associated funding should be appropriated for investigation into VPs impacted by potential migration from the NFSS and publicly owned properties.
4. Funds should not be appropriated where state regulatory authority is already available to require investigation and remediation by a responsible party.

According to Bill Kowaleski, FUSRAP does not require a Potentially Responsible Party process in advance of investigating and remediating contamination. It would be inappropriate for DOE to refer the Army Corp to spend federal taxpayer dollars at CWM and then later, if ever, try to collect from this insulated subsidiary company which has only toxic assets.

- CWM has landfilled radiological wastes
  - CWM imported contaminated material for construction on its property
  - CWM accepted wastes from the Knolls Atomic Power Lab and weapons production sites
  - CWM's "scanning" of incoming material is insignificant to the volumes received,
- but CWM is not listed as a source of FUSRAP or KAPL material in the DOE March 2010 report.

Comment Number 7

RE Message for Chris Clayton

-----Original Message-----

From: J Rauch  
Sent: Thursday, March 25, 2010 2:34 PM  
To: Kreuzsch, Arleen K LRB  
Cc: James Rauch  
Subject: Message for Chris Clayton

Arleen: Please forward this message to Mr. Clayton.

Mr. Clayton:

In the course of my comments at last evening's combined LOOW/NFSS meeting, I asked you if the radiation survey conducted in 1994 by myself and three other ROLE members was considered during DOE's selection process for areas to investigate following the decision to re-verify several NFSS Vicinity Properties. You were unfamiliar with the 1994 report that I wrote for this survey, and so, you could not answer this question. The report was distributed by Tim Henderson after it was prepared and has been available for many years on the web at:  
<http://nuclear.bfn.org/nfss-survey-1994.pdf>

Jim Rauch

### RADIATION SURVEY OF NFSS VICINITY

On Sunday October 2, 1994, Jim Rauch, Tim Henderson, John Kohl and Pete Ohanessian conducted a gamma radiation exposure survey of several areas surrounding the Niagara Falls Storage Site (NFSS). The equipment used was made by Ludlum Measurements, Inc.: a Model 44-2 detector (a one inch sodium iodide crystal and 10 stage photomultiplier tube) connected to a Model 2221 scaler/ratemeter. The meter was used in the gross counting mode and the threshold energy was set at 50 kilo-electron volts (keV). Measurements were taken with the detector held approximately 2 feet above the ground at each data collection point (see map).

Gross counts were accumulated for one minute, using the digital scaler, and recorded as counts per minute (cpm). With this equipment setup, 200 cpm roughly corresponds to a radiation exposure of one microRoentgen per hour (microR/hr).<sup>\*</sup> MicroRoentgens per hour can be converted to milliRoentgens per year by multiplying by 8.76 (there are 8760 hours in a year); and milliRoentgens per year can be converted to millirem per year (mrem/yr) by multiplying by 0.83. The raw data (cpm) and these conversions (microR/hr and mrem/yr) are presented in the table below.

Background exposure was determined at the rear of the property at 953 Ridge Road and in the front yard at 415 Tryon Drive, both in the Town of Lewiston. These values were within the expected range, for this area, of 7 to 10 microR/hr (51 to 73 mrem/yr).

Measurably elevated exposure rates were found at several of the the locations: 1,5,6,7,8 and 9. These locations exhibited exposure rates (around-the-clock) above recent New York State Department of Environmental Conservation cleanup guidance for soils contaminated with radioactive materials (TAGM-4003) which limits maximum residual exposure to 10 mrem/yr above background. Accordingly, further investigation of these areas may be necessary to determine if these elevated exposures are due to site-related contamination.

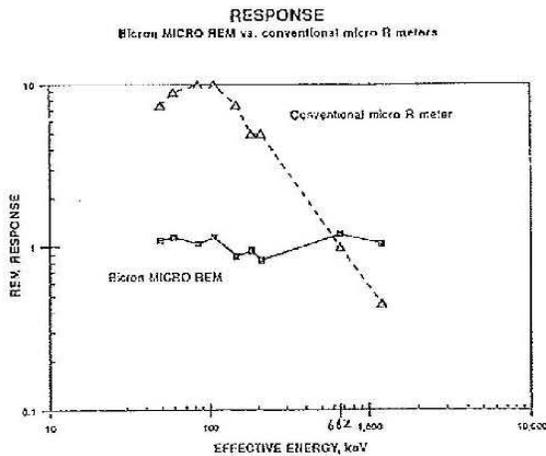
\* Because the energy response of the sodium iodide detector is not flat across the gamma energy spectrum, this relationship is dependent upon the distribution of gamma energies (the shape of the gamma energy spectrum) being measured remaining fairly constant. The relationship (200 cpm representing approximately 1 microR/hr) holds for the typical mix of terrestrial background gamma sources (naturally-occurring potassium-40, and uranium and thorium decay chain members) encountered in the field. However, a disproportionate increase in the lower energy gamma contribution (below 662 keV) to the total count rate will result in a corresponding overestimation of exposure rate (in microR/hr). Similarly, a disproportionate increase in the higher energy gamma contribution (above 662 keV) will result in a corresponding

Comment Number 7 (continued)

underestimation of exposure rate. See energy response curve of typical sodium iodide detector, identified as "conventional micro R meter", shown below.

TABLE

<u>Location</u>	<u>cpm</u>	<u>microR/hr</u>	<u>mrem/yr</u>
Background:			
935 Ridge Road	1800	9.0	65
415 Tryon Drive	1503	7.5	54.5
1) swale between Pletcher Rd. and old IOOW road (near telephone pole SPA 435)	2802	14.0	102
2) West Drainage Ditch, south side of Pletcher Rd.	2424	12.1	88.1
3) West Drainage Ditch, north side of Pletcher Rd.	2050	10.2	74.5
4) swale near DOE fence along West Drainage Ditch	2188	10.9	79.5
5) ditch on east side of NFSS entrance road	2842	14.2	103
6) pavement opposite west side road	3196	16.0	116
7) pavement about 20 yards south of (6)	3104	15.5	113
contact (1 centimeter)	3324	16.6	121
8) Niagara Mohawk access road next to KOA campground	3704	18.5	135
9) pavement along old LOOW road	2997	15.0	109
10) west bank of Four Mile Creek	1607	8.0	58
11) south bank of Central Drainage Ditch, east side Lutts Rd.	2185	10.9	79.4



The MICRO REM and MICRO SIEVERT models are lightweight, portable survey meters for applications where accurate dose rate measurements of low radiation levels are required. They read absorbed dose rate directly so no conversion from mR/h is required.

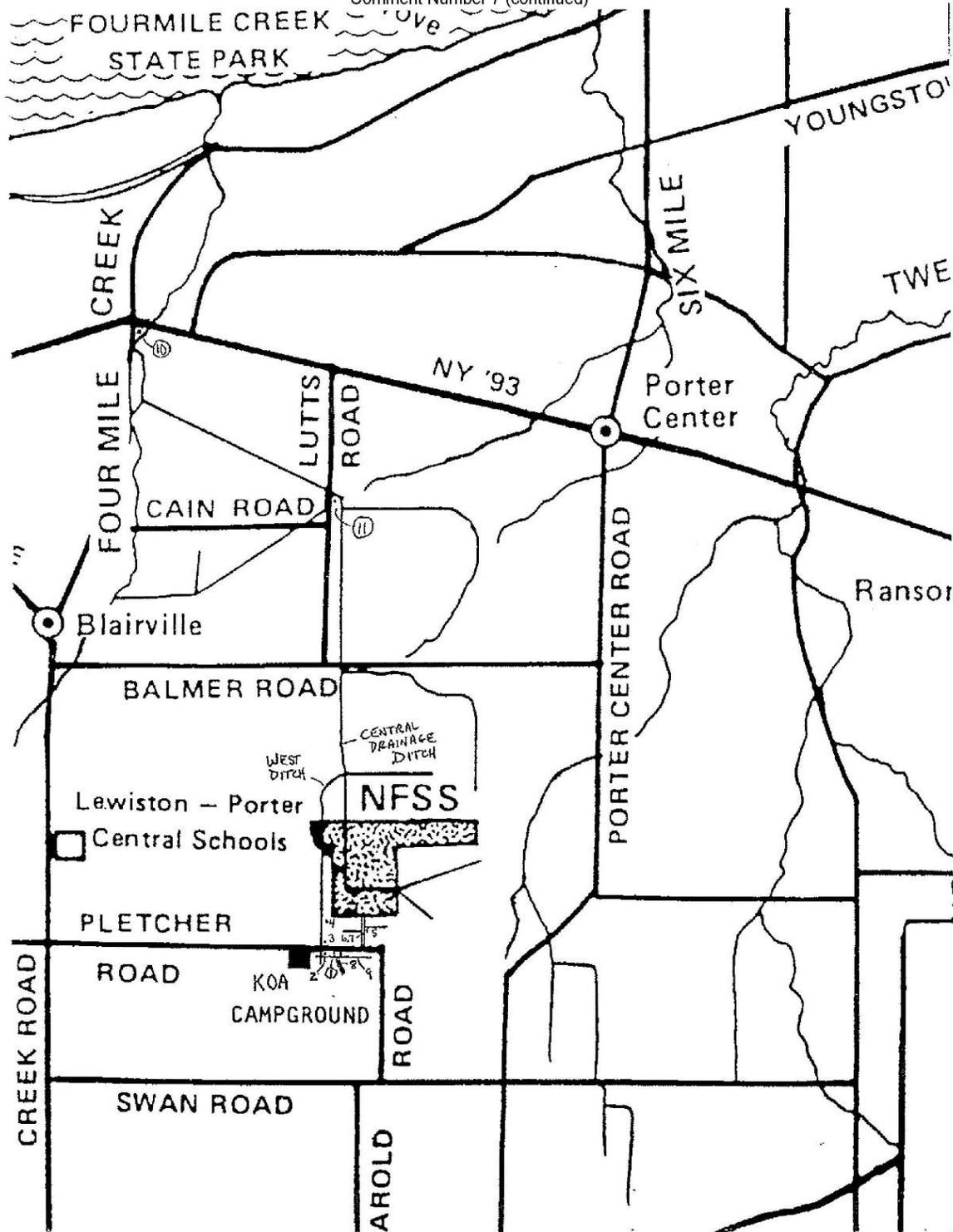
The tissue-equivalent scintillator used in these instruments gives them a nearly flat, rem energy response. This rem response is based on the deep dose equivalent index for 1 cm depth, uniparallel directional beam as calculated on the ICRU standard sphere.

These instruments' rem response and accuracy sets them apart from conventional "micro R" meters which use NaI(Tl) detectors. NaI(Tl) detectors overrespond to low energies and produce erroneously high readings. Also, you have to convert  $\mu\text{R/h}$  readings to  $\mu\text{rem/h}$  to get absorbed dose.

(graph and text from Bioron Radiation Measurement Products catalog)

James Rauch

12-15-94



Comment Number 8

-----Original Message-----

From: Ann Roberts  
Sent: Tuesday, March 30, 2010 9:49 AM  
To: Darr, Bob  
Subject: LOOW and prior remediation

Dear Mr Darr,

Unfortunately I was unable to attend the DOE presentation at Lewiston last week. However, I am currently reviewing the March 2010 DOE report, "NFSS VPS, NY: Review of Radiological Conditions at six Vicinity Properties and Two Drainage Ditches" and have a couple of questions.

1) In reading through the report, the following paragraph, suggests that previous remediation efforts by DOE contractors probably left KAPL wastes in place, on both the NFSS and NFSS vicinity properties, because KAPL wastes were not considered to be eligible for remediation under FUSRAP at the LOOW site.

"Based on process knowledge typically when other radiological materials were encountered during assessment, remediation and verification DOE contractors generally left them in place and documented their occurrence."  
(4.1 Definition of FUSRAP Waste, page 4.1, para 4)

Were radioactive materials, such as Cs-137 and Sr-90, which were generated at the KAPL SPRU in the late 1940s and early 1950s, remediated on areas of the LOOW/NFSS in the 1980s under FUSRAP?

2) Does FUSRAP address radiological groundwater contamination? The focus of prior remediation appears to have been soil only.

Many Thanks,  
Ann Roberts

Comment Number 9

-----Original Message-----

From: Amy Witryol  
Sent: Friday, April 16, 2010 7:58 AM  
To: Clayton, Christopher  
Cc: Gillespie, Joey  
Subject: 2nd request: March 2010 Report

Status?

Amy

From: Amy Witryol  
Sent: Tuesday, April 06, 2010 11:03 AM  
To: christopher clayton  
Subject: March 2010 Report

Hi Chris -

Per our conversation at the Corps meeting, could your office provide or post all of the documents which the Army Corps provided in connection with this project, which are not listed in the report's bibliography?

Amy

Comment Number 10

-----Original Message-----

From: Zeltmann, Christopher  
Sent: Friday, April 23, 2010 1:33 PM  
To: Clayton, Christopher; Darr, Bob  
Cc: Kowalewski, William E LRB  
Subject: RE: USDOE - working it

Chris, I understand your consultant is preparing a response to the request we forwarded from Amy Witryol for an extension of the public comment period. I look forward to getting that this afternoon.

But I also wanted to discuss with you whether there is a pre-existing established process for referring a re-opened vicinity property to the Corps. I heard you are traveling, but would like to speak with you at some point. I can be reached directly at 585-232-2585 or 202-527-0294 (mobile). Thanks

-Chris

Christopher Zeltmann  
Director of Economic Development  
Office of Congresswoman Louise M. Slaughter

Sign up for the Louise Line to get periodic E-Updates from Congresswoman Slaughter

-----Original Message-----

From: Kowalewski, William E LRB  
Sent: Wednesday, April 21, 2010 11:59 AM  
To: Zeltmann, Christopher  
Subject: USDOE - working it

Chris

Quick update - made contact with USDOE through our Corps HQ. DOE is working the request to extend public comment on their report. Will advise as soon as I hear from them.

Bill

William E. Kowalewski, PE, PMP  
US Army Corps of Engineers  
Buffalo District  
Chief, Special Projects Branch

From: Amy Witryol  
Sent: Monday, April 19, 2010 12:24 PM  
To: Zeltmann, Christopher

Comment Number 10 (continued)

Cc: Joseph Gardella Jr.

Subject: DOE deadline Friday

Chris -

Can your office support the following requests of DOE before the Friday deadline?

1. Request a 120-day extension of the (30-day) public comment period on the draft "Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches, March 2010"
2. Request DOE work with all stakeholders to create a fair and transparent decision-making process when considering the referral of any closed NFSS vicinity property to the U.S. Army Corps of Engineers. The report identifies three criteria for these referrals. However, it provides; a) no process to inform the public of referral requests, b) no public access to information provided DOE for review of such requests, c) no opportunity for the public to comment on the accuracy or add to that information, prior to a DOE decision. \*

The second request is extremely important because the current decision-making process is 100% behind-closed-doors between DOE, NYS DEC and USACE - the public has not even been furnished with copies of information USACE has already provided DOE - those documents were NOT included in the DOE report bibliography, so we don't even know what they are.

The agencies are already planning private closed-door conference calls with DOE to discuss new taxpayer-funded referrals. The conflicts of interest at the site call for more, not less transparency.

Finally, very bad news at EPA. The groundwater expert who drafted excellent EPA analysis of the NFSS RI has been transferred from EPA Radiation to EPA RCRA. That will require EPA to rely heavily if not exclusively on DEC analysis going forward.

Amy

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REQUESTS TO:

U.S. Department of Energy Office of Legacy Management

c/o Bob Darr, LMS Public Affairs

S.M. Stoller Corporation

Contractor to the U.S. Department of Energy

11025 Dover St., suite 1000

Westminster, CO 80021

cc: Christopher J. Clayton, Office of Legacy Management,

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\* "DOE uses the following criteria to determine if a site should be referred to USACE for further assessment:

A third-party characterization or survey reveals existing MED- or AEC-related

Comment Number 10 (continued)

contamination that was not previously identified;

A review of historical records indicates the potential for existing MED/AEC contamination that was not previously identified

An individual with credible institutional knowledge provides information that additional MED/AEC contamination might exist that was not identified in previous assessments."

**United States Senate**  
WASHINGTON, DC 20510

April 23, 2010

U.S. Department of Energy Office of Legacy Management  
c/o Bob Darr, LMS Public Affairs  
S.M. Stoller Corporation  
Contractor to the U.S. Department of Energy  
11025 Dover St., Suite 1000  
Westminster, CO 80021

**RE: Formerly Utilized Sites Remedial Action Program, Niagara Falls Storage Site Vicinity Properties,  
New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches,  
March 2010**

Dear Mr. Darr:

Our offices have received the above-referenced draft report published on March 19<sup>th</sup> for public comment by April 23, 2010. We appreciate the initiative the Department of Energy (DOE) took in making this report available in draft form for public input.

This letter is to request a 120-day extension of the public comment period, and to also request DOE create a transparent decision-making process for the referral of any closed vicinity property to the U.S. Army Corps of Engineers for investigation and remediation.

As the draft report illustrates, the vicinity properties surrounding the Niagara Falls Storage Site ("NFSS") located in Lewiston, New York have a long and complex history dating back to the 1940's. The public should be afforded adequate time to research, review and submit documentation it feels may be relevant to the findings of this report, which was to determine whether previous certifications on six properties were appropriate at the time. To promote transparency, we also encourage DOE to make available to the public all documentation it has received from other agencies in connection with this draft report or vicinity property referrals.

The report states, "If previously undiscovered contamination is found that is eligible for remediation under FUSRAP, DOE will refer the property to USACE for investigation and remediation." The report identifies three criteria for these referrals, however, it does not provide a process to ensure all stakeholders are informed of each request, that they have access to information provided DOE for review of such requests, and that they have an opportunity to provide input on each request. We encourage DOE to work with all stakeholders to establish a fair and transparent decision-making process in advance of considering the referral of any the 23 closed vicinity properties to the U.S. Army Corps of Engineers for investigation or remediation.

Thank you for your attention to this request. Please call Anne Fiala on Senator Schumer's staff at 202-224-6542 or Ben Rosenbaum on Senator Gillibrand's staff at 202-224-4451 with any questions.

Sincerely,



Charles E. Schumer



Kirsten Gillibrand



**Department of Energy**

Washington, DC 20585

May 20, 2010

The Honorable Kirsten Gillibrand  
United States Senate  
Washington, DC 20510

Dear Senator Gillibrand:

In response to your April 23, 2010, letter, and in coordination with Congresswoman Slaughter's office, the U.S. Department of Energy (DOE) has extended the public comment period for the Preliminary Draft Document: *Formerly Utilized Sites Remedial Action Program, Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches*, for 60 days to June 14, 2010. Please know that completion of the report will not diminish the public's ability to comment. DOE will continue to actively review public comments even after the report is completed, and should such comments affect the report's conclusions, we will revise the report accordingly.

The report was prepared in response to stakeholder concerns regarding the adequacy of DOE's clean-up efforts at certain Niagara Falls Storage Site (NFSS) Vicinity Properties (VPs). The six properties selected for comprehensive review were chosen, in part, based on specific stakeholder inquiries. The objective of the review is to verify that the completed VPs conform to cleanup standards by surveying all available documentation, and to determine if new information indicates the need to refer a completed VP to the U.S. Army Corps of Engineers (USACE) for assessment. To assure this process is open and transparent, the draft report includes a bibliography of documentation used in researching the radiological conditions of the six selected vicinity properties.<sup>7</sup> One of the primary objectives of compiling this bibliography was to solicit information from stakeholders to ensure an accurate, comprehensive, and transparent review. To further promote transparency, and consistent with your request, the bibliography will include all information received from stakeholders and USACE.<sup>8</sup> In addition, the data used in compiling this report has been posted on the internet prior to the issuance of the draft report. We will continue to explore ways to make our decision making processes more transparent.

Under the Formerly Utilized Sites Remedial Action Program (FUSRAP), DOE is responsible for performing historical research to determine whether radiological contamination is potentially the result of U.S. Atomic Energy Commission or Manhattan Engineer District (AEC/MED) activities. Upon receiving this analysis from DOE, the USACE then determines the extent of FUSRAP-related contamination, the impact of such contamination on human health and the

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<sup>1</sup> Available at <http://www.fm.doe.gov/Niagara/Vicinity/Documents.aspx>. Additionally, information DOE is reviewing is available to the public through the DOE Legacy Management Considered Sites Database.

<sup>2</sup> USACE documentation includes final reports and electronic base map files that were developed as part of the USACE Remedial Investigation Report (available at <http://www.frb.usace.army.mil/fusrap/nfss/index.htm>). In addition, USACE documentation includes historical DOE documents in USACE custody.



Printed with soy ink on recycled paper

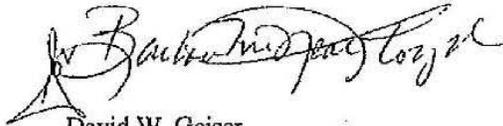
Comment Number 11 (continued)

environment, and whether remedial action is required.<sup>3</sup> Accordingly, DOE believes stakeholder involvement is of primary importance during the assessment process, when USACE determines the extent to which contamination may be remediated under FUSRAP. Nonetheless, in advance of any referrals to USACE, DOE will continue to actively seek information from stakeholders in determining whether any possible additional FUSRAP-related contamination exists on completed vicinity properties; and ensure stakeholder access to any information used to make such determinations.

Finally, DOE informed stakeholders on March 24, 2010, that a path forward has been defined for three waste streams unrelated to AEC/MED activities, and thus ineligible for FUSRAP remediation. Slag at NFSS contains naturally occurring radioactive material and will be addressed by the New York State Department of Health. Other material may remain from waste generated by the University of Rochester in the 1950s and will be addressed by USACE during remediation of three remaining open vicinity properties (identified as properties VP-E, VP-E', and VP-G). DOE will research whether any waste remains from Knolls Atomic Power Laboratory activities in the 1950s and will work to address these residues.

Please contact me at (202) 586-7550 or [david.geiser@hq.doe.gov](mailto:david.geiser@hq.doe.gov) if you have questions about DOE activities at the Niagara Falls Storage Site Vicinity Properties or the DOE Office of Legacy Management FUSRAP program.

Sincerely,



David W. Geiser  
Director  
Office of Legacy Management

cc:

Suzanne Beauchamp, USACE-HQ  
William Kowalewski, USACE-Buffalo  
Steve Gavitt, NYDOH  
Kent Johnson, NYDEC  
Paul Giardina, USEPA  
Christopher Zeltmann, for Congresswoman L. Slaughter

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<sup>3</sup> See P.L. 105-62, P.L. 105-245, and the 1999 DOE/USACE Memorandum of Understanding (available at <http://www.lm.doe.gov/default.aspx?id=874>)

Comment Number 11 (continued)

bcc:

Steven Miller, DOE-GC  
Christopher Clayton, DOE-LM  
Raymond Plieness, DOE-LM  
Thomas Pauling, DOE-LM  
Steven Schiesswohl, DOE-LM

-----Original Message-----

From: Amy Witryol  
Sent: Friday, April 23, 2010 1:21 PM  
To: Darr, Bob  
Subject: NFSS VP Report - March 2010

Hi Bob -

The purpose of this email is to formally request an extension of the comment period on the NFSS VP report until the end of August. In addition to current and upcoming public comment periods for state permitting of facilities located on the LOOW site that we are busy preparing for, there is a lot of documentation we need to review and organize for inclusion in the DOE report with respect to the proper certification of VPs at the time. I hope it will not be an inconvenience to extend the comment period, particularly since it sounds as if you will not be inundated with comments during this period.

As indicated at the Corps meeting, I hope the referral process will provide at a minimum, 90-day notice period for publication of any referral requests along with information provided for those requests - this includes requests or comments from other agencies. Also, where there is no immediate public health risk, I hope there will be a process to require completion of a transparent PRP analysis, in advance of a referral, as opposed to afterwards.

Thank you.

Sincerely,

Amy Witryol

Comment Number 13

From: Joseph A. Gardella, Jr.  
Sent: Friday, April 23, 2010 1:08 PM  
To: Darr, Bob; Clayton, Christopher

Subject: Requests regarding extension of public comment and other stakeholder needs for Niagara Falls Storage Site and Vicinity Property

Dear Messrs. Darr and Clayton:

I serve as the Chair of the Steering Committee of the Lake Ontario Ordnance Works Restoration Advisory Board (LOOW RAB), as an appointee of the Lewiston Porter (LewPort) School District, an important stakeholder in the future of LOOW site properties.

I serve on the RAB because I serve the LewPort Schools as their environmental advisor, governed by a formal MOU executed by the District and Board of Education.

I am writing for two reasons.

First, I would like to formally request a 120-day extension of the (present 30-day) public comment period on the draft "Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches, March 2010" - each vicinity property has a complex history, and residents and stakeholders require significant time for technical review of these documents. As a full time faculty member at the University at Buffalo, I really need the time to review these materials so I can advise the School District of critical issues affecting the District's decisions about the safety of students and staff at the campus. There are many others involved in the community that would also need that time, and the LOOW RAB can help disseminate the information to our stakeholders.

I would appreciate a chance to have the time to review this in a way to advise the School District.

Secondly, given the complexity of the community, and stakeholders, I request that DOE work with all stakeholders to create a fair and transparent decision-making process when considering the referral of any closed NFSS vicinity property to the U.S. Army Corps of Engineers. The report identifies three criteria for these referrals. However, it provides;

- a) no process to inform the public of referral requests,
- b) no public access to information provided DOE for review of such requests,
- c) no opportunity for the public to comment on the accuracy of, or to add to that information, prior to a DOE decision

I am sure you are aware of the public controversy surrounding the Corp's Buffalo District decisions about the LOOW RAB and public input and participation. I am NOT asking that DOE get involved in the present controversies, but simply asking that DOE processes engage all stakeholders, from those satisfied with USACE to those who are not, in an equitable fashion so there is transparency.

Those of us advising elected bodies, stakeholders, towns and the School District cannot easily obtain relevant technical information, decision making criteria and have the time to give good advice to those bodies, if all activities are simply focused on agency staff communication.

I would appreciate your attention to this request and a response as soon as you can.

Thank you for your consideration.

Sincerely,

Page 1

Comment Number 13 (continued)

Joseph A. Gardella, Jr., Ph.D.  
Professor and Larkin Chair of Chemistry  
University at Buffalo, SUNY

Comment Number 14

-----  
Sent: Friday, April 23, 2010 9:27 PM  
To: Darr, Bob  
Cc: Clayton, Christopher  
Subject: Comments on DOE report NFSS vicinity properties

Dear Mr Darr,

I am a former resident of Lewiston Porter, who remains interested in the NFSS and continues to work with members of that community to review technical reports and relevant historical documentation. I am writing to request an extension of the 30 day comment period on the draft DOE report, "Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches", March 2010. I have reviewed the report and found it to be inaccurate in several respects. I wish to submit detailed comments, but find the specified comment period of 30 days to be inadequate. Please allow the community an opportunity to participate in DOE decision making by allowing an appropriate period of time for review of the March 2010 report and submission of comments. I note the report cites a very limited number of documents. It would be helpful if DOE would supply a comprehensive list of all documents it has received, along with the source, in relation to the recent review of the NFSS vicinity properties and drainage ditches.

Ann Roberts

## Town of Lewiston

P.O. Box 330  
1375 Ridge Road  
Lewiston, New York 14092  
Phone: (716) 754-8213 or 754-8214  
Fax: (716) 754-2821



**SUPERVISOR**  
Steven Reller

**DEPUTY SUPERVISOR**  
Gary Catlin

**COUNCIL MEMBERS**  
Alfonso M. Bax  
Michael A. Johnson  
Michael Marra  
Ernest C. Palmer

**TOWN CLERK**  
Carol J. Brandon  
Box 330  
Lewiston, NY 14092

**RECEIVER OF TAXES**  
Joan Brandel Stephens

**HIGHWAY**  
1445 Swann Road  
Lewiston, New York  
754-8218

**TOWN JUSTICES**  
Thomas J. Sheeran  
Hugh C. Gae

**ASSESSOR**  
Gene J. Virtuoso

**ATTORNEY**  
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Lewiston NY 14092  
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**ATTORNEY**  
Mark Gabriele  
800 Main Street  
Niagara Falls, NY 14301  
285-1536

**BUILDING INSPECTOR  
PLANNING-ZONING**  
Timothy R. Masters  
754-8213

**CHIEF OF POLICE**  
Christopher P. Salada  
754-8477

**LWPCC  
ADMINISTRATOR &  
CHIEF OPERATOR**  
Timothy R. Lockhart  
754-8291

**WATER DEPARTMENT**  
754-8213

**SENIOR SERVICES**  
Jeanette L. Collesano  
754-2071

May 3, 2010

U.S. Department of Energy Office of Legacy Management  
c/o Bob Darr, LMS Public Affairs  
S.M. Stoller Corporation  
Contractor to the U.S. Department of Energy  
11025 Dover Street – Suite 1000  
Westminster, CO 80021

Dear Mr. Darr:

At the Town of Lewiston Board meeting of April 26, 2010 the Board unanimously approved the following resolution,

Whereas, the U.S. Department of Energy issued a draft report titled, "*Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches, March 2010*";

Whereas, this report evaluates the appropriateness the Dept. of Energy environmental certifications of certain Niagara Falls Storage Site vicinity properties undertaken in the 1980's;

Whereas, one of these vicinity properties is owned by the Town of Lewiston;

Whereas, the history of the environmental impacts to the subject Lewiston property is extensive and complex;

Whereas, the public comment period on this Dept. of Energy report expired April 23, 2010 and has reportedly been temporarily extended to May 23, 2010.

Be It Resolved, that the Town of Lewiston formally requests from the U.S. Dept. of Energy, an additional 90-day extension of the public comment period to August 23, 2010 in order to review the report and solicit input from other agencies and informed members of the public to determine what, if any comments the Town may want to provide;

Be It further Resolved, that the Town of Lewiston requests the Dept. of Energy to create a fair and transparent decision-making process when considering the referral of any

Comment Number 15 (continued)

previously certified NFSS vicinity property to the U.S. Army Corps of Engineers at taxpayer expense, and, that the referral process:

- a.) Inform the public of each referral request,
- b.) Provides public access to information provided to Dept. of Energy by any agency or party for review of such requests,
- c.) Provides the opportunity for the public to comment on such information, prior to a Dept. of Energy decision to refer tax-payer funded investigation to the U.S. Army Corps of Engineers on a previously certified vicinity property

A copy of this Resolution shall be immediately transmitted to the Dept. of Energy.

Sincerely,



Carol J. Brandon  
Town Clerk

Comment Number 16

From: Sanford J. Freedman  
Sent: Tuesday, May 04, 2010 3:56 PM  
To: Darr, Bob  
Subject: Fw: FUSRAP Program - - - Comments

Bob,

Please see attached.

Thank you.

S. Freedman

----- Original Message -----

From: Sanford J. Freedman  
To: Darr, Bob  
Sent: Tuesday, May 04, 2010 5:08 PM  
Subject: FUSRAP Program

Mr. Darr,

My son Michael J. Freedman lived at 993 Pletcher Road, Lewiston, New York for several years with his Mother. He attended the LewPort school system.

In 1996 at 16 years old, he was diagnosed with Stage 4 Melanoma.

At 27 years old the Melanoma reappeared. (2007)

Michael needed several surgeries each time and both times had to be treated with Chemotherapy every other day for an entire year.

He never was overexposed to the sun and I truly believe that the contamination in this area is what made him very sick. Now he has to watch himself very closely and will have to for the rest of his life, as to the melanoma reoccurring.

I would be very interested in comments from FUSRAP.

Please advise.

Thank you.

Sanford J. Freedman

Comment Number 17

----- Forwarded Message -----  
From: Kevin Myers  
To: Bob Darr  
Sent: Wed, May 5, 2010 8:25:44 AM  
Subject: NFSS and LOOW Pipe lines

Hello Bob Darr

I received your e mail address from a Army Corps notice.

I am concerned about the 42" pipe (and 30" pipe) that travels from the Loow and NFSS down Pletcher road to Niagara river. I have 1970's reports that the town of Lewiston had of testing to use river end of pipe. in it the eng. co. found it was contaminated from somewhere in pipe not from river the at Army Corps meetings thay told me there is no interest to test 42" pipe and I think there is. Do you have any information or concerns on this pipeline.  
I know the town owns pipe however it may of been contaminated when site was decommissioned and there are now pathways to residents homes.

I plan to send my info to EPA

Kevin Myers

**New York State Department of Environmental Conservation**

**Division of Solid & Hazardous Materials**  
**Bureau of Hazardous Waste & Radiation Management**  
625 Broadway, 9<sup>th</sup> Floor, Albany, New York 12233-7258  
Phone: (518) 402-8594 • Fax: (518) 402-9024  
Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Alexander B. Grannis  
Commissioner

**Via E-mail**

June 11, 2010

Mr. Bob Darr  
Public Affairs  
S.M. Stoller Corp.  
DOE Legacy Management Support  
2597 B3/4 Road  
Grand Junction, CO 81503

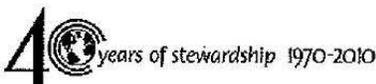
Dear Mr. Darr:

Re: Niagara Falls Storage Site Vicinity Properties

The New York Department of Environmental Conservation (the "Department") has received the "Niagara Falls Storage Site Vicinity Properties, New York: Review of Radiological Conditions at Six Vicinity Properties and Two Drainage Ditches." dated March 2010. The report presents the findings of a Department of Energy (DOE) review of data and information associated with radiological remedial actions performed by DOE in the 1980's under the FUSRAP program. This Department would like to offer the following two comments.

Section 4.2: This section of the report implies that the wastes in question may not be eligible under the FUSRAP program. Department review of documents associated with wastes associated with the Knolls Atomic Power Laboratory (KAPL) and the University of Rochester radiation safety program indicate that these programs were operated under the control of the Manhattan Engineer District and/or Atomic Energy Commission. The operations at these facilities also predated the beginnings of a civilian nuclear program. Therefore, these materials fit the definition of FUSRAP wastes and should be remediated under this program.

Table 5-1: In the fall of 2004 and into 2005, the United States Army Corp of Engineers (USACE), as part of their Formerly Utilized Defense Site responsibilities, removed the Contaminated Materials Storage Area pad located in the southeast corner of Vicinity Property H'. This lined storage area was constructed in 1999 by the Corp as part of the TNT waste pipeline and chemical waste sewer interim remedial action. During this action a fairly large area of radiologically contaminated soil was discovered at concentrations several times the historical cleanup standard. This information differs from what is presented in the table as it would appear that there is remaining FUSRAP material on this parcel. As far as the Department knows, no further action was taken by the USACE. The Department requests that additional characterization be performed on this parcel.

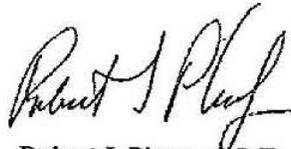


Mr. Bob Darr

2.

The Department is encouraged by DOE's continued involvement in the restoration of the Niagara Falls Storage Site and its Vicinity Properties. Continued dialog with respect to this issue and the long-term stewardship of the facility is in the best interest of all parties involved.

Sincerely,



Robert J. Phaneuf, P.E.  
Acting Director  
Bureau of Hazardous Waste & Radiation Mgmt.

cc: P. Giradina, USEPA Region II  
J. Strickland, Region 9  
S Gavitt, NYSDOH

Comment Number 19

-----Original Message-----

From: Amy Witryol  
Sent: Tuesday, June 22, 2010 12:52 PM  
To: Clayton, Christopher ; Darr, Bob  
Cc: christopher Zeltmann; Laura Monte ; Ben Rosenbaum; Joseph Gardella Jr.;  
Clyde.Burmester  
bill; Melissa Fratello  
Subject: NFSS VP Report - March 2010  
Importance: High

I'm still waiting for a response to the email below. We are busy finishing work on the information which indicates the NFSS has been leaking, in addition to meeting other state regulatory comment periods for other operations at the LOOW site.

It seems to me that by adding another 45 days to the DOE deadline from here would be far more cost effective and responsive than reacting to corrections to the report after its issuance, and reissuing. I remain concerned about the closed door meetings on the closed VPs which have taken place among the agencies, and the absence of any assurances that closed door decision-making will not ensue with respect to VP referrals.

Amy

From: Amy Witryol  
Sent: Friday, April 23, 2010 3:21 PM  
To: Bob Darr  
Subject: NFSS VP Report - March 2010

Hi Bob -

The purpose of this email is to formally request an extension of the comment period on the NFSS VP report until the end of August. In addition to current and upcoming public comment periods for state permitting of facilities located on the LOOW site that we are busy preparing for, there is a lot of documentation we need to review and organize for inclusion in the DOE report with respect to the proper certification of VPs at the time. I hope it will not be an inconvenience to extend the comment period, particularly since it sounds as if you will not be inundated with comments during this period.

As indicated at the Corps meeting, I hope the referral process will provide at a minimum, 90-day notice period for publication of any referral requests along with information provided for those requests - this includes requests or comments from other agencies. Also, where there is no immediate public health risk, I hope there will be a process to require completion of a transparent PRP analysis, in advance of a referral, as opposed to afterwards.

Thank you.

Sincerely,

Amy Witryol

Comment Number 20

From: Darr, Bob  
Sent: Wednesday, June 30, 2010 5:29 PM  
To: Clayton, Christopher; Widdop, Michael; Gillespie, Joey  
Subject: Amy Witryol phone call

Gentlemen, Amy Witryol called me again today to clarify our email response to her. We were on the phone for approximately two hours, but I think it was a productive discussion. She was very upfront about her desire to bring DOE into her efforts to stop any expansion of the CWM facilities and to ensure that the USACE was providing all their data and decision-making process to the community.

I explained the DOE role in FUSRAP and emphasized the lack of regulatory authority DOE has in the remedial actions the USACE is conducting at the NFSS. I also explained that DOE was developing a path-forward on the potential KAPL wastes on VP X. I explained that the KAPL waste didn't meet FUSRAP criteria, but that if KAPL waste is present, DOE would determine the appropriate response to protect human health and the environment.

She clearly didn't understand how FUSRAP works, so I also explained the historical background of the program to address contamination left over from MED/AEC operations during and shortly after WWII that didn't fall under any other program. She didn't understand why NFSS was a FUSRAP site but Fernald and Rocky were not. I think I cleared this issue up.

I also explained our report and addressed her concern that any new information provided by the stakeholders would be addressed in a timely fashion, even if it was received after the report was completed. She said she was afraid that she or another stakeholder could provide additional documentation and it would be five years before DOE did anything with it. She remains convinced that the NFSS IWCS is leaking and the waste needs to be removed and sent to a disposal site in Texas before that site is filled up. She said that Ann Roberts has sent a technical memo to the USACE with evidence that the cell is leaking, but the USACE refuses to acknowledge that and is disseminating false information to the public so they won't have to dig up the IWCS and remove the waste. She offered to provide a copy of the memo to DOE.

She remains concerned that any future referral of a closed VP to the USACE would be conducted behind closed doors and the public would have no knowledge or input in the decision, allowing CWM to have the public pay for cleaning up contamination they brought onto the site. She said she is concerned that NY DEC and the USACE would try to "hoodwink" DOE into going along with their plans to support the expansion of CWM's disposal facility. I again explained the referral process and assured her that DOE would make public any documents or information that led to such a referral. I explained that DOE's role in the process is to determine whether any new site or contamination discovered was eligible under FUSRAP, and if so, to refer it to USACE for evaluation to determine if additional remedial action was required. I also emphasized that DOE has no regulatory authority over USACE concerning their decision-making or remedial activities and the DOE does not have any authority or responsibility for an open site until the cleanup is completed and the site turned over to LM for long term custody.

She also expressed concern about the property to the west of the NFSS that was not determined to be a VP, but that the community believed it should be. I told her that any new information provided to DOE that indicated there was FUSRAP eligible contamination on any property would trigger the DOE evaluation process and could lead to inclusion of that property into the FUSRAP process.

I believe that our conversation ended on a positive note and she seemed to better understand the FUSRAP program, how a property is referred to the USACE, and the purpose of our VP review report. She indicated at the end of the conversation that one of her goals is to achieve Congressional action to return the responsibility for remedial action at NFSS to DOE because she believes DOE is more inclined than USACE to work with local stakeholders during the cleanup.

Comment Number 20 (continued)

Thanks,  
Bob

Bob Darr  
SM Stoller Corporation  
DOE Legacy Management Support

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