



**ANDREW M. CUOMO, ATTORNEY GENERAL
ENVIRONMENTAL PROTECTION BUREAU
New York State Attorney General's Office
120 Broadway, 26th Floor
New York, New York 10271
FAX: 212-416-6007**

DATE: March 31, 2008

TO: Lieutenant Colonel John S. Hurley

AT: 716-879-4195

FROM: Attorney General Andrew M. Cuomo

**Special Deputy Attorney General for
Environmental Protection, Katherine Kennedy 212-416-8450**

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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
120 BROADWAY
NEW YORK, NY 10271

ANDREW M. CUOMO
Attorney General

(212) 416-8050

March 31, 2008

Lieutenant Colonel John S. Hurley
Commander, Buffalo District
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207-3199

Re: Lake Ontario Ordnance Works ("LOOW"), Restoration Advisory Board

Dear Lieutenant Colonel Hurley:

My Office has received complaints from citizen groups that the United State Army Corps of Engineers ("USACE") is making an improper attempt to dissolve the existing LOOW Restoration Advisory Board ("RAB"). As explained below, the USACE's attempts to dissolve the LOOW RAB and to deny its continued validity are in violation of existing laws. The valuable role that the LOOW RAB has played makes the USACE's illegal attempts to dissolve it particularly troubling, as it suggests an attempt to silence the community. Accordingly, I am writing to urge you to reconsider your decision to dissolve and to cease to recognize the LOOW RAB. Instead, the USACE should continue to work with, and not dismantle, the LOOW RAB.

Introduction

As you know, the LOOW is a 7500-acre site in Niagara County that was acquired by the federal government in the 1940s; the government used parts of the site for World War II explosives production and subsequent storage/disposal of nuclear materials. Much of the site has now been transferred from federal to private or municipal ownership, but contamination from past activities is still being addressed. The USACE is responsible for addressing contamination caused by past federal government activity at the LOOW.

Following its practice at other sites nationwide, the USACE formed a RAB, known as the LOOW RAB, consisting of a team of concerned individuals, organizations, and government agencies that works with the USACE to identify and meet the information needs of the community and provide input for future cleanup activities at the LOOW. The RAB has played an important and effective role for the community, providing the community with information about the site, communicating the community's concerns to the USACE and providing the USACE

with insights on environmental and public health issues.

The USACE's Attempts to Dissolve the LOOW RAB Violate Statutory and Regulatory Requirements

My Office has received a copy of your letter to Walt Garrow, recent past Chairman of the Lake Ontario Ordnance Works Restoration Advisory Board, dated January 28, 2008. We have also received and reviewed your letter of March 28 to the New York State Department of Environmental Conservation. In both letters, you refer to the LOOW Restoration Advisory Board (LOOW RAB) as "a citizen-based volunteer group" rather than a Department of Defense ("DoD") RAB. These statements, denying the existence of the LOOW RAB, are inconsistent with the USACE's history of involvement with the LOOW RAB, the USACE documents, and community understanding. Numerous documents show that both the community and the USACE recognized the LOOW RAB during the 2004 -2008 period. See list of documents showing community and USACE recognition of the LOOW RAB included with this letter as Attachment 1. Moreover, the New York State Department of Environmental Conservation and the New York State Department of Health have actively participated in the LOOW RAB. Accordingly, the USACE cannot in good faith conclude that the LOOW RAB is simply a citizens' group and not a RAB, or that, as you claim in your March 28 letter, that "since 2003 the Buffalo District has not maintained a DoD RAB."

In addition, in your January 28, 2008 letter, you state that it is your responsibility "to ensure that a DoD RAB is established in compliance with 32 C.F.R. Part 202." However, your statement misses the mark because the LOOW RAB is consistent with this regulation, which is intended to maximize flexibility for RAB members and installations nationwide. 71 FR 27610 p.4 (preamble to RAB Rule). See also 32 C.F.R. 202.1(e). In 2006, the Department of Defense promulgated the Restoration Advisory Board rule regarding the scope, characteristics, composition, funding, establishment, operation, adjournment, and dissolution of RABs. See RAB Rule, 32 C.F.R. § 202. The 2006 RAB Rule did not invalidate already existing RABs. Id. It is legally incorrect to suggest that the LOOW RAB, which has been in existence for several years and was previously recognized by the Department of Defense as a RAB, does not satisfy the necessary requirements of a RAB as set forth in the 2006 RAB Rule.

Moreover, there are strict procedures governing dissolution of RABs, and the USACE has failed to follow those procedures. § 202.10(b) of the RAB Rule provides specific dissolution procedures requiring consultation with involved federal, state, and local representatives, public notification, a comment period, and a documented written recommendation from the USACE installation commander. Although an installation commander may recommend dissolution "when a RAB is no longer fulfilling the intended purpose of advising and providing community input to an Installation Commander and decision makers on environmental projects as described in § 202.1(b)," the final decision to approve the Installation Commander's recommendation must be made by "the Military Component's Environmental Deputy Assistant Secretary (or

equivalent) for approval or disapproval.” 32 C.F.R. § 202.10(b)(iv). The preamble to the 2006 RAB Rule provides additional clarification regarding the advisory role of the Installation Commander compared with the final decision-making role of the Military Component’s Deputy Assistant Environmental Secretary:

The Department would like to clarify that the Installation Commander does not dissolve a RAB. The decision to dissolve a RAB is raised to the Military Component’s Deputy Assistant Secretary for Environment or Environment, Safety and Occupational Health. The Installation Commander’s role in dissolution includes multiple consultation and notification requirements with EPA, state, tribes, RAB members, and the local community, as appropriate, before providing a recommendation to the Military Component’s Deputy Assistant Secretary for Environment or Environment, Safety and Occupational Health.

71 FR 27610 [emphasis added].

With these specific requirements for dissolution in place, a RAB cannot be subjected to a de facto dissolution by simply recharacterizing it as a citizen volunteer group and starting a new RAB.¹

Simply deeming that the LOOW RAB does not exist is insufficient to dissolve it because government officials are required to follow their own regulations and procedural requirements in making decisions. See Service v. Dulles, 354 U.S. 363, 388 (1957) (discharge of Foreign Service Officer reversed where Secretary of State failed to follow applicable regulations); Ward v. Brown, 22 F.3d 516, 522 (2d Cir. 1994) (“Government Agencies must take great care to follow their own rules and regulations.”); and Blassingame v. Secretary of the Navy et al., 866 F.2d 556 (2d Cir. 1989) (non-compliance with Marine Corps’s separation manual violated Administrative Procedure Act).

Substituting a new procedure to avoid applying the correct standards is similarly unlawful. In Cherokee Nation of Okla. v. Norton, 389 F.3d 1074, 1087 (10th Cir. 2005) cert. denied in Del. Tribe of Indians v. Cherokee Nation, 546 U.S. 812 (2005), the Court reversed a Department of Interior (DOI) decision extending federal recognition to the Delawares where the DOI failed to follow its own procedures and instead implemented a new procedure regarding recognition of the Delawares:

Agencies, moreover, must follow their own rules and regulations.
The DOI used a procedure heretofore unknown to the law - “retract

¹ Moreover, the RAB dissolution provisions of the RAB Rule apply to all RABs, regardless of when the RAB was established. 32 C.F.R. 202.1 (e).

and declare” - to purportedly re-recognize the Delawares. In so doing, the DOI’s actions were arbitrary and capricious.

Accordingly, the USACE cannot simply dissolve the LOOW RAB without complying with its own procedures.

Conclusion

Well-informed citizen advisory groups play a critical role in ensuring that local communities are informed about environmental issues that impact the area. Such groups focus attention on environmental and public health issues that are most likely to be recognized by those with long-term familiarity with a site and provide valuable comments on proposed actions. Mere disagreement or conflict with the RAB, as may be the underlying issue here, is not grounds to dissolve the RAB, but instead is an indication that the RAB is fulfilling its intended purpose and that further dialogue is necessary to define and, if possible, resolve the disagreement or conflict.

For all of the reasons set forth above, the USACE should abandon its illegal attempt to dissolve and deny the existence of the LOOW RAB.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew M. Cuomo', written over a horizontal line.

ANDREW M. CUOMO
Attorney General

cc: Deputy Secretary Addison D. Davis

Attachment 1

Documents showing Community and USACE Recognition of the LOOW RAB

1. The Lewiston Town Board work session minutes, March 8, 2004, include a statement by Councilman Langlois that "I've been a member of RAB (Restoration Advisory Board) from the beginning. It now has been reconstituted and they have some new committees . . ."
2. Three items from about 2004 that relate to the Environmental Leadership Institute (ELI) at Niagara University indicate the existence of the LOOW RAB, including a color brochure prepared by the ELI entitled "The Restoration Advisory Board (RAB) for the former Lake Ontario Ordnance Works (LOOW) Site," a PowerPoint presentation entitled "The Restoration Advisory Board for the Lake Ontario Ordnance Works (LOOW) Site," and a copy of the ELI web page. The web page notes that "ELI Director Sean Kelly was named Chair of the Lake Ontario Ordnance Works (LOOW) Restoration and Advisory Board (RAB) while ELI Associate Director Bill Edwards and Executive Director Sheen Rajmaira serve on the Radiological and Outreach committees, respectively."
3. The Lewiston Town Board minutes, May 24, 2004, include references to the RAB and a statement by Councilman Langlois that "This is follow up to a request that I brought to the Town Board and some of the technical committee talked to us what they are doing and where we are with this. The RAB Cmte. thought that the Town Boards could meet early before the public meeting and have a special session."
4. The USACE' August 2006 Project Progress Report and a May 2006 version of that report are found on the official the USACE website, www.lrb.usace.army.mil/derpfuds/loow-nfss, and also at www.loowrab.com. The 2006 Progress Report contains 13 references to the RAB, such as "Develop risk-communication plan to address community concerns. Incorporate with RAB planning for 2006-2007" and "USACE continues to attend RAB Steering Committee Meetings." These 13 references do not indicate that the RAB was anything other than a standard USACE-affiliated RAB as opposed to a mere citizen-based volunteer group as the RAB is characterized in your January 28, 2008 letter.
5. A USACE presentation entitled "Lake Ontario Ordnance Works (LOOW)," RAB Information Session, October 21, 2006, is, like the Progress Report mentioned in 1. above, found on the official USACE website, www.lrb.usace.army.mil/derpfuds/loow-nfss, invites viewers of the presentation to "Visit the RAB website at www.loowrab.com" and/or "Attend RAB meetings/contact a RAB member," which indicates that the RAB was in existence and recognized by the name "RAB" by the USACE, and was holding meetings on a somewhat regular basis.
6. Letter from Lieutenant Colonel John S. Hurley to Walt Garrow, Chairman of the Lake Ontario Ordnance Works Restoration Advisory Board dated October 31, 2006 regarding specific

questions from the LOOW RAB and discussing community relations.

7. The Lewiston-Porter School Board minutes, February 13, 2007, refer to "the appointment of Dr. Gardella to represent our interests with the LOOW RAB."

8. The Porter Town Board minutes, August 13, 2007, include references to the RAB and passage of the following resolution: "RESOLVED, the Town of Porter supports the Niagara County Legislature in their request to the U.S. Army Corps of Engineers to allow the following the opportunity to review and comment on the draft report: Restoration Advisory Board, NYS Department of health, NYS Department of Environmental Conservation and the U.S. Environmental Protection Agency."

9. Five articles that mention or describe the RAB, all of which appeared between 2005 and 2008 in community newspapers published by Niagara Frontier Publications (primarily its Lewiston Porter Sentinel community newspaper). Copies are enclosed.

10. A January 8, 2008, Niagara Gazette article about the RAB and its recent disagreements with the USACE.

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November 11, 2007 Sunday

SECTION: STATE AND REGIONAL NEWS

ACC-NO: 20071111-BF-Specialist-skilled-at-managing-cleanups-1111

LENGTH: 1575 words

HEADLINE: Specialist skilled at managing cleanups: Q&A: Walter D. Garrow

BYLINE: Aaron Besecker, The Buffalo News, N.Y.

BODY:

Nov. 11--Look at some of the most significant environmental concerns in Niagara County over the past several decades and there, taking a leadership role on the community's behalf, is Walter D. Garrow.

Garrow, who recently moved from Niagara Falls to Wheatfield, these days has his hands in the federal investigation of a former weapons production site in Lewiston and Porter that covered 7,500 acres of former farmland. Only about onethird of the site was developed, and a portion of it now stores radioactive waste from the Manhattan Project.

Garrow became chairman of the Lake Ontario Ordnance Works Restoration Advisory Board (RAB), the arm of public input for the U.S. Army Corps of Engineers, in March 2006.

The 56-year-old is corporate safety director for Buffalo's Quality Inspection Services.

He recently talked with The Buffalo News about the past, present and future of contamination at the former Ordnance Works site.

The LOOW RAB isn't the first environmental legacy-related project you've been involved in. Can you talk about your experience with the Love Canal Revitalization Agency?

I was on the revitalization committee as a community representative through the appointment of the City of Niagara Falls. I was also involved as a chemist for Occidental Chemical and had worked in their environmental health and safety department. And also being a resident of Love Canal. Houses behind my house were evacuated as part of the initial stages . . .

The goal of the Love Canal Revitalization Agency was to use outside funds from the state and federal government to renovate and make the housing available to be relived in . . . and it was nice

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to see the buildings rebuilt with new roofs, new windows, new siding, new poured concrete sidewalks and driveways, and in later years to see families growing up there again . . .

Don't forget about Buffalo, working with Joe Gardeila [University at Buffalo professor and Lewiston-Porter Schools representative on advisory board] in the past with South Buffalo. That was a huge area, because in South Buffalo there were historical emissions from the plants that were along the Buffalo River.

How would you compare the way the community is engaged here in the LOOW and the RAB with your other experiences?

Love Canal and South Buffalo were fairly focused where there would be one or two companies involved, and the environmental situation was very specific in location and substances involved.

The LOOW is substantially more complicated in having multiple sites, multiple histories and multiple contamination varieties . . . and over the histories, companies have come and gone and participated, and that made it a more complicated situation of who was working on what under which authority.

That sort of answered my next question. Environmental contamination in this area isn't too uncommon, but what makes the LOOW site unique in terms of why people should pay attention to it?

The LOOW site, like I said, is complicated in having multiple parts. However, what makes it more complicated is the magnitude of material associated with high hazards, such as the Manhattan Project leftover radioactive material and the amount of material that's contaminated is a fairly sizable volume . . .

Now you've got mixed contamination of chemicals plus radiation, which makes it a much more technically complicated thing. So, for example, if you have radioactive organic hazardous materials, you can't treat those organic hazardous materials like you would coming from a chemical plant because it has the added feature of radioactive material, potentially. So now you have the world of chemistry and nuclear energy folded together.

There's been an ongoing issue of access to information that the Army Corps has found in its investigation. The RAB has been looking for increased access to data. Tell me why you're looking for that.

This gets into some of my personal feelings. When we reorganized in 2002, it was still understood that there would have been an interaction with the Corps of Engineers, a sharing in the development of policy and procedure and protocols . . . towards planning and final decision-making.

When the Department of Defense established this role for the corps, they understood that the [Comprehensive Environmental Response, Compensation and Liability Act] process dealing with hazardous waste sites is not necessarily enough . . . for the public to feel like they're participating. So the RAB is a mechanism for the public to interact in a focused way with the corps.

What has happened in the last year or two, the corps has taken a much more regimented, legal stance. . . . They're using the definition of public participation as a limit going up to and no more than, as compared to using public participation in [the comprehensive liability act] as a guaranteed minimum. And the result is that they're giving bits of information that's legally acceptable in their

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defined roles. . . . And if the corps makes all the decisions within their own walls, then the public will say, "We didn't have any say and we don't agree with what you're doing." And that could cause conflict.

Because of those sort of issues related to the Army Corps and their legal stance, you've mentioned to me a third-party facilitator is a possibility or something that you might be looking for.

Other RABs have had facilitators. And the role of a facilitator is to be a nonlinked third party to help bridge between two sides.

And there are two sides here -- there's a community and their needs, and there's the government with their assignment. And the facilitator will allow some equalizing of the communication of the roles. Right now, with the corps making all of the decisions, it minimizes the public. And a facilitator will help keep it more even . . .

The legal stance that the corps is using, it sort of stems from the idea or the notion of a responsible party.

Well, it's a delicate legal area. . . . If there's an abandoned hazardous waste site, and let's say there were three different entities involved with that waste site, maybe one entity spent 50 years dumping all sorts of hazardous materials, and then they left. And then a second entity comes in and spends maybe a year or two doing some light work and then leaves.

And then somebody else comes and practically has no industrial activities, but just happens to own the property. And then it comes out that the site is leaking.

And a [comprehensive liability act] situation is set up for remediation of the site for public protection. In that scenario, the government, the EPA, the DEC for us, would be establishing who's responsible to pay for the remediation. And they'll go through the records, the histories and anybody who had any involvement would be given some percentage of responsibility and financial commitment.

Now, within the RAB site right now we don't have that. The Corps of Engineers has been assigned to work within the inner area and they will only go where their definitions are going to go.

So for example, . . . the Department of Environmental Conservation . . . mentioned some buildings that had asbestos. Now the Corps of Engineers will probably say that "That's not within our defined definition. We're not responsible to remove that." Because there's no responsible party scenario developed for the overall site, it's going to remain unaddressed until the corps is done, and then the DEC will have to step in and then continue on with the traditional [comprehensive liability act] with the remainder. Now that causes delays.

Under the current process, under the current way things are set up now, what is the future of the site in terms of contamination? If the Army Corps is only looking for certain things, does that mean when they're done, there still could be contamination there?

Part of what the members of the RAB have been so insistent upon, and the reason they've been requesting participation in sampling plans, for example, as they would want to have no particular area that should be analyzed not analyzed.

For example, we have RAB chemists. We have toxicologists. I'm an industrial hygienist. We have radiologists. We have people that are familiar with hydrology. We have professional training and expertise to provide rational suggestions. Why did you miss this spot? Why can't you include

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that spot? It seems like you did this there, but why didn't you consider this chemical considering the history over there?

And the reason why I'm pointing out those details [is because] it's very important for the corps to sit down with us, instead of making their decisions saying, "Here's a report. What do you think of it?" It would be so much more functional if they would be able to sit down with us and get this feedback beforehand.

The reason why it's important is . . . if they make the conclusions of those reports based on information that they've planned, and not including some things, the resulting conclusions may be that it's not as bad as it needs to be to be able to do something significant.

abesecker@buffnews.com

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Ordnance works site documents get home in library Buffalo News (New York) September 19, 2006 Tuesday

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September 19, 2006 Tuesday
NIAGARA EDITION

SECTION: LOCAL; Pg. B6**LENGTH:** 548 words**HEADLINE:** Ordnance works site documents get home in library**BYLINE:** By Nancy A. Fischer - NEWS NIAGARA BUREAU**DATELINE:** LEWISTON**BODY:**

The Restoration Advisory Board for the former **Lake Ontario Ordnance Works** Site cut the ribbon Monday on a new location to store information and records for public use -- in the Lewiston Public Library.

RAB Historical Committee Chairman Guy Zaczek said that because of the secrecy of the World War II Manhattan Project and munitions testing at the site, as well as the handling and disposal of radioactive materials, there were many unanswered questions and the Restoration Advisory Board established committees to gather past information and archive it.

"We are pleased that the library saw the need, and now we will do our best to present both historic and current materials for community use," said Zaczek.

"We really didn't have a storage spot before. Some information was kept informally at the library, and some was at members' homes," said **RAB** Chairman Walt Garrow.

Garrow said that his group serves as a link between the U.S. Army Corps of Engineers and the community.

"We look at the corps' documents critically and make comments. This information is presented to the public and then sent to the library. We have a commitment to provide [the residents] with the latest information," said Garrow.

He said the group functions as a resource for the community but also serves as an advocate for the community.

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Garrow, an analytical chemist with 30 years of experience in the field of environmental health and safety, said the corps can be very technical and his group makes it easier for the public to understand corps documents.

"The corps also has a vested interest in protecting [the status quo] because they made all the deposits [of radioactive waste in the site]," he added.

Garrow said right now the site is stable, but it is not a long-term stability.

"It needs to be resolved by removal or better containment," said Garrow.

Karen Allen, chairwoman of the RAB Outreach Committee, said information should be coming more frequently from the Army Corps of Engineers and the library will be a good place to display it.

"Having a location with easy public access is a major consideration," said Allen.

The Restoration Advisory Board will offer a forum to share information with the community about the 7,500-acre site from 10 a.m. to 1:30 p.m. Oct. 21 in the Lewiston Senior Center, 4361 Lower River Road.

Garrow said the forum will not focus on any Chemical Waste Management expansion issues or legislation, since that will be handled in a different setting.

"This will focus on the LOOW site itself and in particular the materials that were left behind by the Department of Defense," he said.

He said several outside speakers are expected, including from the Army Corps of Engineers, the state Department of Environmental Conservation and the state Department of Health.

"We'd like to keep the community updated about the remediation [so far]. This is geared for residents," said Garrow.

RAB publicity notes that much land from the site has been returned to farmers and to active private operations of Modern Waste and CWM, as well as for the Niagara Falls Storage Site, where a large amount of radium and other radioactive materials still remain buried.

"Our October public conference is open to all and we hope to get a strong turnout to help guide our work," said Garrow.

e-mail: nfischer@buffnews.com

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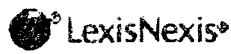
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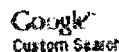


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LOOW Advisory Board names new chair

Kelly named as chair of Lake Ontario Ordnance Works Advisory Board

Lewiston Porter Sentinel, January 22, 2005



The Lake Ontario Ordnance Works Restoration Advisory Board has announced its selection of Dr. Sean Kelly as its new chairperson.

"We are very pleased to announce the selection of Dr. Sean Kelly as our new RAB Steering Committee Chair," said Becky Zayatz, RAB Steering Committee vice-chair, who also serves as environmental engineering manager for CWM Chemical Services, LLC. Zayatz reported that Kelly will chair the LOOW RAB Steering Committee, which coordinates the activities of the six committees that make up the LOOW RAB: Membership, LOOW, Niagara Falls Storage Site, Historical, Advocacy, and Outreach.

"As the Chair," explained Zayatz, "Dr. Kelly will coordinate and facilitate RAB activities, and ensure two-way communication and information sharing amongst the RAB, project stakeholders and the U.S. Army Corps of Engineers, the agency conducting environmental investigations at the sites."

Kelly who is an associate professor of Political Science at Niagara University, is also the director of the Environmental Studies Program at Niagara and the founding director of the Environmental Leadership Institute.

A staunch supporter of community involvement in all phases of government decision-making, Kelly has worked as a community advocate in Niagara County for several years. Past activities in 2001 and '02 have included serving as chair of the city of Niagara Falls Charter Commission, and also on an ad hoc committee of the Niagara County Legislature that framed a local law creating the position of Niagara County Manager.

"When government decision-making is transparent," explained Kelly, "when it's open to the public, the public is more likely to trust the decisions that representatives and government officials make. When the public is directly involved in the shaping of those decisions, the quality of decisions is improved and the level of trust simply escalates."


Commenting on his appointment, Kelly said he is enthusiastic about beginning his tenure as the LOOW RAB chair. "This is a very significant environmental issue here in Niagara County," said Kelly. "I feel a special responsibility as a resident, and as the director of the ELI, to be a part of the community dialogue about the scope of the problem and the range of possible solutions. It is critical that we develop a community consensus for the restoration plan and work with the various state and federal government agencies to redress the problem."

Kelly also encourages community membership in the LOOW RAB and asks that those interested contact the LOOW RAB Membership Committee chair, Bill Choboy, at 745-7790 or by email at: Billc313@yahoo.com.

The LOOW Restoration Advisory Board is a community-based group that works with the U.S. Army Corps of Engineers to identify and meet the information needs of the community concerning cleanup activities at the LOOW and the Niagara Falls Storage Site. The LOOW and NFSS sites are being studied by the U.S. Army Corps of Engineers to determine what levels of restoration are required to maintain the public's health and safety.

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Army Corps extends public comment period for CWM permit application

by Terry Duffy
 Niagara Wheatfield Tribune, May 4, 2006
 Lewiston Porter Sentinel, May 6, 2006

The U.S. Army Corps of Engineers announced this past week that acting on requests, the public comment period addressing the potential impact to wetlands on the property of CWM Chemical Services in Porter, stemming from its earlier filed wetlands remediation application with the Corps (Sentinel, April 15), has now been extended to Thursday, May 25.

The earlier comment period had been scheduled to expire on April 25. Acting on a request initiated by U.S. Rep Louise Slaughter D-28th District, Fairport, and furthered by Walter Garrow, Steering Committee chair of the Lake Ontario Ordnance Works Restoration Advisory Board, the Corps summarily granted the comments extension. "We thought it was a very good idea," said Garrow of Slaughter's input. He added the Corps' proactive response to northern Niagara County concerns on this matter was a sign of "greater cooperation" between the LOOW RAB group and the Corps.

The Corps also announced that information fully detailing the proposed project as well as its environmental impact is now available for public review at the Lewiston Public Library, 305 South Eighth St., during regular library hours.

"I coordinated with our Regulatory Branch ... and the Buffalo District will place a hardcopy of the entire application in the Lewiston Public Library on Friday ... along with the DERP-FUDES administrative record files," said Bill Kowalewski, P.E., LOOW site project manager for the Army Corps, Buffalo District.

Garrow called the Corps decision of utilizing the Lewiston Public Library a good one. "We're mutually starting to use the library as public access on LOOW site issues," in an effort to greater avail information to the community, he said.

Kowalewski also announced the Corps would avail the document on the Corp's Buffalo District's Web site under the category, "High Profile Issues." It can be accessed for viewing at [http://www.lrb.usace.army.mil/regulatory/pn/2006/pn2000-01534\(6\)CWMChemical.pdf](http://www.lrb.usace.army.mil/regulatory/pn/2006/pn2000-01534(6)CWMChemical.pdf). "The Buffalo District is working to get the file posted on the web as soon as possible - no later than Friday," Kowalewski said.

The Corps said that those wishing to comment on the permit application may do so by writing to the U.S. Army Corps of

NFP - News: Army Corps extends public comment period for CWM permit application


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Engineers, 1776 Niagara St., Buffalo, N.Y. 14207, attention: Scott L. Schlueter. Comments may also be sent via e-mail to scott.l.schlueter@usace.army.mil.

The Corp's deadline for receiving for comments is 4:30 p.m. on May 25.

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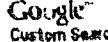


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RAB Steering Committee names Walter Garrow as new chairman

by Tery Duffy
Lewiston-Porter Sentinel, April 8, 2006

The Lake Ontario Ordnance Works Restoration Advisory Board – a community-based group formed to work with the U.S. Army Corps of Engineers in addressing concerns and facilitating remediation of all public and private lands on the LOOW site in Lewiston and Porter, announced this past week its selection of Walter Garrow as chair of its Steering Committee.

Garrow, a Niagara Falls resident who grew up in the Love Canal neighborhood, brings an extensive chemical background with 15-plus years experience covering health, safety and environmental areas in the private sector. Currently Corporate Safety Manager for Quality Inspection Services in Buffalo, he also has significant community involvement on environmental interests, having served as past director of the Love Canal Revitalization Agency and the South Buffalo Community Forum – the latter as a mediator between industry interests and South Buffalo residents who were contending with environmental concerns in their neighborhood from numerous heavy industry shutdowns.

He succeeds Sean Kelly, a political science professor at Niagara University who works with NU's Environmental Leadership Institute.

Aims to Work with Corps

Garrow comes to the LOOW RAB at a time when the organization has been undergoing somewhat of a state of transition with new chairs and a restructured focus in the eyes of the Army Corps. He seeks to begin work with the Army Corps immediately to redefine the goals and the focus of the RAB. "We understand the challenge," said Garrow. "We've elected new committee chairs and we're going to address the Corps concerns."

RAB committee chair appointments announced this past week include:

*Dr. Mary McCourt, chair of the Chemistry and Biochemistry departments at Niagara University, as chair of the RAB Chemical Committee. The group works on numerous concerns with the U.S. Department of Defense regarding DOD-related chemical contamination at the LOOW site.

*Guy Zaczek, an instructor at Niagara County Community College, as chair of the RAB Historical Committee. Zaczek brings

strong industry background plus extensive experience with the Occupational Safety and Health Administration to this RAB committee, which is charged with developing and maintaining volumes of information from past activities at LOOW and the Niagara Falls Storage Site areas.

"I'm willing to listen and gather the details," Garrow continued, adding he intends to meet with Corps officials in Buffalo in the near future. "But we need the information from the Corps so we can continue to provide a conduit and interchange between the residents" of northern Niagara County.

Broad Support

His selection comes with broad support from Steering Committee members.

"I see this as a new chapter in the RAB's role to unite the community and the Corps of Engineers common goals," said Rebecca Zayatz, market area engineer of CWM Chemical Services in Porter, who also serves well Steering Committee vice chair. Zayatz had been covering both the chair and vice chair responsibilities for RAB since Kelly's departure last year.

Karen Allen, who serves as chair of the LOOW RAB Outreach Committee, the group assigned with facilitating LOOW information to the community, was equally upbeat. "I'm glad to see that our chemical and radiological committees are chaired by such strong technical leadership," Allen said. "Since restructuring, we've held some good public meetings, also including other agencies like the Department of Health" in our work with the Army Corps to get information out to the community.


Joan Morrissey, LOOW/NFFS Outreach Specialist with the Army Corps, speaking for William Kowalewski, Corps project manager at the LOOW site, said the federal agency was happy to hear of Garrow's appointment as Steering Committee chair. "We're very pleased," said Morrissey, adding that Garrow has already been in contact and is planning to meet with Corps officials in coming weeks.

"We're hoping now with a new chair we can now streamline and best utilize the functions of the RAB as we work on LOOW remediation in years to come," Morrissey added.

RAB officials closed by encouraging the involvement of all local residents and the various organizational stakeholders in northern Niagara with the group. The next RAB Steering Committee meeting will be held Tuesday, April 25, in the Community Room of the HSBC-USA Lewiston branch on Center Street in the village. Time for this open meeting is 5 p.m., and area residents are invited to attend.

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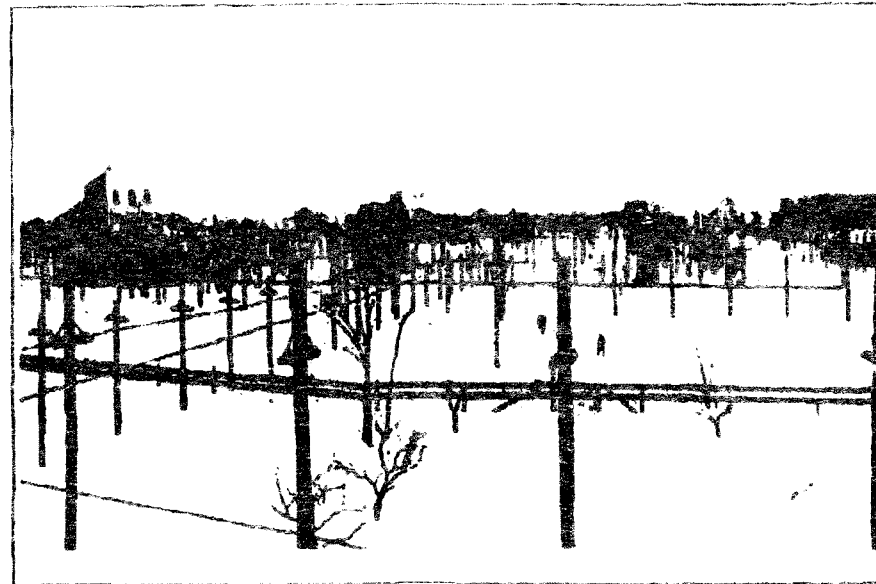
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LOOW RAB announces new public information resources

Lewiston-Porter Sentinel, February 3, 2007



The Lake Ontario Ordnance Works Restoration Advisory Board reports it has increased its visibility as well as its information flow to the public. "We now have a Web site and some new materials for the public," stated Karan Allen, chair of the RAB Outreach Committee. The site, www.loowrab.org, includes current findings, programs and schedules of the RAB, and the U.S. Army Corps of Engineers who provide the federal management and oversight of the 7,500-acre area.

Located in the towns of Lewiston and Porter, the LOOW lands were originally taken from private owners by the federal

http://www.wnypapers.com/news/2007/02/s3_loow.htm

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government during World War II for war-time munitions production activities, and now comprise a number of operations, including the Lewiston-Porter School District campus, the Niagara Falls Storage Site, Modern Corp., and CWM Chemical Services, plus a variety of government, military and private uses.

According to Walter Garrow, RAB chairman, the organization is now set up to provide short presentations on LOOW history and recent findings for local organizations. "We have 65 years of material, some previously classified, which we compressed into short programs for group meetings."

He adds a brochure detailing the background of the LOOW site is available at area libraries, schools and municipal offices.

Additional materials are being assembled through the Historical Committee chaired by Guy Zaczek in the form of an interactive history of the site and related subjects, which have impacted the area. His most current production is a CD that contains the past few years' published articles, "which should be a great reference for researchers and interested citizens of the area," said Zaczek.

Those interested in obtaining a free copy can request one by writing to the LOOW RAB at P.O. Box 181, Youngstown, NY 14174.

Sister Karen Allen, LOOW RAB Outreach Committee chair, explained that the Corps of Engineers periodically publishes findings and status of their investigative work, especially related to the Niagara Falls Storage Site where half of the world's mined uranium is buried and CWM's hazardous waste landfill. "We have had good cooperation with the three local libraries and Porter and Lewiston town boards that provide a place for us on their bulletin boards to keep residents informed," explained Allen, "and we have a complete hardcopy archive in our official public resource center maintained at the Lewiston Library."


Garrow stated that as a result of the RAB's public briefing session last October, there were enough requests "to strengthen RAB's conduit to the community to be sure that everyone is well informed." RAB announced that its Steering Committee will meet the fourth Tuesday of each month at 5 p.m. at the Lewiston Public Library. "The public is always invited," said Garrow. He also encouraged residents to join the RAB as a committee member, technical expert, or Steering Committee participant. "We need the local input and always can use the extra talent and suggestions," so a call to 745-7790 will start the process.

He reports the Restoration Advisory Board is a community-based group formed to influence the investigation and promote the satisfactory remediation of all public and private parcels of the LOOW site. Continual public input is sought and periodic community sessions are conducted for the exchange of information and to provide an open and independent dialogue.

For further information visit the RAB web site, www.loowrab.org, or contact Garrow at 283-4017.

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Commentary

LOOW-RAB: a community in mutual support

Lewiston Porter Sentinel, January 19, 2008
 by Walter Garrow, LOOW-RAB Chair

This is the first of a regular monthly column from the Restoration Advisory Board for the former Lake Ontario Ordnance Works. The RAB promotes an open two-way dialogue between federal authorities and local citizens. Formed several years ago, it was restructured five years ago by the U.S. Army Corps of Engineers and local residents to better serve the community and improve communications. We are a community-based volunteer group – local residents, with a mutual interest for residential welfare (for personal, health and property values). The USACE, federal, local and state agencies are active participants.

As background, in 1942 the federal government acquired 7,500 acres in the towns of Lewiston and Porter to manufacture trinitrofluorene (TNT). TNT production ended after only nine months, and was followed by many other defense-related chemical operations and munitions storage at the LOOW. TNT production, support and storage were conducted within 2,500 acres commonly referred to as the "Developed Area."

In 1944, the LOOW site became a repository for radioactive material, beginning with World War II era Manhattan Project waste. Subsequent handling and storage of radioactive waste also took place on the Developed Area of the LOOW. In the 1950s, drums of high-activity radioactive residues from around the Developed Area were emptied into a vented site.

In the early 1980s, the Department of Energy transferred this waste to underground storage on the LOOW in an area now called the Niagara Falls Storage Site, or the "NFSS." The NFSS, a 191-acre property, is located on the Developed Area of the former LOOW site. The NFSS houses a 10-acre underground interim waste containment structure (IWCS), which contains Manhattan Project and other wastes. Stored in the IWCS are approximately 25,000 cubic yards of radioactive residues and 235,000 cubic yards of contaminated soil and debris. The primary materials of concern are radium, thorium, and uranium in this interim storage facility.

The Corps has just released a massive – several volumes – Remedial Investigation Report on the radiological situation at the NFSS (Sentinel, Dec. 22, 2007). This information is only site-specific for the NFSS and the chemical and radiological materials. The USACE also has another sizable project in the works on the remaining portion of the 2,500-acre Developed Area of LOOW. It should be pointed out that there are times when the USACE has explored areas of the LOOW which are outside of the NFSS, such as on the Lewiston-Porter School District campus grounds and their findings at CWM Chemical Services, where they

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reported finding undocumented radioactive materials as well.

These extensive federal studies represent an accumulation of technical information of samples, analysis, and data interpretations. The RIR is not easy reading, partly because the units of measure vary and location indicators of where the samples were taken are not always evident. Public review copies of the newly released Remedial Investigation Report are found in the Lewiston and Youngstown libraries. It is well worth a good review, as the impact is very serious to the welfare and future of this community.

The work establishes the foundation that the USACE will use to determine future actions. Risk assessments, costs, staff limitations and the limited scope of operations will be used to set the course for the future. The USACE's current summary is that the radioactive deposits pose no imminent risk, but the long-term concern is less clear. That casual description of the potential hazard may lead toward the lessening of what needs to be done with the NFSS material.

The RAB brings to the assistance of the community a wealth of technical experience that will help in the interpretation of these complex materials presented by the USACE. Since the recent restructuring, the RAB's mission is to guide the investigation and promote the satisfactory remediation of the entire LOOW site (including all publicly and privately owned parcels). We work to ensure that the community is provided the opportunity as early as possible to obtain information about, provide input to, and have impact on, the decisions regarding all investigations and restoration activities of the LOOW site within the 1942 boundary. We actively promote the investigation and remediation of the site by encouraging stakeholders to work together to achieve this goal.

The RAB discusses and exchanges information about the environmental restoration activities at the LOOW and NFSS sites in on-going, monthly sessions, which are open to the public. It serves as a liaison between the community and the government, to help the government understand the community's concerns and to help the community understand the process and give them a voice. The RAB gives the public an opportunity to make their views known to decision-makers. In addition to materials that the RAB maintains at nearby libraries and on local bulletin boards, it conducts two public briefing and citizen input sessions annually.

To be effective, the RAB tries to ensure that its membership reflects the diversity of the community and its range of perspectives. Especially at this time of the RIR review, we are asking specialists in the chemical, radiological and geophysical fields to step forward. You can help on a one-time basis or become involved with the RAB's technical committees.

As an additional source of information and possible catalyst to reviewing the RIR, we encourage the public to attend the Niagara County Department of Health program on Wednesday, Jan. 30. It will be held in Room 127 of Dunleavy Hall on the Niagara University campus beginning at 7 p.m. Community LOOW Project Coordinator Scott King will explain his findings and this most comprehensive overview and analysis of the LOOW site.

In the future, our "Community in Mutual Support" articles will detail other issues. However, at the moment, the complexity and timing for proper analysis of the RIR for the NFSS should be of major interest to the entire community. I encourage public input to the RAB or directly to the Corps regarding the safety of the site and long-term methodology and intentions of the USACE to reach a proper resolution.


Further information is available on the RAB Web site: www.loowrab.org; or the US Army Corps of Engineers site: www.irb.usace.army.mil/derp/fuds/loow. In addition, letters can be sent to the RAB at P.O. Box 181, Youngstown, NY 14174.

For additional information, phone 694-4017.

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