

21. February. 2002

Senator Mike DeWine, US Senate - *sent via FAX 202-224-6519*

Senator George Voinovich, US Senate - *sent via FAX 202-228-1382*

Representative Tom Sawyer, US House of Representatives - *sent via FAX 202-225-5278*

**CALL FOR USEPA ADMINISTRATOR WHITMAN TO DELAY CHANGE OF IEL CLEAN UP PLANS; CALL FOR USEPA OMBUDSMAN TO RESUME INVESTIGATION**

Dear Senators Voinovich and DeWine and Representative Sawyer,

We write asking that you formally request USEPA Administrator Christine Todd Whitman to delay Region 5s planned change to the Record of Decision (ROD) for the Industrial Excess Landfill (IEL) in Uniontown, Ohio.

We ask that you make this immediate request to USEPA Administrator Whitman based on several significant recent developments.

First, after 30 years, former IEL owner-operator Charles Kittinger recently disclosed that he allowed the US Army to dispose of three egg shaped containers of plutonium at the site. We have spoken several times to Mr. Kittinger and find him and his account of what he saw to be very credible. For this reason alone, a revision by Region 5 to the ROD would be grossly inadequate.

As you are no doubt aware, the US Department of Justice (DOJ) and EPA's Region 5 conducted a self-serving investigation of Mr. Kittinger's charges. We believe that both groups had a serious conflict of interest. EPA Region 5 staff blocked testing for radiation during the appropriate testing phase (1985-89), conducted flawed testing when they finally agreed to look for radiation, and attacked and discredited labs that found man-made radiation in IEL groundwater. For nearly two decades, Region 5 has denied that radiation might be a problem at the site and, therefore, has a serious vested interest in an unchanged outcome.

The DOJ has a history over the past several decades of shielding government contractors from prosecution, according to the report, *A Guide to Citizen Law Enforcement: Fighting Environmental Crime at Facilities of the U.S. Departments of Energy and Defense* by Jonathan Turley. The report states, Career prosecutors have alleged that high-level Justice officials repeatedly intervene on behalf of corporate officials accused of serious environmental crimes.

We believe, therefore, that both agencies should not have led the investigation of the Kittinger case and should recuse themselves from any further investigative role at IEL. Instead, we urge you to call on Administrator Whitman to increase the powers, resources and staffing of USEPA Ombudman Robert Martin to assume these duties.

Even the polluting rubber companies in a 9/6/01 letter to Federal Judge John Manos commenting on the DOJ investigation said:

*The United States investigation was not sufficient to fully and finally adjudicate the substantive aspects of Mr. Kittinger's statements... The statements that the United States has secured from the individuals and experts it chose to interview have not been sworn or tested through cross examination. Further, the scope of the investigation has been limited to that which the United States has determined.*

The allegations by Mr. Kittinger need to be taken seriously and investigated thoroughly before any changes are made to the ROD. Anything less would be grossly inadequate.

The second reason we request that you call on Administrator Whitman to delay any change to the EPA ROD involves recently obtained documents connecting nuclear weapons complex contractors (thus, possibly the Department of Energy and Department of Defense) to IEL.

Through the Freedom of Information Act (FOIA), the Northeast Ohio American Friends Service Committee recently received from the DOJ a document titled IEL Named Third Parties and Potential Additional Third Parties. It lists Monsanto and Rockwell Industry of Rockwell International among

many other parties. Both corporations, never before appearing on such previous such lists, are nuclear weapons complex contractors.

Monsanto corporation ran the Mound nuclear weapons facility for the Department of Energy (DOE) in Miamisburg, Ohio. An additional newly-listed party on the document was Waste Management, a.k.a. SCA Service Corp. of America. We have been told that SCA Services may have hauled waste for Monsanto out of Mound. This could very well coincide with documents obtained in 1999 from the DOE through a FOIA request that described a nuclear accident at Mound involving contaminated plutonium material shipped to a landfill.

Rockwell International operated the Rocky Flats nuclear facility for the DOE in Colorado. The DOJ in the handling of that clean up reportedly secretly negotiated a plea bargain deal with Rocky Flats in the early 1990s and threatened citizen jurors with arrest and incarceration if they disclosed findings that were incriminating to Rockwell regarding threats to public safety.

All this taken together raises additional questions about radiation in the IEL dump. We believe it is wholly premature to make any final decisions about remediation at the landfill prior to a more thorough investigation, especially when the proposed remedy would leave the wastes in place and would allow rainfall to continue to wash through the site.

It is clear to us that EPA and DOJ should step aside and allow an immediate resumption in the investigation of IEL by USEPA Ombudsman Robert Martin. Mr. Martin needs to be given the authority, resources and personnel by Administrator Whitman to resume his independent investigation here and at other Superfund sites across the nation . Therefore, we ask that you use all your powers to press Administrator Whitman to release Mr. Martin and provide him these tools to do his job. His investigation at IEL must be completed before any formal change in the clean up plan is finalized.

We request copies of any letters sent to Administrator Whitman. Please feel free to contact us if you have any questions.

Thank you for your consideration.

Sincerely,

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cc: public