

17. July. 2002

Senator Barbara Boxer
Chair, Superfund Toxics, Risk and Waste Management Committee
410 Dirksen Senate Office Building
Washington, DC 20150
Sent via FAX

Subject: Response to Sue Ruley letter's on POGO report to Senate Committee on the Industrial Excess Landfill (IEL)

Senator Boxer,

This letter is in response to the July 5, 2002 letter to you from Sue Ruley, President of the Lake Township Trustees. That letter took issue with a report by the Project on Government Oversight (POGO) on the Industrial Excess Landfill (IEL) Superfund site in Uniontown, Ohio.

As our organization in general and an AFSC staffperson in particular are mentioned several times in Ms. Ruley's letter, we feel it imperative to respond to correct inaccuracies, to clarify our role and views on the IEL "cleanup" plan, and to comment on the objectivity of Ms. Ruley and other parties in support of the current "natural attenuation" cleanup plan.

The Northeast Ohio AFSC is a Quaker social action organization that was invited eight years ago by the Concerned Citizens of Lake Township (CCLT), the community work that for 20 years has worked for a safe and permanent cleanup of the IEL, to assist them.. Over that time, many people from Lake Township and surrounding communities affiliated with our organization became interested in and/or have encouraged us to monitor, educate, advocate and organize for a safe and permanent cleanup of the IEL. Why those who reside within Lake Township, including the 200 residents who signed a petition opposing the current proposed cleanup plan, would feel this way is obvious. Why those who reside in adjacent communities feel this way, including the many who testified at the April 18 EPA- sponsored public hearing on the amended cleanup plan, should be equally obvious -- surface and groundwater drainage does not respect artificial human-created political boundaries. To assert that only those individuals who actually reside in Lake Township have any right to comment on cleanup proposals is both provincial and diversionary.

If AFSC is an "outsider," as Ms. Ruley infers, than surely so are the polluting corporations - the four major Akron-based tire and rubber corporations that for years trucked their toxic (and some believe radioactive) waste from Akron and possibly elsewhere to dump at the IEL, which is located near the center of the small community of Uniontown. Yet incredibly these "outsiders" have been given by the Township and EPA Region 5 the ultimate insider status - the authority to draw water samples, send those samples to their own labs and announce the findings before even having their tests validated by any public agency -- namely EPA. By contrast, members of CCLT have been denied access to water and soil samples by the EPA. This is a double standard if ever there was one.

We believe these polluting corporations have a fundamental, inherent conflict of interest and should have absolutely and positively no role in the testing or monitoring of anything at IEL. They are the major polluters afterall! Is this not blatantly obvious? How can any of their tests be perceived as credible? They have a basic conflict of interest and should not be permitted access to the site. Any cleanup plan based on tests performed by the polluters is simply not believable.

Just a few short months ago, it was believed to be normal and acceptable for auditing corporations, like Arthur Anderson, to both provide private consulting services and independent auditing services to the same clients. It is now clear how much of a conflict of interest these two functions are to one another.

Not long ago, it was considered normal business practice for corporate CEOs, whose positions depend on profitable quarterly corporate statements, to shield corporate financial reports from investors and creditors. It is now clear how such practices are a conflict of interest.

Does not the same clarity in conflict of interest hold true by allowing corporate polluters the power to monitor themselves with little more than superficial oversight by any public agency? No cleanup plan will ever be perceived as genuine with a process that is so partial and one-sided.

One final area of conflict of interest in this case involves Ms. Ruley herself. Ms. Ruley is a former employee of the Firestone Corporation, one of the major polluters at IEL. She also, as a Lake Township zoning inspector in the 1960's, issued one of the first permits to dump at the IEL. Finally, as a current Lake Township Trustee, Ms. Ruley supports a cleanup plan that is the cheapest proposed to date. Lake Township was named as a potential third party defendant by IEL's major corporate polluters years ago, meaning that any costs ultimately paid by IEL's major polluters could be passed on to, among other entities, Lake Township. Thus, it is within the interest of the Lake Township Trustees to see that the cheapest solution be found to the problems at IEL. Ethically, Ms. Ruley should recuse herself from all opinions and involvement in any cleanup plans at the IEL.

Over the past eight years, AFSC has initiated more than a dozen Freedom of Information Act (FOIA) requests to several federal agencies on radiation at the IEL -- one of the central issues of Ms. Ruley's letter. We have received in response to these requests several curious documents indicating deposits of material, including radiation, from the Department of the Army (DOA) and Department of Energy (DOE). Several of our FOIA requests were only partially responded to; one request to EPA Region 5 was totally ignored. As a result, late last year we filed a federal lawsuit against the DOA, DOE and EPA over what we believe is withheld information on radiation present within the IEL. Until these agencies come clean and release all their documents to the public, we believe that no cleanup plan should be finalized.

Sadly, EPA has been neither objective nor professional in their involvement at this site. As you may know, Region 5 labs were raided by the Department of Justice several years ago on issues of impartiality of test results at Superfund sites throughout the midwest. One of those sites involved could be IEL. Furthermore, the frequently-lauded Science Advisory Board (SAB) report on IEL was produced by a panel made up of EPA hand-picked members with little or no experience on radiation. Former USEPA Ombudsman Robert Martin and his Chief Investigator Hugh Kaufman are the only principals within the agency at any level that we feel have demonstrated impartiality and professionalism regarding this site. Their preliminary report, mentioned by Ms. Ruley, calls for further investigation and independent testing before any final cleanup plan is initiated. I concur with Ms. Ruley that you should review this report.

Finally, Ms. Ruley comments that our organization has been unwilling to meet with others, including US Representative Tom Sawyer, on IEL. This is untrue. For more than a year, CCLT and AFSC sought a private meeting with Sawyer. He refused to meet with us yet we had reason to believe that he spoke and/or met privately with other parties, including EPA, the Township and the corporate polluters. We felt this was unfair.

POGO has performed a valuable public service in drawing national attention to a Superfund site that for decades has been literally and figuratively buried. IEL deserves further investigation by not only scientists but also by public officials like yourself and your Senate Committee. We invite you to read the January/February cover story of the Journal of Soil & Water Conservation regarding phytoremediation. What has gone on here should never happen again -- anywhere. It would be, indeed, be a tragedy if EPA prematurely planted their trees and shrubs and called it a "cleanup" plan. We hope you do everything in your power to prevent that from happening.

Please feel free to contact us if you have any questions or would like any background information related to anything mentioned herein.

Sincerely,

Greg Coleridge
Director

Joe Mosyjowski
Board Member

Economic Justice & Empowerment Program Economic Justice & Empowerment Program

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