

October 29, 1996

Mr. Bernard B. Freedman, Esq.  
Norton/Radin/Hoover/Freedman  
Attorneys at Law  
2858 Delaware Avenue  
Kenmore, NY 14217-2789

Dear Mr. Freedman:

This is in response to your September 18, 1996, letter to me and an identical letter of the same date to Mr. Dennis Sollenberger, NRC, regarding concerns over radon sampling at the Niagara Landfill by the New York Department of Environmental Conservation (NYDEC). I contacted you by telephone on October 10, 1996, and informed you that a response to your letter was in preparation. In your letter, you indicate that a member of the City of Tonawanda Board of Education believes the test results found by the NYDEC are unreliable, because the test does not meet acceptable scientific practices. The Board requests that a proper sampling be performed to accurately determine radon emissions at the facility.

We are aware that your concerns related to sampling techniques have been addressed in the letter of October 7, 1996, to you from D. W. Christian, Associate Attorney, NYDEC. In that letter, the NYDEC described the sampling and analysis techniques used to determine radon concentrations at the facility. The letter indicates those techniques were conducted in full accordance with generally accepted scientific principles and practices. Based upon that analysis the NYDEC has also determined that the emissions do not pose a threat to public health or the environment. Based on NYDEC's commitment to measure the radon in the gas supplied to the extraction system flare quarterly for the next year, and at a fraction to be determined thereafter, together with the additional information provided in its October 7, 1996 letter, it appears that the State's current approach to sampling at the site is reasonable.

Please note that the radioactive material buried in the Niagara Landfill covered under the Atomic Energy Act, as amended, has raised jurisdictional questions at the federal and state level regarding regulatory responsibility. The extent of the NRC involvement in the Niagara landfill is currently being examined by the NRC staff.

Sincerely,

Original Signed By:  
Craig Z. Gordon

Craig Z. Gordon  
Regional State Agreements Officer

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B. Freedman, Esq.

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cc:

P. Merges, NYDEC

D. Sollenberger, NRC OSP

P. Giardina, EPA

R. Kirk, DOE

B. Freedman, Esq.

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