



Department of Justice

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



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FACT SHEET ON ALLEGATION OF IEL DUMPING

After reviewing a Court-ordered investigation by the U.S. Department of Justice and the Environmental Protection Agency's Regional Office in Chicago, a U.S. District Judge has found that a recent claim that stainless steel "eggs" said to contain plutonium-238 were dumped at the Industrial Excess Landfill more than 30 years ago is "not credible." Judge John M. Manos of the United States District Court for the Northern District of Ohio directed the United States to undertake the confidential investigation as soon as the allegations surfaced regarding the Uniontown, Ohio landfill.

The investigation spanned eight months and included more than 20 witness interviews, review of a vast collection of documents, and technical studies. The United States submitted a 126-page report of the investigation to the Court. On November 28, 2001, Judge Manos issued a 24-page opinion. Based on his own observation of witness testimony and his review of the report and exhibits, the Judge concluded that the "allegations regarding the presence of stainless steel eggs containing [plutonium]-238 at IEL are not credible, and that no further investigation or proceedings are warranted as to such allegations."

Background:

The Industrial Excess Landfill, a federal Superfund site at 12464 Cleveland Avenue, operated from about 1966 to 1980 and accepted many kinds of waste from numerous sources, including solvents from rubber and tire manufacturers and construction materials. A federal lawsuit filed by the Justice Department on behalf of EPA, seeking recovery of IEL-related cleanup costs from several defendants, is pending in federal court in Cleveland. One of the defendants is Mr. Charles Kittinger, who owned and operated the landfill from approximately 1965 to 1971.

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In February 2001, Mr. Kittinger told federal officials for the first time that during a one or two-day period one summer while he owned the landfill, unidentified military personnel disposed of three egg-shaped, stainless steel objects, about eight-feet long and six feet wide, at the landfill. According to Mr. Kittinger, he was told the objects contained "live cores" of plutonium-238. Mr. Kittinger said he later concluded that the "eggs" were nuclear bombs. His statements, which were inconsistent with deposition testimony he gave in December 2000 and January 2001, were reported to the Court. The Court ordered that Mr. Kittinger's allegations be investigated and that the entire matter be kept confidential pending the outcome of the investigation. Mr. Kittinger gave detailed testimony about the alleged incident in a sworn deposition conducted in chambers with the Judge presiding.

Plutonium-238 generates a large amount of heat and is used in small quantities as a power source for spacecraft. It is not used in nuclear weapons. An exhaustive review of the disposal practices of U.S. Army, Ohio National Guard, Department of Energy, and National Aeronautics and Space Administration facilities within reasonable distance of IEL found no evidence that any form of plutonium was disposed at IEL or that any of these agencies used or possessed anything that looked like the "eggs" Mr. Kittinger described. In fact, based on a careful review of IEL records, it appears that the only "military" deliveries to IEL were made by the Ohio Army National Guard, not the U.S. Army. The Ohio Army National Guard had no access to nuclear weapons materials.

EPA's Science Advisory Board reviewed data from the IEL Site in 1994 and concluded that it was highly unlikely that radioactive contamination is, or was, present at IEL. Since then, no plutonium has been detected in IEL samples, except for a small fraction of samples that have yielded possible detections at extremely low concentrations. These results do not provide evidence that plutonium is present because they are consistent with the expected pattern of false positives in this type of sample analysis. The reported minute concentrations do not, in any event, indicate that plutonium has been disposed of at IEL or that any plutonium-related health risks exist at IEL.

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