

July 17, 2017

Honorable Andrew M. Cuomo
Governor of New York State
The Capitol
Albany, NY 12224

Greetings:

I respectfully write to request that you require your Department of Environmental Conservation to reject its "No Further Action" so-called "remedy" proposed for the Ithaca Falls Overlook, DEC Site #: E755018, 125 Lake Street, Ithaca, NY 14850.

This proposal hardly constitutes a "remedy" for toxic contamination that is either visually apparent or documented at the Falls Overlook site as well as on adjoining areas. These include areas to the south at the stunningly contaminated Ithaca Gun factory site, to the north at the toxic-polluted Ithaca Falls Gorge and to the west on the "Island" where lead pellets are strewn all over the ground

Adopting a No Further Action proposal would be irresponsible. Tens of thousands of Ithaca residents as well as visitors from all over the world, including very young children, frequent the Ithaca Falls Gorge that is polluted each and every day by contamination raining down from the inadequately remediated Falls Overlook site.

As you will see, a composite soil sample collected at the Ithaca Falls Overlook site has just been analyzed and reportedly constitutes lead hazardous waste according to a Toxic Characteristic Leaching Potential (TCLP) analysis. It is inconceivable that your administration would leave lead hazardous waste at the Ithaca Falls Overlook.

See: [Ithaca Falls Overlook Site Composite Soil Sample TCLP Lead Hazardous Waste Determination](#)

Moreover, according to the U. S. Environmental Protection Agency, the Gorge area has lead contamination measured at 30,000 Parts Per Million or 75-times the lead clean up requirement of 400 PPM. See: [Request that EPA Include Ithaca Falls/Ithaca Gun in the National Priority List for Federal Superfund Clean pursuant to New Subsurface Soil Gas Vapor Intrusion Rule](#)

It is imperative that all toxic hazards in these areas be remediated in strict compliance with applicable standards in order to safeguard public health and the environment. It is bad enough that DEC failed to clean up this incomparable gem of a public natural area for 17 years. It would be unforgivable if DEC turned its back on making sure the site is not a continuing toxic hazard.

Numerous Factually Incorrect DEC Assertions Must be Rejected

DEC's No Further Action proposal must be rejected because it is based on numerous factually incorrect assertions which refute the conclusion that future site management activities can safeguard public health due to Interim Remedial Measures as well as institutional and engineering controls undertaken at the site.

DEC states, "Based on the results of the investigations at the site and the interim remedial measures (IRMs) and post-IRM screening that have been performed, the NYSDEC is proposing No Further Action as the remedy for the site."

DEC notes, "The proposed No Further Action remedy includes the implementation of the institutional controls described in a separate section below, as well as the engineering control consisting of a cover system, installed for portions of the site by the IRMs. Periodic site inspections and reporting, which include additional removals of lead shot as needed, will ensure continued protection for the environment and public health."

This proposal is unacceptable because there is no specific plan to make sure that these requirements are fulfilled.

Dumping Debris Remains at the "Island" Portion of the Falls Overlook

First, the northern portion of the Falls Overlook site delineated in Figure 1 below remains strewn with coal clinker, shotgun shell remnants, lead pellets and other unmistakable evidence of waste dumping that has not been removed from the "Island" where I first documented massive toxic lead waste nearly 17 years ago.



In particular, the northwestern portion of the Falls Overlook site clearly has large amounts of toxic contaminated debris that should have been removed because the material falls directly into the Ithaca Falls Gorge immediately below. This toxic debris extends down the Ithaca Gorge cliff face that is part of the Falls Overlook site. Adjoining areas of the eastern portion cliff face very likely remain contaminated, but are not easily inspected due to the sheer drop-off.

See: [Evidence of Incomplete Remediation of Toxic Contamination at Ithaca Falls, Ithaca, NY 6/16/17](#)

Until this entire area is remediated, DEC must not be allowed to declare that hazards at the Falls Overlook have been sufficiently addressed. That is not true.

Extensive Lead Pellet Pollution Still Has Not Been Removed After 17 Years

Second, the area immediately west and southwest of the Falls Overlook "Island" still has extensive lead pellet pollution that is visually apparent. Due to the force of gravity as well as wind and water erosion, toxic lead is unquestionably migrating south into the immediately adjoining tailrace which courses downhill and terminates in the park where visitors enter the Ithaca Gorge Trail.

The tailrace channel immediately adjoining the "Island" is difficult to inspect due to a sheer drop-off and a highly unstable slope. It is very likely contaminated with lead that can be seen on the upgradient sections of the "Island."

All lead in these pollution-source areas must be removed to the applicable 400 PPM requirement or contamination will eventually migrate down the tailrace channel and contaminate the downgradient park where unsuspecting visitors can be exposed to toxic lead.

Unremediated Lead Likely Repolluted Falls Overlook Area West of Factory

Third, I was extremely dismayed to learn that DEC knew about massive lead contamination documented at the Ithaca Gun factory site in 2013 that had never been brought to the public's attention. As a result, thousands of people who wandered around this "attractive nuisance" site very likely became contaminated. This reflects a shocking disregard for protection of public health.

The responsible party's own map documents that extensive, high-level post factory demolition lead contamination has been reported with XRF field screening techniques. Laboratory analysis confirmed the presence of extraordinarily high levels of lead up to **190,000 parts per million. This concentration is 475-times the applicable clean up requirement of 400 PPM.**

[Former Ithaca Gun Site - Post Demolition Screening Results Map - Oct 2013](#)

This large area of unremediated lead pollution has very likely migrated onto the adjoining western slope of the Falls Overlook site which is immediately downgradient of the demolished factory. Pollution also might have migrated off-site in all directions. DEC must investigate this concern and, if need be, remediate polluted areas.

As you can see from the photos presented below, the surface of the factory site was likely contaminated when approximately 10,000 cubic yards of toxic demolition debris was improperly staged on-site before being removed.





Contamination that has never been cleaned up at the factory site unquestionably has been carried off-site by wind, water and gravity. This is precisely how areas cleaned up by the U. S. Environmental Protection Agency circa 2003 were recontaminated when final clean up of the factory site was delayed by a bankruptcy proceeding.

Conclusion

With all respect, there can be no question that state, federal and local government authorities have repeatedly failed to clean up Ithaca Falls Overlook, Ithaca Falls Gorge and Ithaca Gun for nearly 17 years since I first brought high-level lead contamination to public attention.

The recent soil removal conducted by the U. S. Environmental Protection Agency in the Ithaca Falls Gorge area was almost immediately polluted by toxic debris falling from the Falls Overlook. Until the Falls Overlook is comprehensively remediated, Ithaca Gorge will remain imperiled.

In addition to lead and other toxic metal concerns, the Ithaca Gun, Ithaca Falls Overlook and Ithaca Falls Gorge areas are contaminated with solvent pollution that is migrating either Northwest, West or Southwest based on limited subsurface investigations. Zero effort has been made to remediate this pollution.

As you can see, some of the highest contaminant concentrations are located at monitoring points located furthest away from the Ithaca Gun/Ithaca Falls Overlook/Ithaca Gorge area. See: SB-8/VP-8. There is no question that the full extent of subsurface solvent contamination in this area has yet to be delineated.



For all these reasons, I believe that the only way that Ithaca Falls Overlook, Ithaca Falls Gorge and Ithaca Gun will be fully investigated and remediated without seemingly endless further delays is to require your DEC to request that the U. S. Environmental Protection Agency list all these sites on the National Priority List for Federal Superfund Clean up.

With that goal in mind, I request that you require your DEC to submit that request to EPA without delay for the reasons spelled out in my recent letter to EPA. Please note the key change in the Hazard Ranking System to address vapor intrusion concerns.

See: [Request that EPA Include Ithaca Falls/Ithaca Gun in the National Priority List for Federal Superfund Clean pursuant to New Subsurface Soil Gas Vapor Intrusion Rule](#)

I trust that you will find my comments and requests self-explanatory, but please do not hesitate to contact me if you have any questions that I might be able to answer.

Thank you for your consideration.

Very best regards,

Walter Hang

cc: Honorable Catherine R. McCabe
Honorable Walter Mugdan
Honorable Barbara Lifton
Honorable Members of the Ithaca Common Council
Honorable Charles Schumer
Honorable Steven Englebright
Honorable Thomas Reed
Honorable Basil Seggos