

New York State Assemblywoman Donna A. Lupardo, 126th District

My name is Donna Lupardo. First, let me say that I'm not a scientist, nor am I an epidemiologist. I am simply an advocate for the community that I represent in the NYS Assembly. I represent the 126th District which includes the City of Binghamton, and the Towns of Union and Vestal. Located in the Town of Union is the Village of Endicott, birthplace of IBM and Endicott-Johnson Shoes. My remarks today reflect Endicott's long journey into the world of TCE contamination and my own journey to find answers.

Prior to my election, I was a member of the Resident Action Group of Endicott (RAGE). Along with Congressman Maurice Hinchey, the group helped raise public awareness about the dangers of vapor intrusion and drinking water contamination. Working together, the Endicott site was reclassified in 2003 after it was discovered that underground water contamination could produce toxic vapors in people's homes and businesses.

I also served as a member of the Stakeholder Planning Committee which met on a regular basis with representatives from ATSDR and the NYS Departments of Health and Environmental Conservation.

In Endicott, there are over 480 homes spread out over 300 acres fitted with ventilation systems designed to address chemical vapor intrusion. These vapors are the legacy of the microelectronics industry that once dominated our local economy. Fortunately, for Endicott residents, there was a responsible party available. IBM was in a position to assist with the costs of not only the ventilation systems, but with the pumping stations, monitoring wells, ambient air testing, and air stripper needed to address the contamination of wells that supply drinking water to 46,000 residents in the Town of Union, including my own home in Endwell.

In August of 2005, the NYS Department of Health (DOH) released a Health Statistics Review for the Endicott site that documented elevated rates of testicular cancer, kidney cancer and heart birth defects in the Endicott area. The review found that these elevated rates were statistically significant, meaning they are unlikely to be due to chance alone. This review validated what residents had been talking about for years. Unfortunately, their fears only grew.

I also serve on the Environmental Conservation Committee of the State Assembly. After conducting several hearings around the state, we issued a report in February of

2006 entitled, "Vapor Intrusion of Toxic Chemicals: An Emerging Public Health Concern." One finding is particularly relevant to today's hearing.

We found that "the New York State air guideline for TCE of 5.0 mcg/m³ was not based on the most protective assumptions supported by science. In developing its guideline for TCE, the Department of Health (DOH) made a number of choices that resulted in a less protective standard, including the choice not to consider the epidemiologic studies used by EPA in its 2001 draft assessment; the choice not to use a new and stronger epidemiological study as a source of quantitative values; and the choice not to consider animal studies which show an association between exposure to TCE and testicular cancer, lymphoma, and lung cancer based on lack of human evidence. As a result, DOH's guideline is two orders of magnitude higher than the most risk-based concentrations for TCE in air developed by California, Colorado, New Jersey, and several EPA regional offices which range from 0.016 to 0.2 mcg/m³." New York also changed its TCE guidelines in 2003 (from 0.22 mcg/m³ to 5.0 mcg/m³) in the middle of the IBM cleanup leaving many homeowners confused and frustrated because they were no longer eligible for ventilation systems.

The Environmental Conservation Committee strongly recommended that DOH revise its current indoor air guideline for TCE to reflect the most protective assumptions about toxicity and exposure supported by science. We believed that in the face of uncertainty regarding the threat of harm to human health posed by vapor intrusion, that DOH should err on the side of caution and adopt a much more conservative approach. Unfortunately, they did not.

While we are attempting to address this issue legislatively in NYS, we desperately need federal leadership on this topic. The "Toxic Chemical Exposure Reduction Act" that Senator Clinton has introduced in the Senate (and Congressman Hinchey in the House) would finally provide a national primary drinking water regulation for TCE, and an all important reference concentration of TCE vapor that is protective of susceptible populations, along with important health advisories. It would put an end to a confusing hodgepodge of individual state guidelines and arbitrary regulations.

I am also encouraged that the legislation establishes an Integrated Risk Information System (IRIS) reference concentration of TCE vapor. I am, however, deeply concerned that EPA's new interagency review process will actually increase the challenges that they face in evaluating and regulating chemicals. The IRIS database could soon become obsolete, because of the backlog of ongoing assessments. I hope that the TCE assessment does not fall prey to policy biases that overshadow good science.

Finally, I would be remiss if I did not briefly mention another related matter that I would hope you would address. OSHA has set an exposure limit of 100 parts of TCE per million parts of air (100 ppm) for an 8 hour workday, 40 hour work week. 100 ppm equals 500,000 micrograms/cubic meter of air. That's 100,000 times higher than the current New York standard of .5. Surely, a separate investigation of workplace exposures is warranted, especially for communities like Endicott where many residents were exposed at home and at work.

Thank you for allowing me to testify today on this most important topic. On behalf of my constituents, and all the advocacy groups in NYS, I want to express my deepest gratitude for your efforts.