**Submission of Alaska Community Action on Toxics**

**In response to the Call for submissions “The impact of toxics on Indigenous peoples”**

**Mandate of the Special Rapporteur on toxics and human rights**

**April 25, 2022**

Alaska Community Action on Toxics (ACAT) is an environmental health and justice research and advocacy organization based in Anchorage, Alaska, USA. Six of ACAT’s eight board members are Alaska Native women, representing five of Alaska’s eleven Alaska Native groups. This submission focuses on the impacts of military contamination on the Yupik people of Sivuqaq (traditional name for St. Lawrence Island).

1. **Is your Indigenous community (or one that you represent) suffering from the adverse effects of hazardous substances and toxic wastes? Please describe the case and circumstances of these effects in detail, including the source of the toxic exposure, the types of hazardous substances you are being exposed to, the degree of government/company consultation and consent to relevant activities, as well as any efforts made by the government/company to provide effective remedies.**

St. Lawrence Island (SLI) is home to approximately 1,400 Yupik people residing in two extant communities, Gambell and Savoonga. SLI, with the traditional name of Sivuqaq, is located in the northern Bering Sea, 75 km southeast of the Chukotsk Peninsula of Russia and 190 km southwest of the North American mainland at the tip of Alaska’s Seward Peninsula. The people of SLI rely on a traditional subsistence diet. Because of the island’s strategic geopolitical location, the U.S. established an Aircraft Control and Warning Station and White Alice Communications System Station at Northeast Cape (NEC) that operated from 1952-1972. The military displaced the traditional community of ~130 residents of NEC that included a governing tribal council, who re-located to Savoonga.

Prior to the military occupation, NEC and the Suqitughneq (Suqi) River were an especially important area for subsistence gathering, fishing, and hunting. The Suqi River was abundant with fish and the water was safe to drink. In a letter dated April 7, 1951, the Savoonga Tribal Council granted the U.S. Air Force a land withdrawal for military use at NEC with clear conditions, including the following provision: “Any refuse or garbage will not be dumped in streams or near the beach within the proposed area.” The military site encompassed ~39 km2 and included 25 industrial buildings, an airstrip, and associated support facilities. When the military abandoned NEC in 1972, they left extensive debris and hazardous waste in violation of the 1951 agreement. Contamination of soils, sediments, surface waters, groundwater, and biota derives from massive petroleum spills and releases of solvents, polychlorinated biphenyls (PCBs), organochlorine pesticides (OCPs), and heavy metals. Within the NEC formerly used defense (FUD) site, 30 areas of contamination were identified for investigation and removal actions.

Shortly after the military’s abandonment of the NEC FUD site, Annie Alowa, a respected traditional healer, raised concerns that the hazardous materials at NEC posed a long-term health risk for her people. She was concerned by the high incidence of cancers, miscarriages, and other health problems among the families who lived and worked at NEC. She later developed cancer and continued her work for the health of her people until her death in 1999. Ms. Alowa was inducted into the Alaska Women’s Hall of Fame in 2016 in recognition of her achievements in health advocacy for Alaska Natives. In the spirit of her legacy, she requested that ACAT and partners carry on her work for the health of the people of SLI. This resulted in the establishment of a community-based participatory research (CBPR) collaboration in 2000 with the communities of SLI, originally supported by a grant from the National Institute of Environmental Health Sciences (NIEHS). Over the past two decades of CBPR and collaborative interventions, the SLI communities have developed a trusting relationship with the research team. The research team has published numerous papers on contaminants and health effects on SLI and this work has received state and national recognition in many venues, including The New York Times, Environmental Health News, NIEHS’s Environmental Factor, and The Alaska Justice Forum.

The U.S. Army Corps of Engineers is responsible for monitoring and cleanup of the NEC FUD sites pursuant to section 9604 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In 2009, the Corps issued a Record of Decision (ROD) that allowed contamination to remain in many of the NEC disposal sites. Moreover, the ROD allowed inadequate monitoring plans. The State signed the ROD; however, residents were neither consulted nor party to the ROD and did not concur that the remediation was complete or protective of health. CERCLA requires a review every five years to determine whether remediation decisions have been effective. The Corps initiated the second five-year review in 2019, and the next will be required in 2024—these have nee. By the end of 2018, the Corps had spent ~$125 M on remediation and monitoring at NEC, including removal of structures, storage tanks and drums, and contaminated waste, soils, and sediments. Although cost of remediation is sizeable, much of the expense is due to the transport of materials from this remote location to off-site disposal sites. The remediation has relied on superficial cleanup, natural attenuation, institutional controls (e.g., signage, use restrictions), and long-term monitoring and leaves much of the contamination within the watershed of NEC.

Congress established the Agency for Toxic Substances and Disease Registry (ATSDR) under CERCLA to evaluate health hazards associated with waste sites and to “prevent or reduce further exposure and the illnesses that result from such exposures.” Health consultations by ATSDR concerning NEC were based on inadequate data and insufficient consultation with SLI residents. The health consultation, released in 2000, recommended that residents avoid consuming fish from the Suqi River until comprehensive investigation and cleanup was accomplished. The 2006 health consultation used analyses of a small number of fish collected in 2001 to base a conclusion that “consumption of PCBs in the Dolly Varden and pink salmon from the waters at the NE Cape is not likely to result in adverse health effects.” On October 11, 2011, the tribal government of Savoonga sent a letter to ATSDR requesting a Public Health Assessment and Health Consultation to assess the health disparities associated with the NEC FUD sites. Although the agency agreed to prepare a consultation, ATSDR did not release a draft Health Consultation public comment until 2017. The report concluded that the NEC FUD sites did not represent unacceptable exposure risk(s) to residents. This conclusion was based on inadequate site assessment data from the Corps and the small 2001 fish data set. The communities of Gambell and Savoonga responded on November 7, 2017, stating, “We do not accept the ATSDR health consultations because they are so poorly done, scientifically unacceptable, and because the agency has disrespected and left out our knowledge. ATSDR has not conducted government-to-government consultations as required with our tribal governments in the preparation of these documents. You have violated the trust of and failed our people. The health consultation neglects to seriously address knowledge and observations about the changes in health made by members of our communities.” Elders and health experts from SLI have observed greater health disparities, including cancers, birth defects, and endocrine disorders such as thyroid disease, among the people most closely associated with NEC. Cancers and other health disparities seem especially prevalent among the families with traditional associations to NEC, including those who lived and worked at NEC. Our analyses demonstrate that the ATSDR assessment is fundamentally flawed. The assessment was based on fish collected prior to major remediation activities, which is problematic because remediation often releases contaminants into watersheds. Additionally, the fish were collected in the estuary of the Suqi River, where tidal fluxes remove and dilute contaminated water, and thus these fish are not reflective of contamination levels in the Suqi River proper. ATSDR neglected to differentiate between resident freshwater and anadromous Dolly Varden. Both are fished in the Suqi River, and resident fish accumulate contaminants throughout their lifespan and thereby reflect FUD site contamination, while anadromous fish complete most growth in the ocean and are therefore unlikely to reflect local freshwater pollution sources. We found that resident freshwater fish in the Suqi River are highly contaminated with PCBs and pesticides from the FUD sites. We provided these data to ATSDR prior to their health assessment, but they refused to include them. For these and other reasons stated in our formal public comments, we concluded that the ATSDR assessment was deeply flawed.

NEC was once a vital community and gathering place for traditional foods. Residents want to re-establish the community at NEC; however, the health and safety of the people, lands, waters, and traditional foods must be ensured. The watershed of the Suqi River is still severely polluted and the contamination prevents the safe consumption of traditional foods and practicing of cultural activities. Contamination also prevents the recovery of fish populations. Seal haul-outs at the mouth of the river also have not recovered. Collectively, both traditional knowledge and our data suggest that NEC is still unsafe for traditional practices and reestablishment of the traditional community. As the governing entity, the communities reiterate their right and authority to establish the highest standards that require restoration of the lands and waters damaged by military activities at NEC. Clearly, the full nature and extent of contamination at NEC has not been properly characterized by the Army Corps. Moreover, we have shown that remediation to date is inadequate to protect public health. Our research established that the people of SLI have concentrations of PCBs in their blood that are six times higher than people who live in the lower-48 U.S. states, and residents of Savoonga who have close traditional ties to NEC have higher concentrations of PCBs in their blood than do SLI residents who are not associated with NEC. We concluded that atmospheric deposition of PCBs coupled with biomagnification into traditional foods results in elevated levels of PCBs in SLI residents, and those residents with traditional association at NEC are further exposed. Our research helped to develop stickleback as a model for ecotoxicology to determine biological effects of contaminants on gene expression, endocrine function, and organ-specific histopathology. This development, in the context of global efforts, improved the efficacy of the stickleback as an ecotoxicology model and sentinel species. Our research demonstrates that: 1) NEC remains contaminated with PCBs, OCPs, and toxic metals, despite remediation efforts; 2) contaminant profiles and biomarkers of disease in stickleback closely parallel those of SLI residents; and 3) these chemicals are associated with pathologies in stickleback, as reflected in endocrine disruption, histopathology, and altered gene expression. Thus, our research indicates that contaminants remaining at NEC represent a continuing risk to human health. Furthermore, the predominant contaminants at NEC – PCBs, OCPs, and mercury (Hg) – are well known to cause developmental pathologies and disease in humans.

Please see attached scientific papers from our community-based research.

1. **What are the adverse impacts of toxic and hazardous waste on your Indigenous community’s (or the Indigenous peoples you represent) collective and individual rights, such as your rights to lands, resources, culture, health, livelihood, political and economic involvement, etc.?**

The military contamination has resulted in severe multi-generational harms to the health of the people, to persistent and pervasive contamination of lands, waters, and traditional food sources. People of the Island describe a cancer crisis, especially among the families most closely associated with NEC. The military has violated the human rights Yupik people of Sivuqaq, including the right to health, lands and waters, culture, and the right to food. The military displaced the community at NEC and left a terrible legacy of contamination that will persist for decades unless they are held accountable.

1. **Is the government implementing a right to free, prior, and informed consent regarding exposure to toxics and hazardous substances on your lands and territories?**

No. The military did not implement a free, prior, and informed consent and violated the agreement from 1951.

1. **Is the company responsible for producing the toxics and hazardous waste implementing dialogue with regards to those substances and their consequences with your community?**

In this case, the perpetrator is the US military. They have provided incomplete information to the community and not engaged the tribes in government-government consultation as required.

1. **Have you tried to take action (either legal action, advocacy campaign, etc.) to raise awareness on the issue and/or have you tried to obtain compensation?**

We have advocated for many years. We are considering legal actions and mechanisms for compensation and reparations for the people of Sivuqaq. It is very difficult to find a legal team to bring legal actions against the military.

1. **What are the most significant challenges to eliminating exposure to toxics in your community?**

The most significant challenge is holding the military accountable for responsible clean up. We have also had difficulties obtaining information about the types and quantities of chemicals that have been disposed of on the site. The military maintains a system of secrecy that makes it very difficult to obtain information. Our community-based research has elucidated the presence of chemicals such as mirex for example, a pesticide that the military contractors were not even testing for.

1. **What community education does your country, or the responsible company, provide for Indigenous peoples living in areas with high exposure to toxic and hazardous waste?**

None.

1. **What specific actions has your country taken to protect the rights of Indigenous persons exposed to toxics, in particular women and children?**

None.

1. **Are there any national health assessments or studies that your country conducts to measure the rate of toxic exposure that Indigenous peoples do experience?**

No. As described in section one, the health assessment was poorly conducted and highly inadequate.

1. **Does your country provide any services to Indigenous peoples and individual persons exposed to toxics, such as health care, education, etc.?**

No.

1. **Do Indigenous peoples and individuals in your country have a constitutional or legal right against the exposure of toxics on their persons or their traditional lands and territories, or are there any environmental laws/policies that require environmental remediation?**

The system of law is grossly inadequate and the fundamental human rights of the people of Sivuqaq have been violated.

1. **What are the available remedies for Indigenous peoples and individuals exposed to toxics that have experienced damages (in the form of land, health, livelihood, etc.), and what are the challenges to obtaining these remedies in your country?**

The US military considers itself above the law. It is extremely difficult to hold them accountable.

1. **Is traditional Indigenous knowledge and medicine available in your community to treat people exposed to toxics?**

No.