

New York State Department of Environmental Conservation

Division of Solid and Hazardous Materials

Bureau of Radiation & Hazardous Site Management, Room 460

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October 5, 2000

Lt. Col. Glen R. DeWillie
Commander
U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, New York 14207-3 199

Dear Colonel DeWillie:

Re: EE/CA for the former Lake Ontario Ordnance Works

The New York State Department of Environmental Conservation (the Department) has received the "Engineering Evaluation/Cost Analysis (EE/CA) for the former Lake Ontario Ordnance Works Site," dated September 7, 2000. The EE/CA evaluates remedial approaches for a proposed Interim Remedial Action (IRA) for a buried drum trench and a trash pit associated with past usage of the property by the Federal Government.

It is the policy of the Department to ensure that interim remedial actions are consistent with final corrective action goals. While interim actions are not required to achieve final cleanup levels, the geology at the areas proposed for the IRA greatly limit the migration of contaminants. This presents the opportunity to achieve "final" cleanup levels as part of the IRA with a minimum of additional costs. This approach is much more cost-effective than having to revisit the site to complete additional remediation.

Upon review, the Department has the following comments:

Page 7, Executive Summary - Selection of Proposed Action: The Department, under the CERCLA program, does not recognize the use of USEPA Region 9 Preliminary Remediation Goals in setting remedial goals for contaminated areas, neither on NPL or non-NPL sites.

Page 11, Section 1.0, Introduction: It should be clarified that the contaminated areas being addressed as part of this action are not associated with the former TNT plant, but rather former Air Force Plant 68 and/or the Navy interim pilot production plant.

Page 14, Section 2.2, Site History: While the discussion on the historical use of the property is extensive, the only sections relevant to the area addressed by the IRA are 2.2.1.1, 2.2.1.3, 2.2.1.5 and 2.2.2.1.

Page 26, Section 2.3.4, Environmental Setting - Groundwater: Additional discussion on the groundwater flow characteristics should be added to the report.

Page 28, Section 2.3.5, Surrounding Land Use: The nearest public road to the areas subject to the IRA is Balmer Road, approximately 1,300 feet to the north.

Page 29, Section 2.3.9, Environmental Setting - Wildlife and Fish: A wildlife evaluation has been conducted by CWM Chemical Services. For details please see "Site-wide Corrective Measures Study, Model City Facility, Rust Environment & Infrastructure, January 1995."

Page 29, Section 2.4, Site Characterization Data & Standards: The areas subject to the IRA are located in Vicinity Property D.

Page 31, Section 2.4, Site Characterization Data & Standards: To clarify the statement concerning NYSDEC TAGMs found in the second paragraph, the Department's goal is to restore contaminated sites to pre-disposal conditions; but in exercising flexibility, DEC has calculated the TAGM values, and applies them in instances where achievement of pre-disposal conditions is not feasible.

In addition, since the property which is the subject of the proposed IRA is not owned by the Federal Government, assumptions on future use of the property, with respect to risk to human health and the environment cannot be made at this time.

Page 31, Section 2.4, Site Characterization Data & Standards: under the CERCLA program, does not recognize the use of USEPA Region 9 Preliminary Remediation Goals in setting remedial goals for contaminated areas, neither on NPL or non-NPL sites. To quote from the USEPA Region 9 website:

"Preliminary Remediation Goals (PRGs) are tools for evaluating and cleaning up contaminated sites. They are risk-based concentrations derived from standardized equations, combining exposure information assumptions and EPA toxicity data. The PRGs contained in the Region 9 PRG Table are generic; they are calculated without site specific information.

PRGs should be viewed as Agency guidelines, not legally enforceable standards. They are used for site "screening" and as initial cleanup goals if applicable. PRGs are not de facto cleanup standards and should not be applied as such."

Use of the PRGs, as proposed in this document are inappropriate and are unacceptable to the Department.

The basis and procedures to determine soil cleanup levels in New York State when the Director of the Division of Hazardous Waste Remediation determines that cleanup of a site to pre-disposal conditions is not possible or feasible are found in "NYSDEC Technical and Administrative Guidance Memorandum (TAGM) 4046."

Page 43, Section 2.5, Summary of Investigations: It should be noted that the data used to characterize this area is very limited and does not include samples of containerized materials or waste materials. Comprehensive characterization as part of remedial activities will be required.

Page 46, Section 3.4.3. Identification of ARARs: The Department considers the following regulations to be applicable: Toxic Substance Control Act (TSCA), Resource Conservation and Recovery Act (RCRA), Clean Water Act, Clean Air Act, National Oil and Hazardous Substances Pollution Contingency Plan (NCP); and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). These regulations govern releases of contamination into the environment and the disposal of materials and are directly applicable. In addition, New York State considers all groundwater to be a potential drinking water source with 6 NYCRR Part 703 class GA drinking water standards applicable.

Page 52, Section 4.0, Streamlined Risk Assessment: Since the property which is the subject of the proposed IRA is not owned by the Federal Government, assumptions on future use of the property, with respect to risk to human health and the environment, cannot be made at this time.

Page 52, Section 4.2, Chemical Hazards: The proposed action does not remove all materials to pre-release conditions and therefore will not eliminate the subsurface chemical hazards

Page 53, Section 4.3.4, Physical Hazards - Explosives: Due to recent proposed modifications to the IRA for the TNT Waste pipeline, the TNT lines are not currently proposed to be removed. In addition, the Area C drum trench and trash pit are located in the vicinity of former TNT production lines 1 and 2 and the possibility of encountering residues associated with their operation strongly exists.

Page 54, Section 4.5.2, Release Mechanisms - Groundwater Migration: Sufficient groundwater data has not been collected to support the conclusions of this section.

New York State considers all groundwater to be a potential drinking water source.

Page 54, Section 4.5.2. Release Mechanisms - Airborne Contamination: Contaminants may be volatilized and released as part of removal actions.

Page 55, Section 4.6, Assessment of Risks & Physical Elements: The cleanup levels proposed for the IRA have not been determined via a full human health risk assessment. Therefore, statements on the elimination of risks cannot be supported.

Page 61, Section 5.3.3, Alternative 2 - Soils and Solid Wastes: Excavated soils which exceed NYSDEC TAGM 4046 may not be used as backfill. This comment applies to all the alternatives.

Page 68, Section 6.2.1, Alternative 1 - Effectiveness- Compliance with Regulatory Requirements: The No Action Alternative violates NYS Groundwater Standards and Soil Cleanup Guidance.

Page 69, Section 6.3.2, Alternative 2 - Implementability: While Department approval of an interim action is not required by law, the final corrective action record of decision must be acceptable to the public and approved by the Department. Work performed without Department approval may not be accepted by the Department and is performed at the USACE's own liability.

Page 74, Section 6.7.1, Effectiveness - Compliance with Regulatory Requirements: Unless soils and groundwater are remediated to New York State standards and Guidance Values, ARARs and TBCs will be still out of compliance.

Page 77, Section 8.0, Public Participation: Please update the dates for the public comment period.

The Department looks forward to the continued progress of this project. Please respond to these comments within 45 days. If you have any questions, please call me at (5 18) 457-9253.

Sincerely,



Kent D. Johnson
Engineering Geologist II

cc: C. Basham, USACE - Baltimore District
R. Park-Zayatz, C WM
Restoration Advisory Board
C. Stein, USEPA Region II