

WEST CHICAGO INTERGOVERNMENTAL FORUM
April 24, 2009
Meeting Minutes

ATTENDEES

Barbara Magel, Counsel for Local Communities
John Wills, WBK Engineering, Local Communities
Jamie Geils, WBK Engineering, Local Communities
Kim Smart, DuPage River Coalition
Emily Larson, City of Warrenville
Jennifer McMahon, City of Warrenville
Tom Williams, IEPA
Chuck Grigalauski, IEPA
Kelly Grahn, IEMA/DNS
Gerald Karr, Illinois Attorney General's Office
Mary Fleming, DuPage County State's Attorney's Office
Mark Krippel, Tronox
Tim Fischer, U.S. EPA, Superfund
David Seely, U.S. EPA, Superfund
Mary Fulghum, U.S. EPA, Office of Regional Counsel

GENERAL TOPICS

The meeting began with an update on the January 11, 2009, Tronox Chapter 11 bankruptcy filing. Tim Fischer asked if Mark Krippel had any update beyond what was on the Tronox.com website. Mark said that he did not, and the website was where he was getting his information along with everyone else. At that point, Tim asked Mary Fulghum if she had anything to add from the perspective of EPA. Mary said that the bankruptcy was moving along, but there was not much to report. She said that she noticed on the website that there was a July 12, 2009, deadline for "Proof of Claims". Mary said that, although the website lists this as the deadline, she has not had this confirmed by anyone else. Barb Magel also said that she had not heard of this deadline, and she is on a list of people to receive notices as they are announced. Gerald Karr said that he had participated in a conference call with other attorneys from the Department of Justice where they said that a hearing to determine the Proof of Claims date is scheduled in the near future. It was agreed that if anyone received any news on this deadline, they would communicate with all of the others. Mary said that the bankruptcy is at the point where Tronox (the debtor), creditors groups and EPA are participating in preliminary negotiations, and that there was just not much to report and this point. Tim and Mary said that we are just at the point where we have to wait to hear how the negotiations play out.

Tim mentioned that he had received several inquiries regarding the availability of funds from the American Recovery and Reinvestment Act of 2009 to conduct cleanup in Reach 7 of Kress Creek/West Branch DuPage River this year. Tim said that EPA had received a large chunk of “economic stimulus” funding for site cleanups, but that was for sites where EPA was the lead agency in conducting the cleanup. Tim said that at a site like Kress Creek, where we have an enforceable Consent Decree and a Responsible Party, EPA was not in a position to be able to dedicate stimulus funds to the project.

Mary added that she had not heard anything to indicate the cleanup of Reach 7 was going to be able to move forward this year. Tim said the longer this was true, the less likely we would be able to conduct cleanup in the Reach in 2009. Tim and Mary committed to let everyone know if anything changed.

REED-KEPPLER PARK SITE

Tim said that he had completed the Final Closeout Report for RKP. The report was signed by EPA in March 2009. Tim said that EPA had drafted language for the Federal Register which would propose the deletion of Reed-Kepler Park from the NPL.

Tim explained that there are two different processes that can be followed for deleting a site from the NPL. The first is a more traditional process where EPA proposes the deletion in the Federal Register, solicits comments on the proposal for 30 days, responds to the comments and then publishes a final determination. The other process is called “Direct Final Deletion”. EPA can use this more streamlined approach in situations where it does not think the proposal will be controversial or be met with stakeholder resistance. Tim said that under Direct Final Deletion, EPA proposes the deletion and announces that, barring any comments or concerns expressing opposition to the proposal, it will become final automatically at the end of 30 days. Tim said that the language has been drafted, and that EPA is waiting for a concurrence letter from Illinois EPA. Tom Williams, Illinois EPA Site Manager, said that he did not have an update on the concurrence letter at the time of the meeting, but they would get it out as soon as possible.

KRESS CREEK/WEST BRANCH DUPAGE RIVER SITE

Documents

Tim said that EPA had recently approved the final version of the Final Completion Report for Reaches 5C and 5D. Tim said that he would be placing this document in the Information Repositories for the Kress Creek site.

Reaches 5C and 5D are now in the Maintenance and Monitoring period for restoration.

Cleanup Progress

Tim provided an update on cleanup activities for the creek and river.

Reach 6 (Williams Road to Butterfield Road): Tim reported that restoration is scheduled for completion in Reach 6 this spring. Tim said that Tronox has the funding in place to complete this work. They will be planting and repairing damaged restoration on the Cenacle property. Tronox is also scheduled to complete plantings in the constructed mitigated wetland on the Cenacle property.

Reach 7 (Butterfield Rd to the Warrenville Grove Dam): Tim said that EPA had just received the draft design for Reach 7 last week, and they will be reviewing it, along with Illinois EPA and the Local Communities, as quickly as possible. Tim said that although EPA will move quickly to approve the plan, he does not anticipate that the actual removal work will take place in Reach 7 this summer.

Tim said that EPA also has a public meeting scheduled for Monday evening (April 27) to discuss the design for Reach 7. Tim said that EPA had sent out postcards to everyone on the mailing list to announce the meeting. The meeting will begin at 7:00 pm. Tim also said that he would be giving a presentation to describe the work to be conducted in Reach 7 at the public meeting.

Tim provided an opportunity for questions following his updates, but there were none.

RESIDENTIAL AREAS SITE

Recap of “old cleanup residual” issue: Kerr-McGee conducted a cleanup of 100+ residential properties in West Chicago in the mid-1980s. The issue is whether there is potentially any low-level residual contamination that was left behind at the bottom of the old excavation in the mid-1980s that was then covered with clean backfill soil. If such residual low-level contamination exists, it would probably be just slightly above EPA’s current cleanup standard, and the clean soil that was placed over it may have prevented EPA from detecting it during the Superfund investigation and cleanup that started in the mid-1990s. This issue was raised and EPA is now working to resolve it. This issue affects only those particular properties that were part of the mid-1980s cleanup. Properties that were not part of the 1980s cleanup are not affected by this issue.

Since the last Forum meeting, EPA continued to pursue signed access agreements to allow entry to the properties to conduct additional testing. Currently, EPA has been granted access for 7 of the 9 properties which EPA had failed to obtain access during the last field season. EPA had success in gaining access to the property where we had been unable to identify and owner to contact due to the property going through the foreclosure process. Through Mary Fulghum’s efforts we were able to track down bank representatives and a realtor that put us in touch with an individual with the authority to sign the access form. Not only did we get a signed form, but they requested the work be done immediately and we were able to start work on the property the very next day. The

two outstanding properties involve a property owner which was wintering in Arizona and a rental property. EPA was told that the owner in Arizona would sign the form upon his return. However we still have been unable to reach the owner. David again verified the status of the DuPage County property records yesterday which indicated a real estate transaction occurred recently. The transaction is a “contract for deed” so the title holder is the seller and property owner is the buyer. EPA now interprets this situation to require us to obtain a signed form from both parties.

The rental property has us confused because the last notes we have regarding access attempts during the winter indicate that the owner was willing to sign an access form. However, we still do not have access. David has been unable to reach the property owner to resolve this situation. David stated that he hopes to be able to resolve it today while he is in the area.

David had identified one additional property which is in need of testing during his property reviews. David stated that he hopes to resolve access to this property today as well. David will continue to review the rest of the properties to determine if additional testing is needed. There has not been a significant effort on this issue to-date.

EPA has now started testing these properties. Mobilization efforts began the week of March 23rd. These efforts included establishing a field trailer, calibrating instruments, gathering supplies and notification of property owners that work is about to begin. Field work began the week of April 6th. As of now, surface gamma walkover surveys have been completed on all properties for which EPA has been granted access. A few areas of elevated gamma have been detected. However since these readings may be due to issues other than thorium contamination, David stated that he needs to wait until all efforts are completed before determining if contamination exists above EPA’s criteria. David stated that laboratory results will be relied upon to determine any levels of contamination.

David stated that Phase 2 efforts, which consist of installing soil borings in areas of concern identified by the review of historical files in combination with the gamma walkover surveys, began the week of April 13th. So far the weather has not cooperated and work has slowed to ensure that we do not significantly damage the lawns. The installation of the borings has also slowed to allow our field crews to catch up with the gamma logging efforts. The goal is to complete our work on an individual property as soon as possible to minimize the amount of time our PVC tubing and pin flags have to remain in the ground.

David summarized the status of the Phase 2 work. Installation of the boreholes has been completed on four properties and one more property is expected to be completed today. A total of 250 boreholes have been completed to-date out of a projected 478 boreholes. Additional boreholes will be installed if gamma logging finds elevated gamma levels. The gamma logging has been completed on one property, with an additional property completed today. Surface and subsurface soil sampling has not yet begun.

There were also three properties that were carried over from last year's efforts. Two of these properties involved issues with utilities. David expects to meet with the field crews today to specify exact borehole locations. One of these properties is the Blair St right-of-way where the City has requested that EPA start with only the area where the historical files indicate elevated results.

Community Concerns

David stated he continues to respond to many general community inquiries, mostly real estate related from realtors or potential purchasers. A few specific property owners have raised specific concerns, one of which was referred to David by the City. David stated he has left multiple messages with them but has failed to reach them directly to discuss their concerns. David will continue to try to follow up to discuss their concerns.

Previously a property owner on the west side of the railroad tracks across from the Rare Earths Facility (REF) raised concerns relating to her property because four of her animals had recently past away prematurely due to cancers. Since the previous property scans may have been impacted by the "shine" from the REF, David agreed to conduct at least a gamma walkover of the property. The gamma walkover was completed and the preliminary results did not find anything. This effort included an adjacent vacant lot used for her horses and previously owned by Tronox but was recently purchased by the City.

David then asked if there were any questions and there were none.

OTHER ISSUES

Update on NOAA Grant Projects

John Wills said that final design had begun on the Earth Stream Science Center on the Cenacle property. A building plan and footprint has been established, and the architects are busy designing the building for the property. John said that he anticipated that construction would begin on the building sometime this summer.

John said that the planning work regarding the removal of the Warrenville Grove Dam had slowed due to the situation with the Reach 7 cleanup. The NOAA project is designed to follow on after the cleanup in Reach 7 is completed.

John said that there are other NOAA projects that are "on the shelf", and that the priority of these projects could change based upon the outcome of the bankruptcy proceedings. John explained that the NOAA grant expires in 2012, and it was unlikely that an extension on this expiration could be obtained. He said that the grant had already been extended once. John said that the goal would be to complete as many of the NOAA projects as possible prior to the grant expiring in 2012.

Other

Barb Magel asked Mark Krippel if there were any activities being conducted at the REF. Mark said that only groundwater remediation was being conducted currently.

NEXT FORUM MEETING

The next meeting of the West Chicago Intergovernmental Forum is scheduled for **Friday, June 26, 2009, at 10 a.m.** in West Chicago City Council Chambers, West Chicago.