

# DIAMOND ALKALI SUPERFUND SITE

Internal deliberative pre-decisional - FOR USE BY 2024 PRESIDENT-ELECT TRANSITION TEAM MEMBERS ONLY

## ISSUE SUMMARY:

The Diamond Alkali Superfund Site is a complex site in northeastern New Jersey that is highly contaminated with dioxin, polychlorinated biphenyls (PCBs), pesticides, metals and other contaminants, and is located among communities with environmental justice concerns. EPA is managing the site in four parts or Operable Units (OUs):

- OU1 is the former manufacturing plant at 80-120 Lister Avenue in Newark, for which an interim cleanup was completed in 2004 to contain the contaminated soil and debris within a specially designed containment cell, and pump and treat the groundwater. The cleanup systems are being maintained and monitored by responsible party Occidental Chemical Corporation, under EPA oversight;
- OU2 is the lower 8.3 miles of the Lower Passaic River, for which EPA chose a cleanup plan in a Record of Decision (ROD) in 2016 for an estimated \$1.38 billion. EPA approved the engineering design of the cleanup in May 2024;
- OU3 is the Newark Bay Study Area, currently in the remedial investigation/feasibility study stage; and
- OU4 is the 17-mile Lower Passaic River Study Area (including the lower 8.3 miles of the river), for which EPA chose an interim cleanup plan for the upper 9 miles in a ROD in 2021 for an estimated \$441 million. Occidental Chemical Corporation is doing the engineering design of the cleanup under EPA oversight.

## KEY POINTS:

- OU1: EPA issued a proposed plan for public comment in September 2024, and anticipates responding to comments and issuing a ROD for the final cleanup plan by the end of 2024.
- OU2: EPA is working on legal instruments that would commit the potentially responsible parties (PRPs) to fund and/or implement the cleanup.
- OU3: EPA is working closely with the State of New Jersey to oversee Occidental Chemical Corporation's development of a feasibility study for an interim remedy in 2025.
- OU4: EPA expects the design to be completed in time for the interim cleanup of the upper 9 miles to be coordinated with the cleanup of the lower 8.3 miles, so that some of the same infrastructure may be used for both projects and there will be less disruption for communities along the river.
- A proposed consent decree (CD) that the US has entered into with 82 PRPs has been awaiting approval by the United States District Court for the District of New Jersey since January 2024. If approved, the CD would require the PRPs to pay \$150 million to support the OU2 and OU4 cleanup work to resolve their liability for discharging hazardous substances into the Lower Passaic River. Occidental Chemical Corporation opposes the proposed CD.
- Communities in the City of Newark are actively engaged and supportive of cleanup efforts. EPA is performing outreach to the other communities along both banks of the 17-miles of the Lower Passaic River.

## ONGOING/UPCOMING REVIEWS FOR FY2025:

- OU2 and OU4: Any potential CDs for cleanup work that EPA signs with potentially responsible parties will be lodged with the United States District Court and undergo public comment.

- EPA has begun negotiations with the Passaic Valley Sewerage Commission (PVSC) and certain member municipalities for access to a property on which the sediment processing facility will be built and other in-kind services including additional properties for support facilities.
- Consistent with EPA policy, EPA expects the in-river remedial action work to be funded/performed by PRPs. If EPA and the PRPs can't reach agreement on CDs, then EPA may pursue other enforcement instruments to get the remedial action work done.

#### KEY EXTERNAL STAKEHOLDERS:

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|--|---|--|---------------------------------|---|---|
| <input checked="" type="checkbox"/> Congress | <input checked="" type="checkbox"/> Industry          | <input checked="" type="checkbox"/> States | <input type="checkbox"/> Tribes | <input checked="" type="checkbox"/> Media | <input type="checkbox"/> Other Federal Agency |
| <input checked="" type="checkbox"/> NGO      | <input checked="" type="checkbox"/> Local Governments | <input checked="" type="checkbox"/> Public |                                 |   |   |

#### MOVING FORWARD:

- OU1: EPA anticipates initiating negotiations with Occidental Chemical Corporation for a remedial design and remedial action, once the final ROD is issued.
- OU2: EPA anticipates overseeing the remedial action work once legal instruments are in place that require one or more PRPs to funding and/or implementing the cleanup.
- OU3: EPA anticipates issuing a proposed plan for public comment, considering the comments and issuing a ROD for an interim cleanup plan in FY 2026.
- OU4: EPA anticipates finalizing the engineering design for the upper 9-mile interim cleanup in 2028.