From:	Mugdan, Walter
To:	Boykin, Danla
Subject:	FW: Woodbrook Road Superfund Site- Priority letter and Memo USEPA
Date:	Thursday, May 26, 2022 7:53:04 AM
Attachments:	EWA final sign May 25, 2022 Ltr.pdf Excel Ltr Woodbrook Remedy 052522 (3).pdf

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Hi Danla,

Please enter this into Correspondence Control and assign it to SEMD for direct reply. Thanks,

Walter

From: Evangelista, Pat <Evangelista.Pat@epa.gov>
Sent: Thursday, May 26, 2022 7:04 AM
To: Mugdan, Walter <Mugdan.Walter@epa.gov>
Subject: Re: Woodbrook Road Superfund Site- Priority letter and Memo USEPA

Thank you. I'll share with SEMD team.

Sent from my iPhone

On May 26, 2022, at 6:32 AM, Mugdan, Walter <Mugdan.Walter@epa.gov> wrote:

Begin forwarded message:

From: rspiegel@edisonwetlands.org
Date: May 25, 2022 at 6:29:50 PM EDT
To: "Mugdan, Walter" <Mugdan.Walter@epa.gov>, "Mugdan, Walter" <Mugdan.Walter@epa.gov>
Cc: "Seppi, Pat" <Seppi.Pat@epa.gov>, "Prince, John" <Prince.John@epa.gov>, "Salkie, Diane" <Salkie.Diane@epa.gov>, "Salkie, Diane" <Salkie.Diane@epa.gov>, John Wiley FOIA Exemption (b)(6) raritan.riverkeeper@verizon.net, Walter Stochel FOIA Exemption (b)(6), Walter Stochel2 FOIA Exemption (b)(6) Zach McCue <Zach_McCue@booker.senate.gov>, Zipkin Booker <Adam_Zipkin@booker.senate.gov>, Alexander Ratner <Alexander.Ratner@mail.house.gov>, Gordon Eric <Eric.Gordon@mail.house.gov>, Janice Fuller <Janice.Fuller@mail.house.gov>, "Sen. Diegnan" <SenDiegnan@njleg.org>
Subject: Woodbrook Road Superfund Site- Priority letter and Memo USEPA

Dear Mr. Mugdan,

Please find attached cover letter and Memo on the Woodbrook Road Superfund Site located in the Peter J. Barnes 111 Wildlife Refuge from the Edison Wetlands Association, Inc., Middlesex Greenways and Raritan Riverkeeper and technical memo from Excel Environmental. Please schedule a public hearing immediately to discuss the Record of Decision implementation as the clean and restoration must not be further delayed by unsubstantiated detractors.

We need to discuss many details of this important work and the USEPA must not allow any further delays as many this critically regionally important.

Please contact me at 732-841-9375 to discuss this issue directly.

Respectfully,
Robert Spiegel
Executive Director
Edison Wetlands Association
206 Tyler Road
Edison, NJ 08820
Phone: (732) 321-1300

www.edisonwetlands.org

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May 25, 2022

Mr. Walter Mugdan
Acting Regional Administrator for Region 2
U.S. Environmental Protection Agency
Ted Weiss Federal Building
290 Broadway
New York, NY 10007

RE: **Memorandum Dated November 11, 2020**
Reconsideration of the Woodbrook Remedy
From Peter C. Wright to Your Office
Woodbrook Road Dump Superfund Site
South Plainfield, New Jersey
EPA ID No. NJFN0204260

Dear Mr. Mugdan,

We are writing to petition the United States Environmental Protection Agency (USEPA) to immediately discard the reconsideration memorandum of the politically motivated request from Andrew Wheeler. Edison Wetlands Association, Inc. (EWA), a non-profit 501(c)3 organization along undersigned groups have completed an comprehensive review and also retained our long-time environmental consultant on the project, Excel Environmental Resources, Inc. (Excel), to provide a technical review of the above-referenced memorandum on behalf of the EWA, Woodbrook Road Community Advisory Group (CAG), and the public on the Woodbrook Road Superfund Site centrally located in the heart of the Peter J. Barnes 111 Wildlife Preserve.

Mr. Wright's Memorandum to you recommends that the remedy selected in the Record of Decision (ROD) dated September 2013 - Alternative 6: Excavation and Disposal of All Impacted Materials and the Explanation of Significant Difference (ESD) dated February 5, 2018 be reevaluated and revised.

EWA the undersigned organization and our 5,000 members and their associated groups strongly recommend without reservation that the recommendation to reevaluate/revise be set aside. The EPA must immediately issue a new Explanation of Significant Differences (ESD) that compels the Responsible Parties to immediately move forward with Alternative 6 as the remedy for the above-reference Site as outline in the Record of Decision. (This request is supported by the technical comments from our environmental consultant (please see attached).

In making your determination about any need to revisit the remedy selection, we ask that you consider the near impossibility of a soil cap to remain protective in this dynamic wetland environment, especially given the Western Dump proximity to the Western Pond and the future potential for changes in open water configurations as a result of remedial action activities, storm events, flooding, etc. No evidence, design plans, etc. to date have been provided that even suggest engineering controls in the form of a soil cap would be feasible in the Dismal Swamp Conservation Area which primarily consists of wetlands and floodplains.

Mr. Wright's Memo recommends that remedy selection used to address similar PCB-impacted Sites be considered when evaluating what is appropriate for this Site. The Cornell Dubilier Superfund Site, another PCB-contaminated Superfund Site also located in South Plainfield, NJ, underwent a similar remedy evaluation. Although the properties are in close proximity to each

other, the cap at the Cornell Dubilier Site was constructed in an upland location that is completely dissimilar to the Woodbrook Road Dump Superfund Site. Given that the physical setting and characteristics of the two sites are distinctly different, EPA's selection of a capping remedy for the Cornell Dublier Superfund Site should in no way be used to support the efficacy of cap construction at the Woodbrook Road Dump Site. Unless a Site that has similar wetland, floodplain, surface water, and ecological challenges can be found, this Site should be treated in the unique manner it deserves.

To date, we are unaware of any detailed documentation provided by the PRPs as to how capping with a Soil Cap in a floodplain and wetlands could be conducted within the regulatory framework of State and Federal laws governing the placement of fill in flood hazard areas. Additionally, in a letter prepared by our environmental professionals dated August 15, 2013, which was provided to the EPA, we provided numerous questions as to the design of such a cap and reasons why the remedy should not be considered.

The Woodbrook Road Superfund Site is located in the most ecologically sensitive portion of the Peter J. Barnes 111 Wildlife Refuge, a State designated refuge and an USEPA priority wetlands. This refuge located in the largest contiguous wetlands in Northern Middlesex County. The Wildlife Refuge spans Metuchen, Edison and South Plainfield. The Site is located in a USEPA Priority Wetlands and has been designated by the USEPA and U.S. Fish and Wildlife's Service as a High Priority Wetlands.

The Peter J. Barnes 111 Wildlife Refuge Commission (which includes EWA, the Borough of South Plainfield, the Borough of Metuchen, Edison Township, and Middlesex County) has passive recreation and conservation use as the future use of the site. This has changed the zoning with the commission being the legal arbiter of the future land use. This information was not known to the USEPA when this request was made. The USEPA is compelled to implement the ROD and remove all hazardous and non-hazard waste from the site so that the public and the wildlife that inhabit the region can once again recreate safely on the site.

If for any reason the Responsible Party refuses to immediately implement the ROD, then the USEPA must use its authority and undertake the cleanup as provided under its mandate by Congress. The ROD was signed on September 13, 2013 and its implantation is long over due There is no regulatory or technical reason to delay the ROD implementation any longer.

EWA Executive Director, Robert Spiegel, is the point of contact for this coalition of groups that represent more than 100,000 members. Mr. Spiegel can be reached directly at 732-841-9375.

We thank you for your attention to this matter.

Very Truly Yours,

Robert Spiegel

Robert Spiegel
Executive Director
Edison Wetlands Association, Inc.

Walter Stochel
Middlesex County Greenways

William Schultz
Raritan Riverkeeper

Cc: Senator Cory Booker with separate cover
Cc: Congressman Frank Pallone with separate cover
Cc: Peter J. Barnes 111Wildlife Refuge Commission with separate

EXCEL
Environmental
Resources, Inc.

Solving Environmental Problems
& Creating Redevelopment Opportunities

May 25, 2022

Mr. Robert Spiegel, Executive Director
Edison Wetlands Association
Triple C Ranch and Nature Center
206 Tyler Road
Edison, New Jersey 08820

Re: Woodbrook Road Dump Superfund Site
Record of Decision
South Plainfield, New Jersey
EPA ID No. NJFN0204260

Dear Mr. Spiegel:

Excel Environmental Resources, Inc. (Excel) has prepared these comments on behalf of the Edison Wetlands Association, Inc. (EWA) regarding the Woodbrook Road Superfund Site (Site or subject property) and Excel's review of Mr. Peter Wright's November 11, 2020 memorandum to Mr. Andrew Wheeler and Mr. Wheeler's November 12, 2020 memorandum to Acting Regional United States Environmental Protection Agency (USEPA or Agency) Administrator Mr. Peter Lopez. In his memorandum, Mr. Wright recommends that the remedy selected in the USEPA's Record of Decision (ROD) dated September 2013 (Alternative 6: Excavation and Disposal of All Impacted Materials) be re-evaluated and Alternative 4: Hot Spot Excavation and Capping/Consolidation of Residual Impacts be selected, and in his memorandum, Mr. Wheeler agrees and makes the recommendation to re-open the ROD.

I strongly disagree with this recommendation. It is my professional opinion that Alternative 6 must remain USEPA's selected remedy because it is by far the most protective of human health and the environment. The balance of this letter addresses my concerns with the more in-depth discussion in Mr. Wright's November 11th, 2020 memorandum and reiterates the rationale for our recommendation that Alternative 6 be selected by USEPA as the remedy for this Site from the beginning of our involvement several years ago.

As you know, Excel has been providing environmental consulting services to EWA on this project since 2012. In our role as a technical advisor to EWA, we have worked with EWA to improve the public's understanding of the environmental conditions at the Site and the pros and cons of the various remedial action alternatives to address the contaminated areas at the subject property.

In support of EWA's continuing efforts to further inform the residents, property owners, surrounding community, and public about the Contaminants of Concern (COCs), Contaminants of Potential Ecological Concern (COPECs), and investigation/remediation activities taking place at the Site, Excel has commented on all phases of the investigation and the completed and proposed remediation activities. In addition, we have attended multiple public meetings, including the Community Advisory Group (CAG) meetings, and have reviewed and commented on engineering, regulatory, human health and environmental risks posed by the existing conditions at the Site.

As you know, to protect the interests of this extremely valuable natural resource, the Dismal Swamp Preservation Commission (DSPC) was created in 2015 and includes EWA, the Borough of South Plainfield, the Borough of Metuchen, Edison Township, and Middlesex County. In addition, we understand that the Dismal Swamp and the DSPC were recently renamed the Peter J. Barnes III Wildlife Preserve (Preserve) and the Peter J. Barnes III Wildlife Preservation Committee (WPC) by Governor Phil Murphy.

As you also know, the Site is in the most ecologically sensitive portion of the Preserve, a regionally important wildlife refuge and the largest contiguous wetlands in Northern Middlesex County. The Preserve is approximately 1,250 acres and spans Metuchen, Edison, and South Plainfield. The Site is in a USEPA Priority Wetlands area and has been designated by the USEPA and U.S. Fish and Wildlife's Service as a High Priority Wetlands Area. Great care must be given to the planning, design, and implementation of the remedy for this Site to ensure over the long term that PCB-impacted soil and sediment does not continue to enter ecologically sensitive areas.

It is our understanding that the WPC has plans for the Preserve which include expanded passive recreation and conservation immediately adjacent to the Site and surrounding properties. The WPC expects to have an active role in any decisions regarding future land use, including at the subject property. Considering the importance of the Preserve and the WPC's continuing efforts to protect this priceless and irreplaceable resource, the USEPA should compel the Responsible Parties to immediately implement Alternative 6, the remedy the Agency selected in the ROD, to <u>remove all hazardous and non-hazard waste from the Site</u> so that the public and the wildlife that inhabit the region can once again use the property safely.

As requested, we have reviewed the November 2020 memorandums from Mr. Wright and Mr. Wheeler, with a focus on Mr. Wright's more detailed memorandum, in which they recommend that the USEPA reconsider the remedy for the Site that the Agency selected in the September 2013 ROD and we provide the following comments regarding their recommendation to reopen and/or modify the ROD and reconsider selection of Alternative 4: Hot Spot Excavation and Capping/Consolidation of Residual Impacts:

- In Mr. Wright's November 11, 2020 memorandum he recommends that remedy selection used to address what he refers to as similar PCB-impacted Sites be considered when evaluating what is appropriate for the subject property.

    - ✓ Mr. Wright specifically cites the Cornell Dubilier Superfund Site, another PCB-contaminated Superfund site also located in South Plainfield, NJ, underwent a similar remedy evaluation.
    - ✓ Although the properties are in close proximity to each other, the soil cap at the Cornell Dubilier Site was constructed in an upland location, a setting that is completely dissimilar to the Woodbrook Road Dump Superfund Site.
    - ✓ Given that the physical setting and characteristics of the two sites are distinctly different, USEPA's selection of a capping remedy for the Cornell Dubilier Superfund Site should in no way be used to support the efficacy of cap construction at the Woodbrook Road Dump Site.
    - ✓ Given the wetland, floodplain, surface water, and ecological challenges at this Site, it should be treated in the unique manner that the site setting demands and, in my professional opinion, the use of an Engineering Control in the form of a cap will not be protective of human health or the environment at this Site.
    - ✓ Without question, the stability of a cap would be a major challenge in the Preserve, especially considering the extensive presence of wetlands and floodplains and the near impossibility of a soil cap to remain protective in such a dynamic wetland environment, especially given the Western Dump's proximity to the Western Pond and the future potential for changes in open water configurations because of remedial action activities, as well as storm events, including hurricanes, flooding, etc.

- ✓ The challenges posed by storm, hurricanes and flooding will likely become more daunting over time as their frequency and intensity increase due to global warming and climate change.

- We are unaware of any detailed documentation provided by the Principal Responsible Parties (PRPs) as to how establishing an Engineering Control in the form of a soil cap in a floodplain and wetlands could be conducted within the regulatory framework of State and Federal laws governing the placement of fill in flood hazard areas.

  - ✓ Additionally, in a letter we prepared on August 15, 2013, which was provided to the USEPA, we provided numerous questions as to the efficacy of the design of such a cap and the reasons why an Engineering Control remedy should not be considered.
  - ✓ The rationale in our August 15, 2013 letter remain valid even if a soil cap is constructed after "PCB hot spots" are excavated – "residually impacted soil" is still contaminated soil.

- At the heart of Mr. Wright's recommendation is whether significant PCB-impacts to soils across the subject property should be addressed via Alternative 4: Hot Spot Excavation and Capping/Consolidation of Residual Impacts, the remedy supported by the PRPs, or Alternative 6: Excavation and Disposal of All Impacted Materials which is the remedy that USEPA appropriately selected as supported by the State of New Jersey, local, Federal, and State representatives, the municipality, residents, and numerous non-government organizations.

  - ✓ In his memorandum, Mr. Wright bases his recommendation to revisit the remedy selection on what he believes to be issues with trespasser risk scenarios and prohibited enhancement or betterment of the property resulting from the remedy selected.
  - ✓ While revisiting these regulatory considerations may be appropriate, Mr. Wright's review fails to address what should be the primary rationale for consideration of whether or not the selected remedy should be re-evaluated, and that is whether Alternative 4, specifically the Capping and Consolidation of Residual Impacts component, will be protective of human health and the environment and if it can realistically prevent further migration of contaminants and adverse to the human and ecological receptors throughout the area – it is my professional opinion that it cannot.

- In his memorandum, Mr. Wright also raises questions about the risk assessment modeling and what he refers to as unrealistic assumptions regarding "hypothetical future land use" as open space.

  - ✓ While currently zoned for industrial use, what is unrealistic is anyone's belief that this area will be used for industrial use in the near or long-term future.
  - ✓ As previously stated, the Site and the areas surrounding it have significant redevelopment challenges, especially considering the extent of Federal and State wetlands, surface water bodies, and recent updates to New Jersey stormwater regulations, and as noted above, the WPC has plans for the Preserve which include expanded passive recreation and conservation immediately adjacent to the Site and surrounding properties thus debunking Mr. Wright's assertions.

For the reasons stated above, we continue to be in full agreement with USEPA's selection of Alternative 6– Excavation/Off-site Disposal of All Waste, for all three Exposure Areas at the Site: the Western Dump: Principal Threat Hot Spots, Western Dump: Residual Soil and Debris, and Eastern Dump: Residual Soil and Debris. Alternative 6 is the only remedy that will be protective of human health and the environment in the long term, and it is clearly the most appropriate for the protection and sustainability of this regionally important wildlife refuge and the largest contiguous wetlands in northern Middlesex County, NJ.

EXCEL
Environmental
Resources, Inc.

If you have any questions or need any additional information regarding this matter, please feel free to contact me at (732) 545-9525.

Sincerely,

Lawra J. Dodge, PG, LSRP
President
Excel Environmental Resources, Inc.

Attachment Excel Letter dated August 15, 2013, Woodbrook Road Dump Superfund Site: Comments on Draft Final Feasibility Study

Attachment A

Excel Letter Dated August 15, 2013

EXCEL
Environmental
Resources, Inc.

Solving Environmental Problems
& Creating Redevelopment Opportunities

August 15, 2013

Mr. Robert Spiegel, Executive Director
Edison Wetlands Association
206 Tyler Road
Edison, New Jersey 08820

RE: **Comments on Draft Final Feasibility Study dated July 26, 2013**
Prepared by TRC Environmental Corporation
Woodbrook Road Dump Superfund Site
South Plainfield, New Jersey
EPA ID No. NJFN0204260

Dear Mr. Spiegel:

As requested, Excel Environmental Resources, Inc. (Excel) has conducted a review of the Draft Final Feasibility Study (FS) document dated July 26, 2013 on behalf of the Edison Wetlands Association (EWA), Community Advisory Group (CAG) and the interested stakeholders for the Woodbrook Road Dump Superfund Site located in South Plainfield, Middlesex County, New Jersey. As you know, we were working on an expedited timeline and were not given sufficient time to review this document. Our consulting team had to go back to previous project documents to find missing information that should have been in the FS. It is Excel's professional opinion that this process and remediation has regional implications and should be given the proper time and attention to detail that a project of this magnitude requires for technical review and information dissemination.

The Woodbrook Road Superfund Site (Site) is located in the most ecologically sensitive portion of the Dismal Swamp Conservation Area, a regionally important wildlife refuge and the largest contiguous wetlands in Northern Middlesex County. The Dismal Swamp Conservation Area is approximately 1,250 acres in Metuchen, Edison and South Plainfield. The Site is located in a USEPA Priority Wetlands and has been designated by the United States Environmental Protection Agency (USEPA) and U.S. Fish and Wildlife's Service as a High Priority Wetlands. Great care must be given to the planning and implementation of the Site remediation.

The Draft Final FS outlines and evaluates remedial action alternatives for polychlorinated biphenyl (PCB)-contaminated soil and debris within the following three Exposure Areas: Western Dump Hot Spots (Exposure Area 1); Western Dump, Excluding Hot Spots (Exposure Area 2); and Eastern Dump (Exposure Area 3). The cleanup alternatives evaluated by TRC generally included: No Action, Use of Institutional Controls with Fencing, Capping with Institutional Controls, On-Site Treatment of Waste, and Excavation and Off-Site Disposal of PCB-contaminated soil and related waste.

The Draft Final FS evaluates each of these alternatives against the National Contingency Plan (NCP) criteria, however, for purposes of this comment letter, Excel has focused on the **Capping with Institutional Controls** and **Excavation and Off-site Disposal** alternatives given that the other alternatives would not achieve Remedial Action Objectives (RAOs) without additional remedial action measures being taken and are not applicable to this dynamic wetlands and floodplain environment.

111 North Center Drive • North Brunswick, New Jersey 08902 • PHONE: (732) 545-9525 • FAX: (732) 545-9425 • WEBSITE: www.excelenv.com

Note also that neither EWA, the CAG or any of the other stakeholders were provided a copy of any written comments from USEPA on the 2012 Draft FS therefore Excel could not determine whether or not the 2013 Draft Final FS document addresses all of the USEPA comments. **All USEPA comments on the Draft FS document should be provided to EWA and the CAG in writing.**

Since USEPA comments on the document were not available to us, Excel did a comparative analysis of the Draft Final FS Study dated July 26, 2013 to the previous Draft FS Study dated July 31, 2012 and, although there are too many changes made to the document to itemize them all, we have highlighted below several of the most significant revisions made by TRC and have also provided our technical and regulatory comments on the Draft Final FS below.

A. General Comments:

1. The draft study provided by TRC is heavily biased in its imbalanced and inappropriately favorable assessment of the use of Capping and Institutional Controls versus Excavation and Off-Site Disposal. The document is grossly lacking in its evaluation of the engineering challenges as well as negative impacts to the EPA Priority wetlands and floodways within the Dismal Swamp Conservation Area to be remediated. TRC fails to provide a true and realistic evaluation of the uncertainties and adverse risk to wetlands and wildlife habitat resulting from the destruction of wetlands within the areas necessary to construct a Cap and fails to realistically evaluate regulatory issues with respect to waste consolidation and Cap construction in the context of NJ Freshwater Wetlands and Flood Hazard Area rules and regulations.

2. Without question, Cap stability is a major engineering challenge in the Dismal Swamp Conservation Area's wetlands and floodplains. The Draft Final FS is clearly absent of any consideration of the near impossibility of a soil Cap to remain protective in this dynamic wetlands environment, especially given the Western Dump proximity to the Western Pond and the future potential for changes in open water configurations as a result of remedial action activities, storm events, flooding, etc. The document is completely deficient in any details of how capping of waste with a Soil Cap in a floodplain and wetlands can be conducted within the regulatory framework of State and Federal laws governing the placement of fill in flood hazard areas. Additional detailed comments on these issues will be provided by PrincetonHydro under separate cover.

B. Specific Comments on Cost Estimate Changes

1. **There was an $18,857,000 reduction** (from $47,628,000 to $28,771,000) for Waste Area 2-Western Dump Area Alternative 2d "On-Site Treatment by Thermal Desorption" largely due to a significant (and unexplained) reduction in the quantity of material to be treated (from 154,878 tons to 98,089 tons). **The regulatory and/or technical basis for these unexplained changes should be provided so that the validity of the Cost Estimates can be properly evaluated. The study also has several other costs estimates which have changed unexpectedly without explanation, this needs to be clearly explained as unit costs for materials treated should not have changed by the order of magnitude that is outlined in this current study.**

2. **There was also a $17,137,000 reduction** (from $36,344,000 to $19,208,000) in the estimated cost of Alternative 2e "Excavation/Off-Site Disposal" for the Western Dump Area due largely to a change in disposal of excavated waste from "TSCA regulated" to "Non-TSCA regulated" with no technical or regulatory explanation as to how the majority of excavated material from the PCB contaminated Western Dump can now be characterized as Non-TSCA regulated when, in the previous version of the Draft FS, TRC's Cost Estimate included disposal of the majority of material as TSCA-regulated and, to our knowledge, nothing has changed with respect to the origin or concentrations of PCB.

3. Note that the significant reduction in the estimated cost of the Western Dump Excavation and Off-Site Disposal Alternative 2e **substantially narrows the cost differential** between the ***Community and Stakeholders*** preferred remedy (Excavation/Off-Site Disposal), which is a permanent remedy that would enable restoration of the wetlands and floodways, and TRC's preferred remedy, the non-permanent Consolidation, Capping, and Institutional Controls. TRC's preferred alternative has significant uncertainties and will have considerable adverse effects on the Dismal swamp Conservation Area and its Biota. **It will permanently restrict public access and use of the area and is counter to the change in public policy with the Dismal Swamp Preservation Commission, increased public access, and the Triple C Ranch's Environmental Education Center. EPA's selection prefers a permanent remedy over a non-permanent remedy.**

4. Despite the close proximity of active industrial rail lines to the Site, **TRC did not include transportation of excavated material to the disposal facilities via rail located along Metuchen Road which is just beyond the northeastern boundary of the Site. Transportation for disposal by rail could reduce the cost of disposal for all 3 Exposure Areas by between 10 and 20% depending upon the actual volume for disposal and other variables.** Transportation for disposal via rail would also significantly reduce the truck trips beyond the immediate vicinity of the Site since the truck route would be from the Site to a nearby rail off-loading location and disruption to the community related to trucking would be minimized. The use of rail should be fully vetted for use to transport waste.

5. Note also that, although consistent with the NCP, the use of a 7% discount rate in the Present Value Cost Estimates for the long-term Operations and Monitoring (O&M) costs associated with the various Capping alternatives results in an under estimation of the O&M costs given that, under the current and foreseeable economic conditions, 7% is unrealistic. **In addition, given the uncertainties and significant engineering challenges associated with maintaining the integrity of a Cap within a wetlands environment, including erosion, differential settlement, burrowing animals, tree topple, etc., a significant contingency should be placed on any O&M cost estimate for Capping Alternatives.**

C. Specific Comments on Additional Text Changes

1. Text was revised on Page 1 of the Executive Summary to add reference to USEPA comments provided to TRC on November 20, 2012 resulting in a Revised Draft FS document dated April 6, 2013 that neither EWA nor the CAG was given a copy of. **A copy should be provided to EWA, the CAG and interested stakeholders for the record.**

2. A Site Description Section was added to Chapter 2.0, including a section on Wetlands which references a "wetlands delineation" conducted by TRC in 2004 and the text of Section 2.1.3 states that "approximately 50 percent of the Site has been classified as freshwater wetlands that would be regulated under the New Jersey Freshwater Wetlands Protection Act", including USEPA-designated Priority Wetlands, however, **none of the drawings in the FS show the location of any of the freshwater wetlands or existing/proposed ground surface elevations which is critical information needed to assess the potential impact of waste consolidation, placing fill and raising grade, Cap construction, fence installation, etc. on the wetlands at the Site. Whether or not by omission to de-emphasize the impacts, the failure to depict wetlands on the FS drawings that show proposed cleanup alternatives is a major deficiency of the Draft Final FS for this Site. The wetlands are extensive and their protection a major concern of the Community and its Stakeholders and they should not have to go back through voluminous, previously issued**

reports to see the wetlands boundaries. The FS drawings should be corrected to clearly show all wetlands boundaries and ground surface topography.

3. Section 2.1.3 (page 6) discussing New Jersey's establishment of the Dismal Swamp Preservation Commission (DSPC) comprised of the local governing bodies of Edison Township, Metuchen Borough, and South Plainfield Borough and a ***permanent Committee member from the non-profit EWA, an adjacent landowner of the Triple C Ranch and Nature Center.*** The EWA and Triple C Ranch and Nature Center host significant environmental education and community programs. This DSPC performs the functions of a municipal or county planning board as to applications within the Dismal Swamp preservation area, however, TRC attempts to minimize the role and authority of the Commission to "dictate and/or modify any particular remedy" for the Site even though the Commission clearly has such authority as the entity created by the State of New Jersey for managing the Dismal Swamp Conservation Area within which the Site is located.

4. Bottom of Page 6/Top of Page 7: text states that "The presence of significant areas of freshwater wetlands on the Site was considered during the FS evaluation" and that "Concepts such as consolidation are included in the Draft Final FS in part to help foster good wetlands management", however, as stated above, there are NO wetlands or existing/proposed ground surface elevations shown on any of the FS Figures therefore the potential for wetlands disruption and adverse impacts to existing wetlands habitat cannot be evaluated by any interested Stakeholder without going back through voluminous, previously submitted documents, therefore all FS Figures should be revised to show wetlands and topography.

5. Section 2.4, Future Site Use, Page 10 states "...the wetlands areas that comprise a significant part of the Site may have value..." and "...there may be opportunities on-Site to perform wetland creation" and, once the wetlands are properly taken into consideration in the remedial alternatives evaluation process for the Site, the party responsible for conducting the remediation should consider creation of a wetlands bank as part of an Excavation and Off-Site Disposal remedy for the Site which could generate significant revenue to off-set the cost of remedial action while also restoring, enhancing and creating a high quality wetlands habitat.

6. Section 3.1, Risk Assessment, Page 11-14: Text was added to expand the discussion of the findings of the Baseline Human Health Risk Assessment (BHHRA) and the Screening Level Ecological Risk Assessment (SLERA) conducted by TRC for the Site. Excel has previously expressed concerns regarding the fact that no Site-specific biota data have been generated for the Site to ground-truth ecological risk assessment assumptions. NJDEP risk assessors have also raised concern regarding any development of a proposed cleanup alternative other than 1 ppm if biological sampling was not utilized to develop ecological risk-based remediation goals and USEPA has publicly stated that no biological sampling will be required for the Site therefore, **based on the stated concerns of the NJDEP and the local community, only remedial action alternatives that achieve the 1 ppm remediation goal for PCBs should be given serious consideration by USEPA.**

7. Section 3.1, Risk Assessment, Page 12: Added text states "...the water level of the Western Pond advances and recedes, depending on weather conditions.." therefore TRC considers sediment samples taken close to the edge of the Western Dump as part of the Western Dump soil. **The fact that open waters of the Dismal Swamp are immediately adjacent to the Western Dump Exposure Area 2 and the water level "advances and recedes" raises significant engineering concerns with respect to the feasibility of constructing an Engineered Cap that would remain intact and therefore protective of human health and the environment in the long term.**

8. Section 3.1, Risk Assessment, Page 13: Added text references RI groundwater analytical results from 2007 which "confirm the absence of Site-related contaminants of potential concern (COPCs) in the upper bedrock unit" and, due to a clayey silt which **"may"** act as a semi-confining unit between the shallow overburden and bedrock units and an upward gradient, "there is no potential for dissolved constituents in the overburden groundwater to migrate to the bedrock groundwater" **but the referenced groundwater data are more than 6 years old and stating that the clayey silt "may" act as a semi-confining unit begs technical substantiation. If more recent groundwater data have been generated, they should be referenced, and if not, verification of groundwater quality should be conducted to verify current conditions.**

9. Section 3.4, Evaluation of Applicability of Solid Waste Regulations, Pages 17-19: Text added discusses the history of New Jersey Solid Waste Management regulations and states that NJAC 7:26 "does not apply to the Site, and are not considered ARARs or TBCs" because TRC states that the debris at the Site is not solid waste, however, that is clearly not the case. Solid waste is defined at N.J.A.C. 7:26-1.6 (a) as including garbage; at N.J.A.C. 1.6(b) as including scrap metal resulting from industrial or commercial operations or any other material which has served or can no longer serve its original intended use; and at N.J.A.C. 2.13(g) as including wood scrap, concrete, asphalt, bricks, blocks and other masonry, miscellaneous paper, ferrous and non-ferrous metal, plastic scrap, glass and other miscellaneous materials therefore there is clearly solid waste within each of the 3 Exposure Areas and elsewhere within the boundaries of this Site and TRC's statement that the debris is not solid waste is incorrect.

    a. Furthermore, TRC states that the dumping at the Site occurred in the 1940s and 1950s which predates the Solid Waste regulations and they therefore do not apply, however, the Department's rules at N.J.A.C 7:26E-1.8 by reference to the Solid Waste rules at N.J.A.C. 7:26-1.4 define a solid waste landfill as a "facility at which solid waste was deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months", which is clearly the case at this Site. This definition applies even if the landfill areas were not designed or permitted to function as a landfill, as is clearly the case at this Site.
    b. The NJDEP has regulatory authority to require remediation of these solid waste landfills under the Solid Waste Rules, the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and the Administrative Requirements for the Remediation of Contaminated Sites rules [at NJAC 7:26C-1.4(c)2], including when remediation activities are funded, in whole or part, by the Hazardous Discharge Site Remediation Fund (HDSRF), which is the case by virtue of TRC receiving approval of a $1M Innocent Party Grant under the HDSRF Program in 2008, and/or if the party responsible for the remediation requires a no further action determination or case closure document.
    c. Excel fully anticipates that solid waste that remains at the Site following implementation of the final remedies for the 3 Exposure Areas will require additional action by the party responsible for the Site for compliance with applicable NJDEP regulations.

10. Section 4.4, Preliminary Engineering Considerations of Potential Remedies, Page 23-25: New text was added which states that a Remedial Design phase of work will be required that will evaluate the engineering elements in detail including "geotechnical, floodplain, and wetland issues", however, these aspects of remedial action alternative implementation should have been more thoroughly evaluated as part of the FS in order to adequately assess the feasibility of

implementing the remedial action alternatives, especially Capping alternatives given that more than 50 to 60% of the Exposure Areas include wetlands (including USEPA Priority Wetlands), all 3 Exposure Areas are located within/immediately adjacent to the floodway, and the Western Exposure Area abuts open waters thus posing significant engineering challenges for construction and long-term stability of a vegetated soil cap, which is clearly TRC's preferred alternative.

a. The text on Page 24 states "the vegetative, engineered cap would be designed to suitably withstand flooding conditions while allowing vegetative blending with the ecosystem" and, while the proposed capping locations are "potentially subject to flooding during major rain events" they are "not subject to swift water" yet there is no substantiation of these statements and, as previously stated, neither the wetlands areas nor ground surface elevations are shown on the FS drawings so no assessment of the actual ability for any Cap to sustain vegetation that would "blend with the ecosystem" can be conducted.
b. The text on Page 25 under Section 4.4.2, Site Material Reuse, states that "the Site debris areas that are below 1 ppm PCBs should be considered as potential borrow sources to provide the fill material for the caps" but reuse of "fill" material containing debris would be a questionable practice given that the debris meets the definition of solid waste under New Jersey regulations (as previously discussed above).
c. Further, also on Page 25 in Section 4.4.2, Site Material Reuse, the text states that "the Site areas outside the debris areas have a substantial quantity of muck, which "could provide a very good growing media", presumably for the surface of a Cap. Reuse of muck could be a cost-saving measure for construction of an Engineered Cap, however, excavation of the muck would entail disruption of existing wetlands and wetlands habitat and the negative impacts of excavating this material have not been evaluated in this FS despite statements that use of Site "borrow areas should consider regulatory impacts, such as floodplains and wetlands".

D. <u>Specific Comments on Remedial Technology Identification, Screening, and Evaluation</u>

1. Western Dump PCB Hot Spots (Exposure Area 1):

a. PCBs at concentrations that exceed 100 ppm are Principal Threat Wastes and, as such, must be removed and transported off-site for proper disposal at a permitted facility or effectively treated to levels that would be acceptable for no further action or a supplemental remedy, such as the use of Engineering and Institutional Controls.
b. Given the very elevated PCB concentrations and the occurrence of capacitors and capacitor parts, etc., treatment of waste would likely result in elevated PCB concentrations remaining that would require additional remedial action measures therefore **the Draft Revised FS document appropriately ranks Excavation/Off-Site Disposal as the highest alternative with respect to the NCP criteria given that, as stated in the Draft Revised FS, it provides the most effective protection of human health and the environment and would achieve all RAOs, which is clearly the case.**

2. Western Dump-Non-Hot Spot Areas (Exposure Area 2):

a. Following excavation of the PCB Hot Spots that comprise Exposure Area 1 (addressed above), soil exhibiting PCB concentrations between 1 and 100 ppm will remain in the Western Dump Exposure Area 2.

b. It is noted that, in the Draft Revised FS, "consolidation" of the footprint of the Western Dump Exposure Area 2 has been added to Alternative 2c so it is now entitled "Consolidation, Capping and Institutional Controls" and the size of the area to be Capped has been reduced from an estimated 12.6 acres to 5.68 acres with material excavated from within the floodway and placed within an area to be Capped, however, with much of the Western Dump Exposure Area located within the floodway and with wetlands located throughout the Western Dump Area, negative impacts to wetlands and/or changes in the floodway drainage associated with this alternative were not evaluated nor can the reader conduct such an evaluation using the Draft Revised FS because neither wetlands or existing/proposed ground surface elevations are shown on the FS Drawings for the Western Dump or any of the other Exposure Areas.

c. Given the geotechnical uncertainties associated with placement and compaction of waste materials if excavated and consolidated within the Western Dump Area, there is a significant risk of differential settlement of the waste and soil Cap as well as breaching of the cap integrity by burrowing animals and/or uprooted trees associated with tree topple which has already occurred under existing conditions within the Site and has the potential to occur on any Engineered Cap thus risking exposure to underlying PCB-contaminated waste.

d. In addition, TRC estimates that grade within the area to be Capped would be raised an estimated 5 feet above existing grade but simply states "...for purposes of this FS, the proposed grade is a balance between minimizing the area to be capped and maintaining an acceptable final grade for the Western Dump..." with no determination of actual elevations or evaluation of the affect of this long-term and permanent change on the existing diverse biota, wetlands habitat, or floodway drainage patterns. If Consolidation and Capping is to be considered a potentially viable alternative, this evaluation cannot be deferred to after remedy selection given the magnitude of potential adverse impacts to the existing ecosystem and floodway characteristics in the Western Dump Area.

e. Page 35 states for the Western Dump, "excavation of the 12.6 acre area would take longer to implement than the capping Alternative 2c", yet the text on Page 42 states that "excavation could be done more quickly than capping" and text on Page 53 states the capping Alternative 2c "requires the design and construction of a cap, which would take more time to implement than excavation and disposal" therefore the FS is contradictory with respect to Short-Term Effectiveness. Clearly it is either one or the other and, given the geotechnical uncertainties and engineering challenges of constructing a competent Cap in a wet environment such as the Western Dump, excavation and off-site disposal will likely have a more definitive timeline for implementation and would ultimately be expected to require less time to complete with a much more certain and protective outcome.

d. Alternative 2c(1), Consolidation along with a RCRA-style Cap and Institutional Controls was removed from Chapter 7.0 (Detailed Analysis), however, given that PCB concentrations of up to 100 ppm are proposed to be left behind under Capping Alternative 2c, if Capping is to be considered a viable alternative for the Western Dump Area, a RCRA-style cap is warranted **to minimize the potential for FUTURE migration of contamination to groundwater and ensure that the Cap is, and remains, protective of groundwater quality in the long term. Alternative 2c(1) should not have been removed from consideration while Alternative 2c(2), a permeable vegetated soil cap that would allow future percolation of rainwater and runoff through the cap into the PCB contaminated waste, was retained as a viable alternative.**

e. With respect to the evaluation of alternatives against the NCP criteria (not including State and Community Acceptance) in Chapter 7.0, Detailed Analysis, there are multiple unsubstantiated statements, inconsistencies and contradictions in the ranking of Alternatives, examples include, but are not limited to:

1. **Short-Term Effectiveness**: The FS ranks Excavation/Off-Site Disposal, Alternative 2e as "Moderate" stating it would result in exposure to workers during excavation and removal but ranks Capping Alternative 2c as "High" even though exposure to workers would also be a factor during excavation for consolidation of waste prior to capping and these concerns can readily be managed with appropriate Health and Safety procedures and personnel protective equipment, etc.
2. **Implementability:** The FS ranks Alternative 2c(2), Consolidation/Vegetated Cap, and Institutional Controls as "High" stating in Table 3 (Detailed Analysis for the Western Dump Area) that "installation of a vegetated, engineered cap would be much easier to install than a composite or clay cap" and Alternative 2e, Excavation/Off-Site Disposal, as "Moderate" stating "contaminated media would be segregated and removed from the Site. Implementation would take time, but no special permitting or equipment would be required" which is inconsistent with other statements in the FS that Excavation/Off-Site Disposal will take less time to implement than a Vegetated Cap (See Comment 2.e above).
3. **Overall Ranking**: Highest for Alternative 2c(2)-Consolidation/Vegetative Capping/Institutional Controls at 20 with Alternative 2e-Excavation/Off-Site Disposal ranked a close second at 18 which largely reflects the unsubstantiated and contradictory rankings for Short-Term Effectiveness and Implementability above along with disparate rankings for Green Remediation and Cost, the latter of which is clearly less for Capping than the permanent and much more protective Excavation/Off-Site Disposal.
4. **State Acceptance**: Is not included in the ranking outlined in Table 3 of the FS but is discussed in the text which states that "NJDEP has been continually involved in this project" and the "NJDEP's comments have been incorporated into this Detailed Alternatives Analysis" but there are clearly concerns that NJDEP has raised with respect to the lack of biota sampling to groundtruth ecological risk-based PRGs for the Site and concerns regarding solid waste at the Site that do not appear to be reflected in this Draft Final FS although it is agreed that NJDEP will have the opportunity to provide input into the Proposed Plan and ROD.
5. **Community Acceptance:** The FS states that "alternatives examined for the Western Dump will likely meet with a level of reluctance from the community, due to necessary measures which are required to implement the remediation" and discusses truck traffic through the community, however, there is no mention whatsoever of other concerns clearly relayed by the CAG and the community regarding ensuring that the diverse biota and wetlands habitat at the Site is restored, preserved, and fully protected. There is also no acknowledgment that the Community, like the State, will have the opportunity to provide input into the Proposed Plan and the ROD which it certainly has and will.

3. Eastern Dump (Exposure Area 3):

a. The Draft Revised FS text states that there was "no clear highest ranking Alternative for the Eastern Dump" in that Alternative 3c, a Vegetative, Engineered Cap and 3e, Excavation and Disposal under the Western Dump Cap, "had equal numerical rankings", however, Alternative 3e, Excavation and Off-Site Disposal was modified in the 2013 Draft Revised FS to add "OR Disposal Under the Western Dump Cap" to this Alternative but it is not shown as a separate alternative from Excavation with Off-Site Disposal in Table 4, the Detailed Analysis for the Eastern Dump Area, therefore it is unclear what is being ranked in Table 4.

b. Specifically, Table 4 describes Alternative 3e as simply "Excavation/Off-Site Disposal" with no separate column added for "Excavation/Disposal Under the Western Dump Cap" therefore we cannot evaluate the ranking of this alternative since it clearly would be given different rankings than Excavation with Off-Site Disposal for many of the NCP criteria. ..

c. Most of the text of Section 7.3.3 (the Detailed Analysis of remedial action alternatives for the Eastern Dump) is equally unclear because it simply refers to "Alternative 3e" without always making a distinction between Excavation <u>with Off-Site Disposal</u> and Excavation <u>with Reuse Under the Western Dump Cap</u> and compares this Alternative to the others as if it was one in the same but clearly there is a difference between excavating waste from the Eastern Dump and <u>removing it for proper disposal off-site</u> and <u>excavating it and moving it to the Western Dump which does not remove the waste from the Site.</u>

d. The text of this Section on Page 58 under "Implementability" states that "Alternative 3e requires the excavation and disposal of a significant volume of soil, but putting it under the Western Dump cap would be fairly easily implementable", however, once again, these statements are unsubstantiated and there is no evaluation of the commensurate increase in the final elevation of the Western Dump Cap and no discussion as to the management of the cuts and fills relative to Flood Hazard Area regulations, disruption of wetlands, etc.

e. In the ranking of alternatives on Table 4, under both "Overall Protection of Human Health and the Environment" and "Long-Term Effectiveness and Permanence", Alternative 3e entitled "<u>Excavation/Off-Site Disposal</u>" is ranked "Moderate" which is the same ranking given to Alternative 3c "Capping and Institutional Controls" while Excavation and Off-Site Disposal was ranked "High" for both of these criterion in the Detailed Analysis of Exposure Areas 1 and 2 on Tables 2 and 3 of the FS, respectively.

f. Adjustment in the rankings of Alternative 3e "<u>Excavation/Off-Site Disposal</u>" to "High" for both of the aforementioned NCP criteria for consistency with the other Exposure Areas results in this alternative ranking higher than "Capping and Institutional Controls" and, as such, Alternative 3e should have been the preferred alternative, which is consistent with the Community and Stakeholder's preference for each of the three Exposure Areas at the Site.

As always, please call me to discuss any of the comments outlined in this letter or if you have any questions or need any additional information.

Sincerely,

Lawra J. Dodge, P.G., LSRP
President
EXCEL Environmental Resources, Inc.