Manzanilla, Enrique

From: Kimball III, David P. <DPK@gknet.com>
Sent: Thursday, March 15, 2018 11:20 AM
To: Manzanilla, Enrique
Cc: Herrera, Angeles; Maldonado, Lewis; Dreyfus, Bethany; Kimball, Stuart S.
Subject: Follow-up to Tuesday's Meeting

Mr. Manzanilla:

We wanted to thank you and the other EPA attendees for your time on Tuesday and allowing our team to provide an update on the ADEQ-approved and NCP-compliant cleanup voluntarily developed and performed to date by the Roosevelt Irrigation District public-private partnership at the West Van Buren Area (WVBA) Water Quality Assurance Revolving Fund (WQARF) Site in Arizona.

We wanted to provide additional information to address your question about the toxic air exposures at the WVBA WQARF Site, which was not included in our presentation. The 2011 public health exposure assessment of the VOCs detected at RID's well sites – conducted on behalf of RID at the request of ADEQ – indicated that the measured TCE and PCE concentrations in ambient air were below screening levels considered to be an acute health hazard at the time. However, the updated TCE toxicology findings and novel risk for pregnant women, implying danger from short-term exposure, necessitate reconsideration of that previous analysis of potential ambient air health risks at the WVBA WQARF Site. Based on the new TCE toxicological data, EPA has set much more stringent health-based screening levels for long-term cancer risks from potential chronic exposure to TCE in water (0.49 µg/L) and air (0.48 $\mu g/m^3$) and, for the first time ever, some states and EPA regions have established recommended health protective action levels for short-term TCE inhalation exposure (e.g., exposure occurring over a few days or weeks). For example, EPA Region 10 recently recommended a not-to-be-exceeded, average TCE air exposure level of 2 micrograms per cubic meter ($\mu g/m^3$) for women of reproductive age, to guard against fetal cardiac birth defects. It is now evident that the TCE concentrations measured in ambient air during the 2011 public health exposure assessment, which ranged from 1.88 to 29.0 $\mu g/m^3$, exceed thresholds EPA has now established to protect sensitive and vulnerable populations. Specifically, EPA now views the health protective risk levels for both short- and long-term TCE exposures in air to range from 0.5 to 2 $\mu g/m^3$ for residential exposures.

Additionally, the toxic air exposures at the WVBA WQARF Site were raised by a member of the WVBA Community Advisory Board (CAB) and by certain NGOs in the public comment process for the RID remedial actions. Dr. Rolf Halden of the WVBA CAB and professor at Arizona State University noted that "harmful exposure to VOCs is the principal concern of community members of the WVBA area," and it is "desirable to keep further increases in health risks to community members at an absolute minimum." Furthermore, Don't Waste Arizona, Inc. and Concerned Residents of South Phoenix noted that "[e]xposing people unnecessarily to toxic chemicals is physically harmful in any amount," "that there would be no affected area residents of the West Van Buren WQARF site who would … welcome the toxic and carcinogenic air pollution," and "[ADEQ] should proceed immediately so the abatement of chemical hazards can occur quickly."

Also, we have considered some of the initial comments from your team and wanted to provide a brief response as your team considers our recommended remedial action proposal. Although EPA's practice may have been to wait to enter into cooperative agreements under 42 U.S.C. § 9604(d) until after EPA has engaged in significant studies and investigations and selected a remedy, we have found nothing in statutory authority that precludes a cooperative agreement with a political subdivision to conduct a NCP-compliant response action that has been approved by ADEQ. According to 42 U.S.C. § 9604(d)(1) and (3), the over-arching purpose of the cooperative agreement is to demonstrate that the "political subdivision thereof is acting in behalf of the President" to "carry out actions authorized in this section," which would include a CERCLA-like response action already approved by ADEQ and determined to be

NCP-compliant by a federal judge. Pursuant to the criteria and priorities established pursuant to 42 U.S.C. § 9605(a)(8) for the purpose of taking remedial action under CERCLA, the WVBA WQARF Site is a high priority given the population at risk, the hazard potential of TCE and other hazardous VOCs, the potential for contamination of drinking water supplies, the potential for direct human contact and the contamination of the ambient air which is associated with the release. Additionally, 42 U.S.C. § 9604(d)(2) distinguishes between a "cost-sharing agreement pursuant to subsection (c) of this section or a contract or cooperative agreement pursuant to this subsection." Thus, cost-sharing does not necessarily have to be involved in a cooperative agreement.

As we noted in the meeting, we are considering all available CERCLA options that would accelerate cleanup at the WVBA WQARF Site consistent with EPA's new Superfund Initiative. Although a cooperative agreement appears to be an authorized method to accelerate cleanup, another potential option for consideration is for RID to enter into a de minimis settlement under 42 U.S.C. § 9622(g) to perform any response action. This would enable EPA to facilitate and expedite an administrative settlement agreement with RID to implement the NCP-compliant and ADEQ-approved remedial action "in order to expedite effective remedial actions."

Again, thank you for your time and willingness to consider RID's and any other potential options to facilitate and expedite effective remedial actions in the WVBA WQARF Site as contemplated and encouraged in EPA's Superfund Initiative. We look forward to hearing from you as soon as possible.

David Kimball

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