Message

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Sent: 10/17/2018 10:18:54 PM
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Subject: Hunters Point - Supervisors meeting and Inside EPA Article on the 5 Year review

Mike,

A couple of updates.....

1) SF Board of Supervisors Committee Hearing on Hunters Point

I provided a short update last Monday to a subset of the Board of Supervisors, including President Malia Cohen, following updates by the Navy, DTSC, and CDPH. My brief remarks covered Parcels G and A and our Agency's support of the work done by both the Navy (Parcel G proposed sampling plan) and CDPH (Parcel A sampling results and assessment of the risks from the deck marker). President Cohen asked me one question on Parcel G next steps. Overall, the hearing was straightforward and sparsely attended. There were only two public comments at the end of the Agency presentations.

2) Recent article in "Inside EPA" regarding our September comments on the Navy's 5 Year Review

Here's some background and next steps regarding the issue covered in the article below. On Superfund sites where contamination is left in place, a review is required every five years or less to determine whether the remedy is or will be protective of human health and the environment. In July, the Navy released a draft Five Year Review (FYR) to the regulators and public for comment. EPA's September staff level comments on the FYR regarding the Tetra Tech EC Inc. matter tracked closely – sometimes verbatim -- with comments we made previously in March and August about the Parcel G Work Plan for retesting radiological areas. Consistent with EPA national guidance, we recommended again that the Navy use the latest EPA online risk model (as they have changed over time) to evaluate the current radiological cleanup goals to ensure the risk is within the range specified in Superfund regulations. EPA also recommended that the FYR give more complete information about the Tetra Tech EC Inc. situation in all relevant sections. Several members of the public also made comments, some similar to EPA's. EPA and the Navy have discussed EPA's risk model in several conference calls, and it appears they are willing to accept our comments and revise the FYR accordingly. The Navy plans to release a second Draft Final FYR to regulators and the public November 6, 2018.

Please let me know if you need any more information.

Enrique

Daily News

EPA Criticizes Navy's Lack Of Transparency In Hunters Point CERCLA Review

October 15, 2018

EPA Region 9 is criticizing the Navy's management of re-sampling and cleanup work at the former Hunters Point Naval Shipyard in San Francisco, CA, saying the Navy fails in a review of the high-profile cleanup to be upfront about the falsified radiological data sampling that a cleanup contractor was found to have done throughout the site.

The criticisms are contained in EPA's comments on the Navy's draft fourth five-year review of the cleanup at Hunters Point, an assessment document required by the Comprehensive Environmental Restoration, Compensation and Liability Act (CERCLA), also known as the Superfund law.

The agency in its Sept. 21 comments laments the Navy's review fails to "adequately discuss the Tetra Tech EC Inc. potential contractor manipulation and/or falsification of radiological data at Hunters Point, and its effect on the protectiveness of the radiological remedies," noting that some of the fraudulent actions have been confirmed by enforcement actions.

The concerns echo that of environmentalists. For instance, the local environmental group Committee to Bridge the Gap (CBG) in Sept. 7 comments refers to the data fraud that occurred at Hunters Point, saying the five-year review fails to consider "the systemic breakdown of the integrity of [the] cleanup operation" there. "The Tetra Tech scandal is barely mentioned; when it is referred to, in passing, it is without any assessment of the implications for the integrity of the overall cleanup," the group says.

The criticisms build on complaints EPA made in August against the Navy on a work plan to retest one of the parcels at the site, although the comments on the five-year plan do not go so far as the threat the agency made in the August comments to potentially invoke the dispute resolution process if the Navy fails to comply with the agency's demands.

The latest comments respond to a five-year review the Navy released in July for Hunters Point, coming not long after the criminal convictions and sentencing in May of two cleanup contractor supervisors who worked for Tetra Tech EC at Hunters Point, where they were found to have falsified radioactive soil sampling data. Tetra Tech EC is a subsidiary of Tetra Tech, Inc. The two convicted workers oversaw a team of radiation control technicians whose job was to conduct radiological sampling and remediation at the former shipyard.

It is unclear whether the falsifications went beyond the two employees, one of whom in a plea agreement said he was pressured by company supervisors.

Cleanup of the base -- which sits on highly-valued land along the San Francisco Bay -- continues to be embroiled in controversy over falsified data. Whistleblowers for years have reported significant data manipulation, falsification and other actions meant to minimize soil contamination evidence, Public Employees for Environmental Responsibility says. House Democratic Leader Nancy Pelosi (D-CA) this summer asked EPA and Navy inspectors general to broadly investigate oversight of the contractor's cleanup work at the site. And a Justice Department investigation into the cleanup of the former shipyard has been ongoing, according to the Navy.

A Navy reexamination of radiological data for parcels on the former base recommended re-sampling portions, but EPA earlier this year called for redundant sampling on much more land -- nearly all of the land on the parcels the Navy had reviewed.

Fraudulent Sampling

In its Sept. 21 comments on the draft five-year review, EPA criticizes the Navy for largely leaving out the fraudulent sampling that has called into question the cleanup. EPA says that interviews in an appendix of the five-year plan show that the issue

"dominates regulator and public concerns," and that it "has significantly undermined trust in the Navy." EPA says that stakeholders "are frustrated by the Navy delays and want more communication and transparency."

The Navy should address this issue upfront in the document, starting with the executive summary and throughout it, EPA says.

In the five-year review, the Navy does not mention the falsification of data sampling in the executive summary, although it does elsewhere in the document. Under an issues section in the review, it notes that a significant portion of the radiological survey and cleanup work completed so far was compromised due to the falsification of data by the remediation contractor.

The five-year review goes on to say remedies for the various parcels are protective, but at the same time notes the retesting being done, and that surveys and removal actions have been compromised. It says, for instance, that corrective actions are needed to determine if remedial action objectives have been met.

EPA asks the Navy to address the falsification findings throughout the review. For instance, it says in the executive summary, the Navy should explain the events that occurred over the past five years, the current status and future plans. "Please include the Navy's commitment that no further transfers of property will occur until the Navy: (1) retests all locations where Tetra Tech EC Inc. performed previous suspect radiological work, and (2) conducts any necessary cleanup to protect public health and meet [record of decision] requirements."

Under a section on response actions, EPA says the Navy should note in this section that all prior radiological data by Tetra Tech "has been called into question and the Navy has stated openly that they can no longer rely on it. Therefore, these data cannot support any conclusions about protectiveness or completeness of the remedy, and we will not have any conclusions on long-term protectiveness or completeness until new data is taken and any required remediation is performed."

The comments follow criticisms EPA levied on the Navy over the service's work plan to re-sample the site, leveraging its ability to withhold property transfer approvals if parcels are not sufficiently clean.

For instance, in March comments, EPA remarked that the Navy's overall draft re-sampling plan "would not be sufficient to demonstrate protection of human health and the environment to an extent that would allow for EPA approval of property transfer of affected parcels," citing a review EPA conducted that involved a technical team of national experts in health physics, geology and statistics.

Also, in August comments on a specific re-sampling plan for parcel G, EPA Region 9 says it is largely reiterating its concerns expressed in the March response to the service's general work plan, and warns that if changes are not made, the agency may move to invoke the dispute resolution process under the site's Federal Facility Agreement.

Risk Evaluations

A second major issue the agency raises in the comments on the five-year review is over the Navy's refusal to heed repeated advice from EPA that the five-year review should contain updated risk evaluations for existing remediation goals (RGs) using revised versions of EPA's Preliminary Remediation Goal (PRG) calculators. It notes PRG calculators for soil, buildings and surfaces, which are relied on to develop risk-based PRGs for radionuclides, are recommended by EPA for use in Superfund remedial radiation risk assessments.

The agency tells the service that risk should be determined for soil, buildings, piers and bollards, and asks the Navy to revise the five-year review "to include the results of updated risk evaluations for existing RGs using the current versions of the EPA's PRG calculators to ensure that existing RGs remain protective."

EPA warns against cleaning up to a risk level close to the upper limit of 1x10^-4 that EPA has set because "this increases the potential for the combined risk from multiple contaminants of concern found at a single location to exceed the Superfund National Contingency Plan (NCP) risk range of 1x10^-6 to 1x10^-4."

Second, the agency notes that in general EPA's "estimates of risk at a given radionuclide concentration have increased over time. It would be prudent to allow room to accommodate these likely future increases," EPA adds.

An environmentalist says that for buildings, the Navy uses an Atomic Energy Commission guide that dates back to the 1970s and which was developed based on detection capabilities, rather than safety levels. In its comments, CBG points out that under the Superfund law, the Navy is not supposed to use that guide but rather should rely on EPA's building PRG calculator. "When one runs that EPA calculator, one discovers that the Navy cleanup levels for buildings at [Hunters Point] are frequently thousands of times less protective than the EPA Building PRGs," the group says.

In the case of soil, the Navy did use an EPA soil PRG calculator, but that was developed in 1991, the source says, and is much less protective than the current PRG calculator. The source says the calculators are frequently updated by EPA. CBG says that if the Navy were to use EPA's updated soil PRG calculator, "Navy cleanup levels would appear to be in many cases hundreds of times weaker than the EPA PRGs, with risks exceeding even the upper range of EPA's required risk range."

From: InsideEPA.com [mailto:insideepa-alerts@iwpnews.com]
Sent: Tuesday, October 16, 2018 4:26 AM
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Subject: The Morning Headlines from InsideEPA.com -- October 16, 2018

REDEFINING EPA: Overhauling an agency and its mission -- Complete coverage

October 16, 2018

Latest News

Environmentalists Pressure EPA On Ash Rule Changes In Lieu Of Lawsuits

Environmentalists plan to pressure EPA to revise and tighten its coal ash rule in line with a federal appeals court mandate issued Oct. 15 that formally vacates portions of the Obama-era regulation, in lieu of pursuing waste law enforcement actions against utilities that they claim are now violating the law as a result of the mandate.

EPA Urged To Speed RMP Changes After Declining Appeal Of Delay Ruling

Chemical industry attorneys are urging EPA to accelerate its plan to undo Obama-era changes tightening the risk management plan (RMP) facility safety program, after the agency

opted against appealing a court ruling that scrapped the Trump administration's delay of the revisions and reinstated looming compliance deadlines.

EPA Finalizes Rule Weakening Obama-Era Resins Manufacturing NESHAP

EPA has finalized a rule that weakens an Obama-era national emissions standards for hazardous air pollutants (NESHAP) rule for amino-phenolic resins manufacturing and is also delaying implementation of the softened rule, in response to petitions from resin products urging the Trump administration to revise the regulation.

EPA Criticizes Navy's Lack Of Transparency In Hunters Point CERCLA Review

EPA Region 9 is criticizing the Navy's management of re-sampling and cleanup work at the former Hunters Point Naval Shipyard in San Francisco, CA, saying the Navy fails in a review of the high-profile cleanup to be upfront about the falsified radiological data sampling that a cleanup contractor was found to have done throughout the site.

DOJ Plans To Renew Call For Supreme Court To Halt Youth Climate Case

The Department of Justice (DOJ) is planning to renew its call for the Supreme Court to halt a novel climate change case brought by 21 youth plaintiffs, just weeks before the long-pending and high-profile matter is scheduled to go to trail in a federal district court in Oregon.

Daily Feed

Suspended children's health chief faults EPA's political leadership

In her first public statements since being removed from the Office of Children's Health, former director Ruth Etzel says EPA is treating children as “disposable.”

Environmentalists back Senate farm bill over House version

Environmental and sustainable agriculture groups are urging lawmakers to approve a 2018 farm bill that is as close to the bipartisan Senate version as possible, rejecting environmental riders in the House bill.

Former Bush DOJ official Tenpas joins Vinson & Elkins

Ronald Tenpas, former head of the Justice Department's (DOJ) environment division during President George W. Bush's administration, also served on President Donald Trump's 'landing team' at DOJ.

EPA, California spar over 'counter' to vehicle GHG rollback

EPA's acting chief Andrew Wheeler claims California officials previously promised to submit a counterproposal to the federal greenhouse gas vehicle rule rollback plan.

NAS preparing for new DOD projects on TCE, lead

The National Academy of Sciences (NAS) is preparing to review Defense Department risk analyses of trichloroethylene (TCE) and lead, chemicals for which EPA has struggled to craft risk estimates.

Ewire: Trump backs away from climate 'hoax' claim

In today's Ewire: President Trump backs off his claim that climate change is a hoax, but continues to dismiss mainstream scientific findings that it is primarily driven by human-released greenhouse gases.

Environmentalists ask EAB to scrap Arizona gas utility's air permit

An Arizona county and power company are fighting Sierra Club's Environmental Appeals Board challenge that claims a gas plant's 'minor source' air permit is 'unenforceable.'

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