Vogel Paint and Wax Superfund Site

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Key Message

EPA is working with IDNR and the PRP (Vogel) to resolve concerns about groundwater contamination that has migrated to offsite areas beyond the point of compliance selected in historical site decision documents.

Background

A Superfund decision document (ESD) signed in October 2000 established as part of the Remedial Action Objective a "point of compliance" at the site property boundary. The site is a state-lead NPL site managed by IDNR. IDNR prepared the October 2000 ESD and EPA concurred with it. IDNR is party to a Consent Decree with Vogel to implement the remedy, and IDNR oversees the work. EPA is the lead agency for conducting Five Year Reviews at the site.

During the Five Year Review process in 2019, EPA noted that the point of compliance approach is not consistent with EPA Guidance and national program groundwater policy, and advised IDNR to consider changing the point of compliance approach to a broader approach requiring the PRP to address groundwater contamination wherever it had migrated. EPA Region 7 has engaged OSRTI on the issue, and OSRTI supports changing the point of compliance approach.

Both IDNR and the PRP, through their legal counsel, strongly objected to changing the point of compliance, citing the fact that EPA had agreed to the decision in 2000, and had not raised the issue in previous Five Year Reviews. In July 2019, Verdant Law, legal counsel for the PRP, sent EPA a letter stating their objections and requesting the opportunity to discuss the issue with IDNR and EPA.

Over the past few years, Vogel has agreed to conduct additional work outside the scope of the existing Consent Decree to address source areas on their property and to conduct pilot studies to address at least some of the groundwater contamination that has migrated beyond their property line. The company is now questioning whether it should proceed with this work if EPA intends to pursue amending the remedy decision.

EPA signed the Five Year Review on Sept 10, 2019. The FYR notes the inconsistency with the national groundwater policy, but does not suggest that an amended remedy is needed.

Upcoming Actions/Next Steps

EPA will hold a coordination call with IDNR on September 18, 2019 to discuss the final language in the FYR and to discuss the path forward for the pilot studies at the site.

EPA is preparing a response to the letter Verdant Law sent to Senator Ernst's office on Sept -----. EPA will offer to meet with IDNR and Verdant to reach a mutually agreeable resolution of the issues.

Key Stakeholders

Vogel – PRP at the site
Verdant Law – legal counsel for Vogel
IDNR – lead agency for the Superfund site
EPA Region 7 – lead agency for Five Year Reviews at the site

Other Issues or Sensitive Topics

[Important information the RA may need to know that has not been mentioned in other sections of this paper.]