WEST CHICAGO INTERGOVERNMENTAL FORUM
February 20, 2009
Meeting Minutes

ATTENDEES

Barbara Magel, Counsel for Local Communities
Jamie Geils, CBBWEL, Local Communities
Kim Smart, DuPage River Coalition
Emily Larson, City of Warrenville
Tom Williams, IEPA
Chuck Grigalauski, IEPA
Gary McCandless, IEMA/DNS
Gerald Karr, Illinois Attorney General's Office
Mary Fleming, DuPage County State's Attorney's Office
Mark Krippel, Tronox
Tim Fischer, U.S. EPA, Superfund
David Seely, U.S. EPA, Superfund
Mary Fulghum, U.S. EPA, Office of Regional Counsel

GENERAL TOPICS

We began the meeting by discussing the fact that Tronox filed for Chapter 11 bankruptcy on January 11, 2009. Mark Krippel said that we should go to Tronox.com to get the latest information regarding the restructuring of the company. Mark said that a group of banks has offered to loan Tronox $125 million to continue operations for the time being. Some of that financing will have to go to pay existing debts, so not all of it will be available for operations. Mark indicated that it was going to take some time to work through the court proceedings and determine which creditors get paid first. Mark said that next week an initial meeting is scheduled between Tronox and a group of the largest creditors to start working through debt matters. We don't completely know how work in West Chicago will be affected until these negotiations are completed. He did say that currently there is some money allocated for West Chicago, and this pot does not contain the funding necessary to complete excavation in Reach 7 of the West Branch DuPage River this year. Tronox does have funds to continue operations at the REF, continue operations of the water treatment plant, and continue groundwater monitoring in West Chicago. Mark said that there may also be funding to do some limited work on the Residential Areas site. Mark said that there would be adequate funding to complete restoration work and ongoing Maintenance and Monitoring in the cleaned up Reaches of Kress Creek and the West Branch DuPage River, and also to complete design work for Reach 7. Mark said that the problem with cleaning up Reach 7 is that the nature of the cleanup of this section of the river necessitates an "all or nothing" approach. Tronox would not want to start excavation in Reach 7 without having the funding necessary to complete the project.

Barb Magel asked whether there would be funding available for restoration at the REF. Mark said that there is a little bit, but restoration at the REF is basically complete until completion of the Kress Creek/West Branch DuPage River project is done.

Mary Fulghum provided an update on the bankruptcy from EPA's perspective. She agreed with Mark Krippel that it is really too early to tell what the overall impact on the cleanup will be for this year. Mary said that we are at the mercy of the bankruptcy court with respect to obtaining funding for this year. Mary reminded everyone that Kress Creek/West Branch DuPage River is a National Priorities List (NPL) site, and that eventually the cleanup will be completed one way or another.

Barb Magel asked if EPA had decided whether they were going to file a claim in the bankruptcy proceedings. Mary Fulghum answered that EPA has asked to make an appearance in the court. Mary also provided information regarding how EPA files its claim. It is a "United States" claim, but it is split up into different sites. Mary was asked if Anadarko's spinoff of Tronox would enter into the consideration. Mary said that it is evident from some court filings that the United States is considering a claim under the Federal Debt Procedures Claims Act, which looks at the transactions preceding the spinoff of Tronox to see if there is evidence that there may have been an effort to load Tronox with environmental liability and other liabilities. The ultimate decision on whether or not to proceed with a United States FDPCA action would lie with the United States Department of Justice.

Tim said that the bottom line is that there is a great deal of uncertainty regarding how the cleanup will be affected going forward, and that the information presented today was all of the information we had at this time.

REED-KEPPLER PARK SITE

Tim said that he had incorporated comments from reviewers and revised the Final Closeout Report for RKP. The document is now in the EPA sign-off chain, and it will eventually be signed by Rick Karl, Superfund Division Director. After it is signed, EPA will provide a copy to Illinois EPA so that they can produce a concurrence letter for delisting the site from the NPL. Tim said that he hoped the report would be signed by next week.

Tom Williams said that Illinois EPA does concur with the proposal to delist the site, and they will be sending the letter as soon as possible.

SEWAGE TREATMENT PLANT SITE, river portion

Tim reported that the last completion report had been finalized previously, and that the only continuing work at STP was the regular Maintenance and Monitoring associated with restoration at the site. Therefore, Tim proposed to remove the STP site from the regular site update agenda, and just provide updates when they were appropriate. No one objected to this proposal, so this change will be made on future agendas.

KRESS CREEK/WEST BRANCH DUPAGE RIVER SITE

Cleanup Progress

Tim provided an update on cleanup activities for the creek and river.

Reach 6 (Williams Road to Butterfield Road): Tim reported that restoration is scheduled for completion in Reach 6 this spring. A large wetland area in Reach 6 on the Cenacle property is still under construction, and that should be completed this year.

Reach 7 (Butterfield Rd to the Warrenville Grove Dam): Tim said that design work has been initiated for Reach 7 and that we expect to get a draft design document for Reach 7 in early April. Tim said after we receive the design everything is sort of "up in the air" until we work through the bankruptcy process and find out how much money we may have available for Reach 7 this year. Tim said that there are basically two issues that we need to consider regarding the work in Reach 7. One is the funding necessary to complete the work, which is about $20 million. The other is the fact that we have to start construction by a certain time in the spring to have enough time (about 20 weeks) to complete the work in Reach 7 this year. If we do not start construction by late May or early June, we will not have enough time to complete the fieldwork this year.

Tim provided an opportunity for questions following his updates, but there were none. After the Residential Areas Site update, Kim Smart asked about restoration in Reach 5E of the West Branch DuPage River cleanup. She said that due to heavy rains recently, a lot of the restoration in Reach 5E took some pretty heavy damage. She asked if maintenance work would be moving forward soon or not. Tim asked if Kim was asking about something on her property specifically. Kim said that yes… fences were down, hydroseeding was gone, trees were gone, etc. Tim said that EPA would make sure that everything that was in the Remedial Design plan would be replaced.

Mark Krippel said that things that are installed, like the fencing, are not necessarily a maintenance issue. Mark said that plantings and seeding areas are definitely covered, but he did not think that installed items, such as fencing or sheds, that are damaged or destroyed by acts of God would fall under the responsibility of Tronox.

Kim Smart also asked if there were any public information meetings scheduled for this year. Tim said that yes… we will be holding a public information session for Reach 7 in April sometime. Tim said that postcards will be sent out to announce any such meeting when the date is selected.

RESIDENTIAL AREAS SITE

Recap of "old cleanup residual" issue: Kerr-McGee conducted a cleanup of 100+ residential properties in West Chicago in the mid-1980s. The issue is whether there is potentially any low-level residual contamination that was left behind at the bottom of the old excavation in the mid-1980s that was then covered with clean backfill soil. If such residual low-level contamination exists, it would probably be just slightly above EPA's current cleanup standard, and the clean soil that was placed over it may have prevented EPA from detecting it during the Superfund investigation and cleanup that started in the mid-1990s. This issue was raised and EPA is now working to resolve it. This issue affects only those particular properties that were part of the mid-1980s cleanup. Properties that were not part of the 1980s cleanup are not affected by this issue.

David stated that since the last Forum meeting, Tronox filed for bankruptcy and that he was evaluating the impacts on the Residential Areas site to support EPA's claims in the bankruptcy proceedings. This involved developing the scope of the work needed to complete the project, which was difficult to accurately reflect since EPA does not have the sampling completed on the properties undergoing the current evaluation of the 1980s cleanup. David stated that any cleanup that may be needed will likely be much smaller in scope than those that underwent cleanup in the 1990s, and therefore David is hopeful that the bankruptcy will not significantly impact the Residential Areas project. EPA is continuing work as if the bankruptcy proceedings will not impact the project.

The recent focus has been on obtaining access to those properties which had not yet granted EPA access to do additional testing last year. These properties account for 9 of the 32 properties where EPA has determined that additional testing is required. EPA attempted to get access from the property owners by making phone calls, walking door-to-door, and talking with the residents of rental properties. These efforts have resulted in 6 signed forms granting access. Two of these forms were received in the last two days. EPA is hopeful that at least one additional consent form will be signed shortly since the owner has verbally stated that they would like the work to be conducted. The other two outstanding properties involved an owner wintering in Arizona which will not return to the area until at least March and another where EPA has been unable to make contact with the owner. Additionally, EPA is following up on the properties that never had granted access to test the properties during the original investigation in the 1990s to see we can investigate these properties during the upcoming field efforts.

David stated that he will be developing plans to mobilize EPA's FIELDs personnel to start the fieldwork and noted that this some time to coordinate and that no information is currently available on when field activities may start.

David stated that he has just started efforts to conduct additional property reviews to determine if additional testing is necessary. David reminded the forum that Becky Frey, the previous RPM, had completed the reviews on the properties with the highest priority and that he will be tasked with following through on the reviews that had not yet been

completed. David recently met with Becky to go over the approach for conducting the review to ensure a consistent approach.

David stated that he has continued to respond to general community inquiries, most of which appear to be for real estate transaction purposes. One property owner has requested EPA do additional checks on her property do to recent deaths of multiple animals (2 dogs and 2 horses) due to cancer. This property was one that had been cleaned up in the 1990s but gamma readings were still influenced by the contamination on the Rare Earths Facility since that had not yet been cleaned up. David said that at a minimum he committed to do an informal walkover survey to see if the gamma results indicate anything that might have been missed in the previous investigation. David indicated that this was the property for which Barb Magel recently inquired.

David provided an opportunity for questions and there were none for the Residential Areas Site.

OTHER ISSUES

Update on NOAA Grant Projects

There was no update on the NOAA projects this month.

NEXT FORUM MEETING

The next meeting of the West Chicago Intergovernmental Forum is scheduled for **Friday, April 24, 2009, at 10 a.m.** in West Chicago City Council Chambers, West Chicago.