May 26, 2016

Mr. Gary Miller
Remedial Project Manager
U.S. Environmental Protection Agency
Fountain Place 12th Floor, Suite 1200
1445 Ross Avenue
Dallas, Texas 75202-2733

RE: GBF comments on San Jacinto River Waste Pits for the EPA/NRRB

Dear Gary:

Thank you for this second opportunity for Galveston Bay Foundation (GBF) to provide input to you and the review committee as the U.S. EPA evaluates the alternatives for the final remedy for the San Jacinto River Waste Pits Superfund Site (SJRWP).

GBF's position that this waste site requires a removal action, utilizing modern best management practices to isolate the waste from the river during such action, as noted in our June 18, 2014 and September 10, 2015 letters to you, still stands. Please see those letters, attached in the email containing this letter, for reference. We urge you to require the potentially responsible parties (PRPs) to implement this removal action which will, once and for all, rid the river and Galveston Bay, and our waterways' users, of the dioxin from this site which has already caused harm to human and environmental health and will continue to affect our community if not removed.

As noted in those letters, the EPA's own *Guidance for In-Situ Subaqueous Capping of Contaminated Sediments* states that low-level, dioxin-bearing wastes can be capped and isolated in a low energy environment such as a protected harbor or low flow stream. However, the wastes in this pit are not low-level, and the San Jacinto River is not low energy, protected, or low flow. So, first and foremost, this site is unsuitable for subaqueous containment. Therefore, containment should be eliminated at the outset as a remedial alternative.

If that is not a good enough argument for removal, your confirming that the wastes will persist in a toxic concentration for 750 years underscores the uncertainty that any cap can withstand natural and man-made assaults over such a long period of time. The only thing that is certain is that hurricane wind-driven waves will decimate it as the waves are driven against the artificial barrier that exists to its south, the I-10 roadway and bridge, focusing the energy on the armor. If smaller storms can move the rock, as evidenced by the 10-year event in 2012, then hurricane-wind driven waves will surely render it too weakened to protect us. There will also be more terrible flooding during such a long time-frame, threatening the integrity of the cap. And surely, over such a long time period barges will certainly break loose of their moorings and strike the

• 17330 Highway 3, Webster, TX 77598 • Phone 281-332-3381• Fax 281-332-3153•

9489956

cap. In addition, sea level rise and climate change will make this location even more precarious and will make it harder for the PRPs to monitor and maintain a cap.

In short, capping does not make sense in this location.

If anything, the evidence provided by the findings of a hole in the cap in December 2015 and recent 2016 findings of the additional 25-30 deficiencies in the cap strengthens our argument that capping in place has not, and will not, work. We are not convinced that the cap is working now, based on the discoveries of these holes and deficiencies, and believe that dioxin is still to this day making it into the food chain and harming human beings. If the highly contaminated waste was still exposed to the river, as was proven through the December inspection and sediment sampling results, then we are left with no other conclusion. If an EPA diver can sink into the wastes during the inspection, as stated in the EPA's dive team report, then surely benthic animals have been able to access the waste and transfer it up the food chain. And, it seems that with each inspection, more deficiencies are discovered, so we can only conclude that there are more locations in this cap that have and continue to allow for exposure of the aquatic life to the toxins.

The enhancement of the cap, by simply adding more rock, will not solve this problem. As the cap is not completely covered by geomembrane, and has a large percentage without a liner of any kind, we do not trust it to eliminate the food web bioaccumulation pathway. Even if the cap was completely lined, we would not trust the materials to last the test of time.

Conversely, removal using best management practices to prevent release of the toxins during any such action, will work. There are plenty of examples which the EPA can use, e.g. Diamond Alkali Phase I, Passaic River, New Jersey and the second phase of the Hudson River cleanup that was recently completed. I know that Dr. Kathleen Garland of UH-Clear Lake and others have provided you other examples, so I will not repeat them here.

While each site is unique, removal of wastes from the SJRWP using modern planning and implementation, and using the latest technology, will present a lower risk of release of dioxin than counting on cap, which has already proven itself very problematic in 5 short years to stand the test of time for 750 years.

I urge you, for the protection of our citizens and natural resources, to call for removal of the wastes.

Sincerely,

Scott A. Jones
Director of Advocacy
The Galveston Bay Foundation