Missouri Coalition for the Environment
EFFECTIVE CITIZEN ACTION SINCE 1969

April 25, 2014

Dr. Karl Brooks
Regional Administrator, Region 7
Environmental Protection Agency
11201 Renner Blvd.
Lenexa, KS 66219

Re: West Lake Landfill Questions for EPA Region 7

The Missouri Coalition for the Environment (MCE) and concerned community members have the following questions for EPA Region 7 regarding the smoldering and radioactive West Lake Landfill Superfund Site.

Regarding the Administrative Settlement Agreement and Order on Consent for Removal Action – Preconstruction Work (CERCLA-07-2014-0002):

1. Section VII #26: Will EPA Region 7 make the qualifications of all contractors being used at the site available to the public before determining if a contractor is suitable to work at the site?

2. Section VII #27: Does EPA Region 7 approve or disapprove of EMSI as a contractor for the isolation barrier? Stating that, "EPA has not disapproved…" is confusing. Does EPA Region 7 believe EMSI is capable of putting public safety as its first priority after the conclusions of its fire report have been challenged by EPA's Office of Research and Development, Missouri's Department of Health and Senior Services, and DNR's independent landfill fire expert, Todd Thalhamer?

3. Section VIII #30b: Why "clear obstructive vegetation and surface obstacles which would be impediments to the installation of an isolation barrier" when an isolation barrier location has not yet been determined? It appears that vegetation will unnecessarily be removed from the landfill. Clarification here will be helpful.

4. Upon received documents related to the Agreement, will EPA Region 7 make documents available within 2 business days on its website related to the isolation barrier at the West Lake Landfill? Documents of interest include, but are not limited to, those referenced in:
    a. Section VIII #31 – Work Plan(s) and Implementation, paragraphs A & B
    b. Section VIII #32 – Health and Safety Plan documents
    c. Section VIII #34 – Reporting, paragraphs A, B, & C
    d. Section VIII #35 – Final Report document
    e. Section X #39 – Any information EPA Region 7 requests from the Respondents

f. Section X #40 & #41 – Will EPA Region 7 make publicly available which records the Respondents claim as "confidential" as outlined in paragraph #41?
g. Section XVI #54 – Dispute Resolution documents
h. Section XVI #55 – Any changes to the Settlement Agreement
i. Section XVII #57 & #58 – Any written documents related to Force Majeure
j. Section XXVI #82 – Financial Assurance documents
k. Section XXVII #87-89 – Modification documents
l. Section XXVIII #90 – Additional Removal Action documents

General Questions

EPA Region 7 confirmed a smoldering or surface fire was not considered or evaluated before the 2008 Record of Decision (ROD), which called for capping and leaving the radioactive wastes at West Lake. Below are questions related to the smoldering fire (or future fires), the radioactive wastes at the West Lake Landfill, and other areas of concern.

1. Will EPA Region 7 conduct its own investigation into the impact a smoldering or surface fire will have on the RIM at the West Lake Landfill before the ROD Amendment? If no, are there plans for an independent assessment of the impacts outside of EPA, which are not conducted by the financially responsible parties? To date the only study conducted on the impacts of a smoldering fire on the radioactive wastes is the flawed conclusions submitted by EMSI to EPA Region 7 in January, 2014.

2. Will EPA Region 7 reevaluate the Baseline Risk Assessment to account for the risks posed if a smoldering or surface fire contacts the RIM? The EPA Office of Research and Development's memo, based on the 2008 ROD, determined that radioactive isotopes could migrate offsite in the groundwater or in the air if a smoldering landfill fire were in contact with RIM. It is critical that all risk assessments used to inform the ROD Amendment incorporate the exposure impacts a smoldering fire would have on the people around the landfill.

3. Will EPA Region 7 conduct any tests to identify possible RIM between the eventual isolation barrier location and the ongoing smoldering fire in the South Quarry? Given the presence of previously unidentified RIM along the originally proposed isolation barrier, there is a legitimate concern that other previously unidentified RIM is between the eventual isolation barrier line and the smoldering fire. If yes, when will these details be made available? If no, why not?

4. Does EPA Region 7 have a "Plan B" in case an isolation barrier line cannot be found due to the presence of RIM in the North Quarry and OU-1 Area 1? EPA Region 7 has made a commitment at the last several Community Advisory Group (CAG) meetings that no RIM will be impacted or excavated during the construction of an isolation barrier. Will EPA Region 7 include an emergency plan in the ROD Amendment in the case a fire (or any event) results in radioactive material moving offsite?

5. Did EPA Region 7 consider other options, like excavating the RIM in OU-1 Area 1, before agreeing that an "isolation barrier" is in the best long-term interest of protecting people around the landfill? If yes, please provide which options were discussed, when, and documents that support this claim. If no, why not?

6. Is EPA Region 7 or the U.S. Army Corps of Engineers Formerly Utilized Sites Remedial Action Program (FUSRAP) legally responsible for inspecting haul routes between the West Lake Landfill and the Hazelwood Interim Storage Site (HISS), which is the location where the radioactive materials came from that were dumped at the landfill?

7. If EPA Region 7 can charge the financially responsible parties for the services of the Kansas City Army Corps of Engineers involvement at West Lake, can EPA Region 7 equally charge the financially responsible parties for the involvement of the St. Louis Army Corps of Engineers FUSRAP?

8. Will EPA Region 7 organize its website, given the volumes of documents that will be exchanged during the isolation barrier preconstruction and construction, which distinguishes documents as "Draft" and "Approved"?

9. Does EPA Region 7 need to be asked by the Missouri Department of Natural Resources (MDNR) to test the steam generated by Gas Extraction Well (GEW) maintenance for radon and other radioactive isotopes? If not, will steam from GEWs be tested immediately? Equally, does EPA Region 7 need to be asked by the MDNR to equip people working on GEWs with the type of radioactive detection devices being used for the people working on the isolation barrier? If no, will EPA Region 7 equip people working on the GEWs with the same safety precautions being used for the isolation barrier immediately? Will EPA Region 7 provide a health physicist to monitor the work conducted at GEWs that produce a significant amount of steam?

The EPA's Office of Research and Development noted that radon can be transported via steam and gases during a smoldering fire and EPA Region 7's documents show radioactive groundwater contamination throughout the landfill. MCE's concern is that people are currently working on GEWs that produce steam and they are not wearing any protective gear, specifically respiratory. Our confusion over jurisdiction stems from the fact that EPA Region 7 states it is responsible for the radioactivity at the site but DNR is responsible for the smoldering fire. See the below photograph for context:

10. Does EPA Region 7 need to be asked by MDNR to determine if the leachate being produced by the smoldering landfill fire is radioactive? If no, has EPA Region 7 tested the leachate to determine if it is contaminated with radioactive material and is safe for disposal at Metropolitan Sewer District (MSD)? Again, EPA Region 7 has made clear it is in charge of the radioactive material at the West Lake Landfill and therefore should be in charge of testing anything that leaves the landfill to determine if it is RIM.

11. What liquid or solid waste generated from the landfill does EPA Region 7 test for RIM before it leaves the landfill?

12. Given the variable weather patterns the St. Louis area experiences and length of time the RIM sat at or near the surface of the landfill, how can EPA Region 7 be confident there is no radioactive offsite contamination if EPA Region 7 is unwilling to test offsite?

13. Has EPA Region 7 tested offsite other than near the Ford Property or Buffer Zone area? If so, please share the documents or share where to find them.

14. Are there plans for offsite testing before EPA Region 7 offers a ROD Amendment? If no, why not? If yes, will EPA Region 7 allow the St. Louis Army Corps of Engineers FUSRAP to conduct offsite sampling instead of the PRP's hired contractor, EMSI?

15. Will EPA Region 7 provide an official document from EPA Headquarters responding to the Wall Street Journal article alleging unprecedented secret review of the West Lake Landfill between EPA Region 7 and the National Remedy Review Board (NRRB)?

MCE is also interested in answers to questions asked by DNR's independent landfill fire expert, Todd Thalhamer, in a memo dated April 14, 2014.

1. Has US EPA examined for any radiological uptake in the vegetation that has been allowed to grow within the Operable Units?

2. How has US EPA accounted for storm water and erosion control issues in the past? And how would US EPA manage the storm water and erosion control once a fire has removed the vegetative cover from the Operable Units?

3. Should the local fire agency even respond to a vegetation fire within the Operable Units? Or does this responsibility fall to US EPA personnel?

4. If it is safe for the local fire agency to enter the radiological areas to extinguish a surface fire, what level of protection is needed for personnel to enter these areas?

5. Should the vegetation just be allowed to burn off?

6. What actions should be taken by the emergency management agencies and first responders to protect the first responders and the surrounding community from such a wildfire (i.e., resulting smoke plume and blowing materials, such as ash)?

7. Is it possible for a vegetation fire (surface fire) to start a subsurface smoldering event within the Operable Units?

8. What control methods have been implemented to prevent this from occurring? Should the heavy brush within the Operable Units be removed? Is the current cover in the Operable Units sufficient to prevent a surface fire from impacting the unclassified waste?

Thanks, as always, for EPA Region 7's time and commitment to MCE and the community for answering our questions and addressing our concerns.

Regards,

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