



United States Department of the Interior

Office of the Solicitor
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September 9, 2019

Stephen Maybury, Chief
Bureau of Case Management
NJ Department of Environmental Protection
Mail Code 401-05F
P.O. Box 420
Trenton, NJ 08625-0420

Re: Rolling Knolls Landfill Superfund Site Draft Feasibility Study/
Great Swamp National Wildlife Refuge

Dear Mr. Maybury,

Thank you for meeting with me and other representatives from the U.S. Department of the Interior (DOI) and the U.S. Fish and Wildlife Service (FWS) last week to discuss the remedial alternatives currently being considered for the Rolling Knolls Landfill Superfund Site (Site). As we explained, the investigations conducted to date at the Site pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) have documented that lead, PCBs, and other hazardous substances are present across the landfill and have migrated onto the wilderness area of the Great Swamp National Wildlife Refuge (Refuge) at levels that pose unacceptable risks to Refuge wildlife and recreational users.

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) requires that remediation goals be developed at CERCLA sites that are protective of human health and the environment. However, the draft Feasibility Study (FS) does not establish such goals for Refuge recreational users or wildlife. The NCP also directs particular consideration of sensitive habitats as well as critical habitats of threatened and endangered species. The Refuge and its wilderness area provide such habitats for a wide range of wildlife, including threatened and endangered species, that FWS is required by law to protect. The draft FS does not establish remediation goals for their protection and the data from the Refuge used in the baseline ecological risk assessment (BERA) is limited. Nonetheless, even with the limited data set, the BERA identifies potential unacceptable risks (hazard quotients of 1.0 or more) to Refuge wildlife, particularly vermivorous birds and mammals. When additive effects are considered, the potential risk to Refuge wildlife is even more significant.

As we have advised, the proposed remedial alternatives in the draft FS for the Site that do not fully contain the landfill waste will not reduce the risks to Refuge recreational users and wildlife to acceptable levels and will not prevent further migration of hazardous substances onto the Refuge. Thus, these proposed alternatives would not be acceptable to DOI/FWS.

In addition, we believe that New Jersey's landfill closure and soil remediation laws and regulations mandate full containment of the waste at this legacy landfill consistent with our concerns. New Jersey's legacy landfill regulations promulgated in 2017 (N.J.A.C. 7-26-2A.9) mandate proper landfill closure, and the substantive requirements of these regulations would be applicable, or at least relevant and appropriate, requirements that any remedial alternative developed for the Site must achieve. Shallow groundwater at the Site is hydrologically connected to surface water in the Refuge and has contaminant concentrations in wells located on the Refuge down gradient of the landfill that exceed New Jersey groundwater quality standards for various hazardous substances, including arsenic, iron, manganese, thallium and benzene. Hazardous substances have also been found at elevated concentrations in stream sediment on the Refuge near the landfill. Failure to properly close the landfill will allow the continued migration of these hazardous substances onto the Refuge. As we noted during the meeting, FWS has used on-site material from the substantial clay layer that underlies the Refuge to effectively cap another area where hazardous substances were disposed in the wilderness area (Asbestos Dump Superfund Site OU3). We recommend that the use of on-site material to properly close the landfill at this Site be fully evaluated in the proposed FS alternatives to reduce costs and truck traffic associated with use of off-site material.

Similarly, New Jersey's soil remediation regulations require cleanup of lead, PCBs, and other hazardous substances at the Site to New Jersey's residential direct contact soil standards unless the landowner agrees to restricted use of the property through a deed notice. N.J.A.C. 7:26E-5.2(a)(4). DOI/FWS cannot restrict use of the Refuge wilderness area as federal law requires this area to be open to the public for recreational use. Remedial alternatives for the Site that do not remove or cap surface soil/waste that exceeds the New Jersey soil standards promulgated for lead, PCBs, and other hazardous substances present would not achieve these applicable remediation regulations. We would further note that any Site-specific soil remediation standards developed for Refuge recreational users should be consistent with exposure assumptions used for other recreational areas at the Site, such as the ball field and shooting range.

To the extent your office is considering Site-specific remediation standards or appropriate landfill closure requirements for the Refuge portion of the Site, we would appreciate being included in those discussions. As I explained after the meeting, DOI is delegated enforcement authority under CERCLA for releases or threatened releases of hazardous substances on lands under its jurisdiction, custody or control. While EPA is the lead agency for the Site because most of it is located on private property, DOI and FWS have significant roles in the CERCLA process with respect to any CERCLA remedy that will be implemented on the Refuge.

Please do not hesitate to contact me at (202) 219-1657 if you have any questions or would like to discuss any of the concerns we presented at the meeting or in this letter.

Sincerely,



Lois Godfrey Wye
Assistant Solicitor
Environmental Compliance & Response Branch

cc: Andrea McLaughlin, Chief, FWS Environmental Compliance Branch
William Lodder, DOI Office of Environmental Policy and Compliance
Michael Horne, FWS Great Swamp National Wildlife Refuge Manager
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