

'Chicken or egg?' Nonprofit will take Superfund site if EPA agrees to remediate it



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As the Environmental Protection Agency continues to draft its proposal for the remediation of a Superfund site in Chatham Township, a "chicken or egg" dilemma has developed regarding future ownership and use of the former landfill leaching toxins into the Great Swamp Wildlife Refuge.

The Great Swamp Watershed Association is one of several local entities ready to take ownership of the 170-acre Rolling Knolls site, which the EPA placed on the Superfund program's National Priorities List in September 2003.

Most of it is owned by the private family Miele Trust, which through attorney Damon Sepita stated a strong desire to give up the land in a "nonmonetary" deal over to an entity that would open and preserve the land for public passive recreation. All the trust asks for in exchange is protection from liability in future natural resource damage claims.

"We have had those negotiations for years," Sepita said during a virtual meeting of the Rolling Knolls Community Action Group on Tuesday. He also said his clients' desire to stand by the spirit of a memorandum of agreement between the trust, the association and other neighboring landowners.

About 35 acres of the original Rolling Knolls site are owned by the Department of the Interior and reside within the 7,700-acre Great Swamp National Wildlife Refuge, managed by the U.S. Fish and Wildlife Service. The Green Village Fire Department owns the northeastern portion.

Sally Rubin, executive director of the nonprofit association, said the mix of private and public owners complicates the deal. But a larger issue is her belief that the EPA will choose a less-expensive remediation plan that would require the site to still be fenced off and unavailable for public recreation.

At a previous meeting, EPA attorney Juan Fajardo said he would like to hear directly from the Miele Trust about their willingness to give up the land. Sepita clearly expressed that desire during the meeting on Tuesday.

But Fajardo said he still sees a signed memorandum of understanding between the trust and the neighboring owners as "an aspirational document" that "by itself has not been enough to change our expectation of what that property will be used for, that it will remain in the condition it is in and not open to the public."

"It's like the chicken or the egg," Rubin said. "Nobody is willing to take the property unless it's cleaned up better and you're not willing to clean it up better unless somebody's willing to take the property."

"Somebody has to pay to get this property cleaned up to a standard that is beyond risk-based," Fajardo said. "The EPA selects remedies based on the release of hazardous substances that pose a risk to human health or the environment."

A portion of the site was used primarily as a municipal landfill from the early 1930s to 1968 and received waste including household garbage, construction and demolition debris, industrial waste, septic waste and scrap metal.

In 2005, the EPA entered into a legal settlement that identified potentially responsible parties for the toxins at the site, who agreed to conduct and pay for an investigation of the site. The PRPs in the agreement include Chevron, Nokia and Novartis.

A baseline human health risk assessment completed in 2014 identified the primary risk drivers at the site are polychlorinated biphenyls, better known as PCBs, a highly toxic chemical compound.

After completion of the investigation, the agreement will include the performance of a feasibility study that identifies and evaluates potential cleanup alternatives to address contamination found at the site.

"If somebody wants to improve the property beyond that, we don't oppose or prevent that," Fajardo said. "But we're not going to force entities to do cleanups that improve the value of the property that do not address the risks that the hazardous substances are posing."

Patricia Seppi, the EPA Community Involvement Coordinator for the Rolling Hills site, said that the feasibility study is still being researched and drafted. There is no deadline or timetable for the study to be released, she said.

Once the study is published, there will be a 30-day public comment period before the final remediation plan is selected. That period will include a public meeting, Seppi said.

Rubin said that while the memorandum of understanding document did not move the EPA needle, she is hoping new data obtained by watershed researchers may help the EPA realize the contamination there requires more aggressive remediation. That plan would include a clay cap and topsoil cover, which would allow the land to be used by the public.



N.J. Superfund sites

New Jersey has the most Superfund sites of any state, 114 identified by the EPA as contaminated with hazardous substances that threaten public health or the environment.

Morris County has 10 of those sites, more than 12 states. After initial investigations, the EPA placed Rolling Knolls Landfill on the Superfund program's National Priorities List in September 2003.

Nationwide, approximately \$4.7 billion has been spent on Superfund site investigations and cleanups. Most of the money comes from a special account funded by settlement payments with "potentially responsible parties" believed to have caused the contamination.

More than \$8.2 billion has been made available in special accounts through the deposit of funds from PRP settlements, the EPA said.

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