



State of New Jersey

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May 7, 2021

Attn: Ms. Supinder Kaur
United States Environmental Protection Agency
New Jersey Remediation Branch
290 Broadway, 19th Floor
New York, New York 10007-1866

Re: Rolling Knolls Landfill
35 Britten Road
Chatham Township, Morris County
PI #: G000004411
Activity Number: RPC080001
Document Reviewed: *Revised Draft Feasibility Study Report - March 2021*

Dear Ms. Kaur:

The New Jersey Department of Environmental Protection (Department) has completed its review of the Rolling Knolls site's Revised Draft Feasibility Study (Revised Draft FS) dated March 2021. This Draft FS, which was prepared and submitted by Geosyntec Consultants, Inc. on behalf of Chevron Environmental Management, Kewanee Industries, Alcatel-Lucent USA, Inc., and Novartis Pharmaceuticals Corporation (collectively known as The Group) was submitted to the US Environmental Protection Agency (USEPA) and the NJDEP as an updated version of the July 2018 Draft FS Report. Although this revised document incorporated some of the Draft FS comments that the NJDEP provided to the USEPA on June 9, 2020, several of the Department's larger concerns were not addressed in this revised document.

A. GENERAL COMMENTS

1. As was stipulated in the Department's June 2020 comments provided in regard to the 2018 Draft FS, the New Jersey (NJ) Solid Waste Rules are Applicable, Relevant, and Appropriate Requirements (ARARs) for the site and as such, must be applied when selecting the remedy. This includes, but is not limited to, the landfill closure requirements that stipulate the construction of a final cover system over any area of the landfill at which solid waste will remain and addressing the solid waste debris in the Surficial Debris Area. Please note that the Department cannot concur with any remedy that does not comply with the Solid Waste Rules as ARARs. In consideration of this, the Department believes that only FS Alternative 5 (which includes capping of all landfilled material) adequately incorporates the Solid Waste Rules into the proposed remedies.

2. The appropriate report sections, tables, etc. of the FS shall be updated to stipulate that any areas where contamination exceeding the NJ Residential Direct Contact Soil Remediation Standards (RDCSRS) will remain following remedy implementation, requires a deed notice or equivalent institutional control. Please note that verification of property owner acceptance of the proposed remedial strategy including, but not limited to, the acceptance of an institutional control as discussed here, is necessary prior to NJDEP concurrence with the proposed Preliminary Remediation Goals (PRGs) and remedy.

The Revised FS Report shall also include language which stipulates that all deed notices (or equivalent institutional controls), established for the site will clearly indicate all land uses that are restricted under the selected remedial action conditions.

B. SPECIFIC COMMENTS

1. *Executive Summary, Page x, 3rd paragraph:* The narrative of this section states that the RI found no landfill-related impacts on the 30 acres which comprise the Surface Debris Area. However, the Department would like to point out that soil contaminant exceedances associated with the surficial waste material in this area was identified. The narrative should be updated to more clearly reflect the presence of contamination in this area.
2. *Executive Summary, Page x and xi, 5th paragraph:* When discussing the Baseball Field and Shooting Range (both of which are located adjacent to the northeastern portion of the landfill on land owned by the Green Village Fire Department [GVFD]) the narrative states that neither of these areas were affected by landfill-related activities. While that may be technically correct, it is the Department's understanding that both the Baseball Field and the Shooting Range are on a parcel that is considered to be part of the Rolling Knolls site. In consideration of this, it should be noted in the narrative that soil sampling conducted during the RI phase of the site investigation identified soil contamination exceeding the PRGs for Vanadium and PAHs at sample locations from these areas and that ARSs were developed for these exceedances as part of the RI conducted in regard to the site.
3. *Executive Summary, Page xiv and xv - Soil Remedial Alternative Table:* As discussed in A.1., above, and as previously stated in its comments on the 2018 Draft FS, the Department has determined that the Solid Waste Rules are ARARs and, as such, must be used when determining whether the Soil Remedial Alternatives meet the National Contingency Plan (NCP). The Department believes that only FS Alternative 5 (which includes capping of all landfilled material) adequately incorporates the Solid Waste Rules into the proposed remedies. The table and discussion in the executive summary should be revised to reflect this since it currently states that Alternatives 3 and 4 meet the NCP. The Department disagrees with this claim.
4. *Section 2.2 - Current and Future Site Use:* It is the Department's understanding that neither the United States Fish and Wildlife Service (USFWS) nor the Green Village Fire Department (GVFD) have accepted the establishment of a deed notice and land use restrictions for their parcels on the site. The Department does not consider the 1988 Resolution of the Chatham Township Planning Board zoning designation for the GVFD or the Wilderness Act [Public Law 88-857 (16 U.S.C. 1131-1136)] for the USFWS property equivalent to the Department's deed notice requirement, pursuant to N.J.A.C. 7:26E (NJ Technical Requirements for Site Remediation). If the property owners (USFWS and GVFD)

do not accept the deed notice or equivalent institutional control, the alternative remediation standards (ARS) generated for those areas, pursuant to N.J.A.C. 7:26D-7, cannot be used and the RDCSRS must be used for making remedial decisions in those areas. This includes not only the Miele Trust portion of the landfill referenced in this section, but also the USFWS portion, as well as the baseball field and shooting range owned by the GVFD.

5. *Section 4.1 - Calculation of Alternative Remediation Standards:* Add wording to this section that stipulates the requirement to establish a deed notice, as well as access restrictions (or other engineering controls), to any area where the site-specific ARS will be applied. As stated above, the Department will not accept ARS for sites that do not have a deed notice and land use restriction concurrence by the property owner(s).
6. *Section 4.6 - Preliminary Remediation Goals:* The proposed Preliminary Remediation Goals (PRGs) discussed in this section, and Tables 4-3, 4-5, and 4-7, for the landfill, ballfield, and shooting range are based on the Department's procedures for developing an ARS for an alternative land use exposure scenario, pursuant to N.J.A.C. 7:26D-7. The approval of an ARS for an alternative land use will be contingent on the use of proper institutional controls (deed notice) to ensure the continued use of the site for the proposed recreational purpose. The Department will not accept ARS for sites that do not have a deed notice and land use restriction concurrence by the property owner(s).
7. *Section 5.1 - Selection of Remedial Alternatives, Introduction:* This section states "the baseball field and shooting range do not require remediation". This statement is incorrect since concentrations of benzo(a)pyrene and vanadium detected in soil are above the RDCSRS. In addition, and as discussed above, a proper institutional control (deed notice) for the proposed recreational ARS developed for these areas has not yet been agreed upon by the GVFD. The zoning designation given to these areas at the 1988 Chatham Township Planning Board meeting is not equivalent to the Department's deed notice requirement. Additional information is needed as to how these contaminant exceedances will be addressed prior to stating that these areas are deemed appropriate for future unrestricted use.
8. *Section 5.3 – Identification of Remedial Alternatives:* This section discusses additional areas, beyond the Selected Area in the northern portion of the site, that are proposed to be actively remediated in some fashion. Based on the narrative description in this section, these additional areas seem to be limited to the Areas of Particular Concern (i.e. APCs – defined as areas where concentrations of Contaminants of Concern [COCs] in a shallow soil sample are greater than a multiplier of three times the applicable PRG), and to areas without significant vegetative cover. This description seems to omit many areas of the site where PRGs are exceeded, but that do not fit into the above categories. Please note that Figure 6-2 is consistent with this interpretation of the wording.

Clarification is requested as to how areas with PRG exceedances that are not associated with either the Selected Area, the designated APCs, or the sparsely vegetated areas, will be remediated using Alternatives 3 and 4.

Please note that although the Department was not directly involved in conversations involving the development of the site-specific definition of an APC, it was our understanding that this discussion occurred within the broader context of how much contaminant mass would need to be remediated in order to successfully utilize compliance attainment methods to determine compliance with the NJ soil standards and/or the site-specific Alternate Remediation Standards (ARSs) developed for the

site. However, it appears that the rationale for the site-specific definition of an APC has become decoupled from the decision train that was used to define the APCs once it was decided that compliance attainment methods would not be utilized at the site to determined compliance with the PRGs.

9. *Section 6 - Detailed Analysis of Soil Remedial Alternatives:* The Department is again restating its original June 9, 2020 comment that all subsections and associated tables (Table 6-1, 6-2, and 6-4) that discuss compliance with ARARs should be revised to acknowledge that any remedial alternative that does not include capping of landfill waste will not be compliant with all action-specific ARARs, specifically the Solid Waste Rules which requires capping of all landfilled materials. The Department believes that only FS Alternative 5 (which includes capping of all landfilled material) adequately incorporates the Solid Waste Rules into the proposed remedies.
10. *Section 6.2, Alternative 2 – Engineering and Institutional Controls (such as fencing, signage, and land use restrictions):* The revised language associated with the use of institutional controls does not address the concerns raised by the Department in its June 9, 2020 or June 29, 2018 FS comment letters. This section should be revised to state that a deed notice, as per N.J.A.C 7:26E (TRSR), will be filed for all private properties on which a use restriction is implemented as part of the final remedy; and that a deed notice / deed notice equivalent, as per N.J.A.C. 7:26C (AARCS Rule) will be filed for both the USFWS portion of the site as well as for the GVFD parcel inclusive of the landfilled areas, baseball field and shooting range. It should be made clear in the FS that the establishment of an acceptable institutional control is a requirement not only for the Miele Trust portion of the landfill as referenced in this section, but site-wide regardless of ownership. The Department apologizes if this was not clear in its previous comments on the FS.

Please note that previous Department comments associated with the proposed use of the Wilderness Act [Public Law 88-857 (16 U.S.C. 1131-1136)] as a deed notice equivalent for the portion of the site that is located on the Great Swamp National Wildlife Refuge (GSNWR) property have not yet been addressed. While the Wilderness Act does prohibit certain property uses, the Department does not accept the proposed use of the Wilderness Act in lieu of a deed notice/deed notice equivalent. In regard to the GSNWR, the issue associated with property owner concurrence with the proposed remedy including, but not limited to, the establishment of a deed notice or deed notice equivalent as part of the remedy, remains unresolved.

11. *Section 6.3.2 – Compliance with ARARs – Action Specific ARARs:* The Department does not agree that Alternative 3 complies with the Solid Waste Rules in regard to landfill closure requirements including, but not limited to, the construction of a final cover system over any area of the landfill at which solid waste will remain and addressing the solid waste debris in the Surficial Debris Area. The narrative of this section should be revised to reflect this.
12. *Section 6.4.2 – Compliance with ARARs – Action Specific ARARs:* The Department does not agree that Alternative 4 complies with the Solid Waste Rules in regard to landfill closure requirements including, but not limited to, the construction of a final cover system over any area of the landfill at which solid waste will remain and addressing the solid waste debris in the Surficial Debris Area. The narrative of this section should be revised to reflect this.
13. *Section 6.7 – Goals of the PDI:* Please add the following to the bulleted items in this section:

- complete the outstanding data gaps sampling requested by the Department in its June 2015, July 2015, and August 2015 correspondences to USEPA. This will include the collection of additional vertical delineation samples along the requested transects to verify, with actual soil data, the vertical distribution of contaminants across the site and completion of the previously requested / agreed to sampling transects.
- an evaluation of the culvert that potentially connects the western pond (which accepts runoff from the landfill) to the wooded wetlands west of the pond.
- Although the volume of waste material that extends onto the residential lot located north of the Surface Debris Area is proposed to be evaluated, this bullet should be modified to specify that sampling will also be conducted to determine what, if any, remedial action is required.

14. *Section 7 - Summary and Conclusions:* As stated above in comment B.10, above, the Department does not consider the proposed use of the Wilderness Act as a deed notice equivalent.

Revise the Soil Remedial Alternatives table and discussion in this section to reflect that only Alternative 5 meets the NCP Criteria for Compliance with ARARs. The Department believes that only FS Alternative 5 (which includes capping of all landfilled material) adequately incorporates the Solid Waste Rules into the proposed remedies.

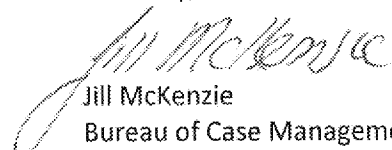
15. *Figure 5-2 - Soil Samples Exceeding the Preliminary Remediation Goals and Proposed Soil Alternatives:* Figure 5-2 displays an Alternative 6 (Developable Area to be Excavated), which is believed to be a historic artifact that was inadvertently carried over to the Revised Draft FS. Figure 5-2 also does not show the Areas of Particular Concern (APCs) that will be addressed via capping/excavation in FS Alternatives 3 and 4. Please revise Figure 5-2 to address these discrepancies.

Please incorporate the above comments into your response to The Group regard to the March 2021 Revised Draft FS Report.

Nothing in this correspondence affects potential liability and obligations to the State Trustee, the Department or its Commissioner regarding natural resource injuries or damages.

Thank you for your cooperation in this matter. If you have any questions, contact Jill McKenzie of the Bureau of Case Management, via email, at Jill.McKenzie@dep.nj.gov.

Sincerely,



Jill McKenzie
Bureau of Case Management

cc: Jill McKenzie – BCM
Erica Snyder – BEERA
David VanEck - BGWPA