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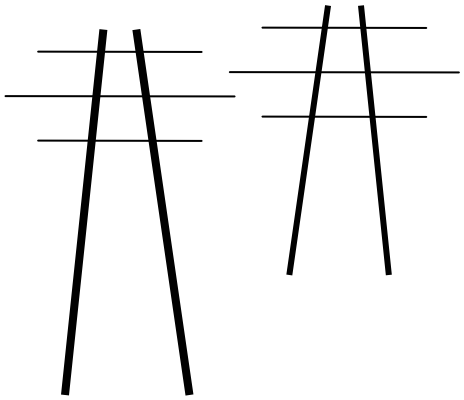

July 30, 2009

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RE: Standard Chlorine of Delaware (a/k/a Metachem) Superfund Site
OU3 Proposed Plan

Dear Mr Thornton, Ms. Taylor, and Mr. Keyser:

Thank you for the opportunity to submit comments on these important issues. I am submitting this comment as an individual, not representing any party.

1) Generally, I believe the alternatives selected for review are insufficient under the NEPA standards or the "functional equivalent" thereof. The alternatives are falsely constrained to only "cap" alternatives, and no alternatives such as removal or repackage in a new liner. A wider range of alternatives must be considered. This clean-up requires a level of environmental review that is at least the functional equivalent of NEPA, i.e. agency development and consideration of the record of environmental and related socio-economic information regarding a proposed agency action, and public participation in developing the environmental information related to the proposal

2) An alternative not considered is digging up the contaminated soils and transporting them to another location for burial. A varying number of sites at varying distances should be considered.

3) An alternative not considered is one being utilized right now in Minnesota, on a 3M site of the magnitude of the Metachem, which is to remove contaminated materials at the site, digging very deeply, and then installing a clay liner, three layers of vinyl liner, several feet of sand containing a drainage system, and refilling with the contaminated materials. See Exhibit A, History-making landfill do-over in Washington County . The Minnesota case is one with significant volume. Looking at the site map, where a large area is deemed not sufficiently hazardous to require capping, that area could be dug out, even some of the contaminated area could be excavated, and liner could be installed, as in Minnesota, and refilled, then capped with benign materials.

4) Since OU3, the former plant area, is the source of the groundwater contamination, the decision aboutOU3 cannot be made separately from the final decision about groundwater. Otherwise, when it is time for a decision regarding OU4, it would then likely be claimed that effective action and/or alternatives was precluded by decisions already made regarding OE3.

5) Incineration of any material must be rejected, and the Decision should reflect this. Incineration only serves to spread the toxic, hazardous and carcinogenic materials more widely and in a very harmful way, given particulate matter's ability to infiltrate the human body.

6) Choice of material for capping is a significant issue that must be addressed at this RO3 stage.

7) Contamination of cap runoff due to materials used must be addressed. Even "clean" and "new" asphalt, used as an impervious surface, would result in contaminated run-off.

8) Use of mixtures of coal ash and sewage sludge as a cap must be rejected. DNREC has a history of improper use of toxic and hazardous materials for capping, i.e., mixing coal ash and sewage sludge, bureaucratically deeming them "beneficial" when mixed together, and using them to cap landfills in areas where runoff is a concern. This OU3 action must specifically and expressly reject use of coal ash and sewage sludge, alone or in combination, as capping material.

9) The barrier wall of OU1 extends down only 70 feet, only ½ of the 140 foot depth which the EPA will now admit contamination extends (one could reasonably presume that it's even deeper but yet undiscovered or admitted) Hydrologically, contamination will extend beyond the horizontal bounds of the wall, there is nothing below 70 feet to prevent movement of contamination. The Plan notes that "[t]he DNAPL beneath the Site is considered to be a 'principal threat waste' … and "would present a significant risk to human health should exposure occur." The OU3 is claimed in the "Plan" to "continue and expand upon containment" but removal would present an increased chance of limiting contamination. The "Plan" states that OU3 will "reduce flushing," but it will not eliminate movement into groundwater. The OU3 must address this fact.

10) The "Plan" states that the "highest observed concentrations of soil gas were from the 6-inch to 4-foot depth interval." OU3 at the very least should carefully remove this 6 inch to 4 foot layer and send to appropriately lined and then capped disposal site, as in #3 above.

11) The map handout, "Standard Chlorine OU-3" (also Figure 2 in "Superfund Program Proposed Plan") omits the northern part of the property, and it's impossible to see the distance from the property to Red Lion Creek. Figure 1 in the "Superfund Program Proposed Plan" indicates that the property boundary is IN Red Lion Creek. In a poor quality black and white copy of a map of "Standard Chlorine of Delaware Site Layout" it appears that the property boundary extends to the east to State Route 9, up to Red Lion Creek, and then west along the creek to the transmission line easement, then southwest to the circular road and along that road to the south until it's even with the neighboring property and then east to the western boundary of OU3. There is a lot of room to dig deep and install a sufficient liner to contain the contaminated soil on site.

12) Cost seems to be driving the selection. It's common knowledge that all agencies are hurting for money, and often do not have sufficient budget to do the job. It's also common knowledge that the Superfund is not independently funded by assessments of polluters. However, cost is not to be the driving factor. The decision should demonstrate that cost is NOT the driver.

13) The major spills cited were in 1981 and 1986, twenty-three and twenty-eight years ago. The Order for Remedial Design/Remedial Action was in 1996, thirteen years ago. Metachem closed in 2002, seven years ago. At this time, it makes more sense to do a thorough clean-up rather than

let the contamination spread. The Decision should take into account the time frame of this project and 7 years of plant closure when determining which option to utilize.

14) DNREC must give approval to the EPA's plans, and must also pay a portion of the costs. Because of this involvement, Delaware must also use its own public process prior to DNREC's making any decision.

15) DNREC has a charge and obligation to protect the environmental resources of the state, and by extension, the people of Delaware itself. DNREC's lack of enforcement, evidenced by the consent orders of January and November 1988, allowing the company to continue to operate and contaminate until 2002. DNREC and the EPA have documented contamination of the Columbia Aquifer, Red Lion Creek, the Delaware River and surrounding wetlands. The placement of this site on the EPA NPL list in 1987, 22 years ago, made the site primarily a federal responsibility. Yet the EPA appears to have effectively relinquished its responsibilities to DNREC until the abandonment of the site in 2002, 15 years later. Both DNREC and the EPA have displayed a long history of inaction and both hold a large measure of liability for the extreme extent of contamination.

16) In shouldering that liability, the EPS and DNREC's decision making process must be open and transparent. DNREC must hold its own separate process regarding this site..

17) DNREC, as a part of its concurrence with EPA plans, must set out and implement responsible sanction, cessation, clean-up and assessment policies, including but not limited to requiring insurance and performance bonds for companies allowed to continue operations as Standard Chlorine and Metachem were.

18) DNREC and EPA must step up to the plate and take decisive action to clean up this site, with the focus on "clean up," and not a "cap and run" strategy.

19) The Comment period should be extended because this time of year most people are taking time off, are out of town, and not available to devote the time necessary to this important docket. The Comment period should be extended by at least 30 days.

Again, thank you for the opportuity to submit these comments.

Very truly yours,

Carol A. Overland
Attorney at Law

Exhibit A

History-making landfill do-over in Washington County

Hazardous 3M trash buried decades ago in Washington County is being dug up and will be reburied with a protective lining.

By TOM MEERSMAN, Star Tribune

July 29, 2009

In a $20 million job that's the largest of its kind in state history, workers in protective suits are unearthing trash in Lake Elmo that hasn't seen the light of day for more than three decades.

Their mission is not to burn the wastes or haul them off to another state, but to rebury them in a state-of-the-art pit that will keep chemicals that went into Scotchgard and other 3M products from getting into any more drinking water.

Excavating 33 acres of garbage, and then putting it back in the same place, may seem like a curious way to handle trash that has rested undisturbed since 1975.

However, the former Washington County landfill is not your typical dump. Wastes taken there from the 3M Co. in the early 1970s have contaminated groundwater in nearby Lake Elmo and Oakdale.

That has led to one of the biggest attempts to go back and undo decades-old environmental practices that the metro area has ever seen.

Residents have switched to clean sources of drinking water, but the chemicals are still in the landfill, a potent source of contamination for years to come unless removed or isolated.

"We probably would not be doing this extent of work if not for the PFCs," said Jeff Lewis, referring to chemicals formerly made by 3M that were dumped legally at the landfill and were used in products such as stain-resistant coatings and nonstick cookware.

Lewis, who manages the closed landfill program for the Minnesota Pollution Control Agency (MPCA), said that 3M agreed to pay about $8 million of the cleanup costs, and the remainder comes from a combination of garbage fees, state bonding and insurance recovery money.

Lewis said it's impossible to separate the 3M wastes from that of other companies, and from the huge volume of trash from Washington and Ramsey counties. The former landfill was the first to be permitted in the state, and operated from 1969 to 1975.

Old and new school work

The removal part is old tech. On Monday, a pit the size of a college football stadium was buzzing with heavy machinery. A backhoe with a huge maw was eating into a wall of trash and dumping it into waiting off-road dump trucks. At the bottom of the 90-foot pit, four dozers were spreading clay that will form the base of the landfill. Compactors with huge spiked rollers were smoothing it.

The installation is new tech. The landfill will have three layers of heavy plastic liner, separated by layers of geosynthetic material. Teams of workers unrolled huge rolls of the liner on the other side of the pit. The seams of each layer are melted together much like a swimming pool liner.

Lewis said the new landfill will hold mainly old garbage but is designed with a higher level of protection often used to handle hazardous wastes. It will have three distinct layers to prevent any contaminated water in the landfill from reaching ground water: two feet of compacted clay at the bottom, three layers of heavy plastic above that, and two feet of sand and a collection and drainage system above the liners.

"We're confident that we're building a system that will work," Lewis said.

Not everyone shares that optimism.

"I don't understand how this could have been a viable solution — to dig this up, put in a liner, and then put it all back into the ground," said Judith Blackford, who lives a half-mile east of the landfill. She and others at public meetings advised MPCA officials to truck the trash away to be burned or buried elsewhere. That's the approach that 3M is taking for three company-owned sites where chemical wastes were buried.

Lewis said that the landfill contains many times more waste than all of the 3M sites combined — more than 2.5 million cubic yards of trash in all, and much of it was mixed with large amounts of dirt when it was buried and covered. Hauling that much waste elsewhere would cost three times more than the $20 million being spent, he said, and burning it would be astronomical.

"This will be as good a construction of any in the state," Lewis said of the MPCA's solution. "It's got a lot of safeguards built into it."

Peter Tiffany, an MPCA senior engineer, said no surprises have come to light so far in the nearly 300,000 cubic yards of waste removed. He recalled one day when a dump truck full of red tape drove away with the tape flying like streamers.

Work will proceed in stages

Patrick Hanson, who oversees the work for MPCA, said the project will not likely be finished until late 2011.

Work will proceed in stages, he said, with waste moved into finished segments of the landfill as others are being lined. The state has received some complaints about construction noise since work began in early June, he said, and one call about odor. The contractor is spraying the waste with a slurry of cement and cardboard paper to reduce odors, he said, and has scheduled minimum heavy equipment operating during weekends when nearby residents are more likely to be home.