

October 15, 2010

Scott Miller, Remedial Project Manager
Superfund Division, Superfund Remedial Branch
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303

Re: Comments on U.S. EPA's Proposed Plan for the Koppers Superfund Site in Gainesville, Florida

Dear Mr. Miller:

As you are aware, there is pervasive, strong objection within the community to EPA's Proposed Plan for the clean-up of the Koppers Superfund Site in Gainesville, Florida. Many of these complaints are well-deserved, ranging from deficiencies on the part of EPA to properly involve the community in its remedy selection process, to inadequate and inappropriate on-site and off-site remediation.

As you are also aware, the City of Gainesville and Alachua County have submitted their Comments and Recommendations on EPA's Proposed Plan, developed by the Local Intergovernmental Team, the City and County governments, and members of the community. Untold thousands of hours on the part of many dedicated, intelligent, and thoughtful individuals went into preparing these response comments. I endorse them wholeheartedly, almost without exception, and I implore EPA to take them to heart.

I am keenly aware of the difficult relationships between EPA, the Responsible Parties, and the local community. Neither am I under any illusion as to the limitations associated with remedying a very large, heavily contaminated, complex site. Limitations notwithstanding, there are many elements in EPA's Proposed Plan that are seriously inadequate and unacceptable.

Community Involvement

Community input is supposed to play a crucial role throughout the decision-making process on superfund sites. EPA is required to vigorously engage and integrate the community as soon as a site is placed on the National Priorities List. EPA is required to place heavy emphasis on community input in selecting the remedies and in providing a site that will accommodate the community's desired future uses. EPA has been severely deficient in following both federal law and its own policy directives in this regard.

Superfund Community Involvement Handbook (EPA):

“In CERCLA, Congress was clear about its intent for the Agency to provide every opportunity for residents of affected communities to become active participants in the process and to have a say in the decisions that affect their community. Congress, in establishing the Superfund program, wanted the Agency to be guided by the people whose lives are impacted by Superfund sites. The intent of the law is restated in the NCP at 40 CFR 300.430(c)(2)(ii): —(A) Ensure the public appropriate opportunities for involvement in a wide variety of site-related decisions, including site analysis and characterization, alternatives analysis, and selection of remedy.”

A substantial amount of the current dysfunction and antagonism between the community and EPA could have been avoided if proper emphasis had been placed on developing an integrative dialogue with the community throughout the remedy selection process, i.e., an active Community Involvement Plan (CIP). It is through the CIP that the community is to be kept informed of the various aspects and considerations associated with the entire remedial process, from “discovery” of the site to deletion from the NPL. And it is through the CIP that EPA is made aware of the types of remedies and future uses the community desires on the site--so that EPA can provide the corresponding remedies, wherever practicable.

Superfund Land Use Directive (EPA):

“Discussions with local land use planning authorities, appropriate officials, and the public, as appropriate, should be conducted as early as possible in the scoping phase of the Remedial Investigation/Feasibility Study (RI/FS). This will assist EPA in understanding the reasonably anticipated future uses of the land on which the Superfund site is located; Remedial action objectives developed during the RI/FS should reflect the reasonably anticipated future land use or uses.”

The only known Community Involvement Plan for the Koppers Superfund Site in Gainesville was established in 1989 (it was then called the Community Relations Plan). According to that Plan, quarterly updates were to be issued to the community and the Plan was to be revised if there were indications of significant changes in community interest at any time during the Remedial Investigation, the Feasibility Study, the Draft FS report, or during development of the Proposed Plan.

Beginning in 1993, CIPs were required to be updated every 3 years. The CIP for the Koppers site should have been updated 6 times since 1989. Astoundingly, it wasn't until August 2010 that EPA drafted a new CIP--3 weeks *after* release the Proposed Plan.

I do not know what resources may or may not have been available to EPA throughout the past 20 years to fulfill its responsibility to incorporate community input into the remedy selection process. But there is no doubt whatsoever that in this instance, EPA's deficiency in this regard is largely responsible for the current level of anger and hostility towards EPA, and the inadequate and inappropriate remedies in the Proposed Plan.

Rightful Expectations

The land and our creeks have suffered unconscionable environmental abuse for almost 100 years. The community justifiably feels that the Responsible Parties should be held accountable and that EPA should require the RP's to clean up every last bit of contamination from the site, i.e., return the land to the condition it was in before they got their dirty hands on it. This is a well-deserved, well-grounded expectation for environmental and social justice. Even after the horrendous activities were “discovered” in 1983 and the site was placed on the NPL, the abuses continued for an additional 26 years. We really are NOT interested in hearing excuses.

Realistically speaking, most of the reasonable elements of the community understand that the magnitude and nature of the contamination on the site impose limitations that make total clean-up a near impossibility. Nonetheless, EPA's Proposed Plan falls *far* short of what is appropriate, necessary, and practicable. That is why the proposed remedies to simply cover up the contamination feel like such an insult.

Because evaluation and cost analysis of so many potential remedial alternatives appear to be missing from the FS, it is impossible for the community to accept the rationale behind EPA's chosen remedies in the Proposed Plan.

Primary Source Areas

Being directly upstream in the Floridan Aquifer from the Murphree Wellfield, the groundwater remedy must, without question, be protective of the regional drinking water supply. EPA's proposed remedies are not sufficient to accomplish that.

The community's preferred remedy within the 4 primary source areas is excavation and off-site disposal of contaminated soils down to the 2nd clay layer. However desirable, this is likely not a practicable alternative due both to the expense of the excavation process itself and to the disposal restrictions and transport requirements of the DNAPL material involved. Nonetheless, the community deserves to see a detailed evaluation of this alternative, which should be included in an amended FS.

Excavation and off-site disposal of soils from within the source areas down to the 1st clay would, of course, be significantly more practicable. An evaluation of this alternative should be provided in an amended FS, as should an evaluation for on-site treatment. The community needs to understand the practicability, or lack thereof, of all remedial options.

If excavation and off-site disposal of the primary source area soils proves to be completely impracticable, thorough solidification and stabilization of these soils (i.e., ISSS) from surface to the 2nd clay, with supplemental ISBS and hydraulic containment at deeper levels, appears to be the optimal and justifiable fall-back solution. ISBS should not be relied upon as an effective remedy in the surficial aquifer, as is being proposed by EPA.

ISSS from the surface to the 2nd clay in the primary source areas is a remedial alternative that warrants evaluation and cost analysis. This should be provided in an amended FS.

In addition to the LIT recommendation to expand the proposed slurry wall eastward to address off-site migration of contaminants there, evidence suggests there is off-site migration of DNAPL contamination to the west, as well. Further testing appears to be necessary to determine whether the slurry wall perimeter would need to be adjusted accordingly to prevent additional off-site migration of contaminants.

The slurry wall configuration (subsurface containment remedy) need not dictate the surface soils remedy, discussed further below.

Non-Source Area Soils

EPA's proposed surface soils remedy is to superficially scrape the non-source area to a non-specified depth (leaving an indeterminate amount of contamination behind), pile the scrapings on top of the source areas, put a cap on top of the mound, and throw some clean dirt on top of the scraped area. Adding insult to injury, those superficial soils would only have to meet commercial/ industrial SCTLs. Future development would require engineering and institutional controls over almost the entire site--significantly impairing (and dictating) the types of future uses the site could accommodate.

This type of remedy might be appropriate if the site was in an isolated location, but it is not. The site is integrated well within the developed area of the city and shares a 3/4 mile-long boundary with a single family neighborhood. Attaining a site that is genuinely clean should be one of EPA's primary objectives for this site. A remedy that does not actually clean the majority of the contaminants from the site will not remove the stigma associated with the site and will adversely impact the economic health and vitality of adjacent neighborhoods for generations to come. EPA has completely neglected the psychological impact of the chosen remedy on the community. This, in my opinion, is where the Proposed Plan is most deficient.

In 2008 the Gainesville City Commission passed a Resolution requesting EPA to require the responsible parties to clean the Site to Florida residential SCTLs. And yet EPA's Proposed Plan states:

“The selected cleanup goals are the Florida commercial/ industrial SCTLs for on-Site soils/ sediments.”

AMEC's on-site surface soil tests indicate that it may in fact be practicable to attain a thorough clean-up over the majority of the area outside the primary source areas. With additional testing, a fine-grained work plan could be generated to determine the various depths to which contaminated soils would need to be excavated to reach relatively clean earth. A legitimate expectation would be to thoroughly clean as great an area as possible by excavation of these soils. An evaluation and cost analysis for excavating the non-source area portions of the site to the various depths necessary to reach the different soil contact and leachability standards is missing from the FS. This information is crucial, and should be included in an amended FS.

In association with the excavation of on-site surface soils (whether to indiscriminate depths as is being proposed, or to the depths necessary to reach target criteria) are the alternatives for off-site disposal or on-site treatment of these soils. These alternatives warrant evaluation and cost analysis, and need to be provided in an amended FS.

The mounding of contaminants on-site is highly objectionable to the community--and for good reason. It will adversely impact and stigmatize adjacent neighborhoods forever.

If evaluation proves that off-site disposal or on-site treatment of the non-source area soils is in fact impracticable, the excavated soils should be confined to as small an area as possible, so as to maximize the area on the Site where surface soils could potentially be cleaned. I think a thoroughly clean area over

as much of the site as possible (with a higher mound) would be preferable to continued widespread contamination over the entire site under 2 feet of “clean” dirt (with a lower mound).

As mentioned before, it is important to recognize that the slurry wall configuration (subsurface remedy) does not necessarily dictate the surface soils remedy (outside the primary source areas themselves). Surface soil tests indicate that the western/central area within the proposed slurry wall could conceivably be cleaned similarly to the area outside the slurry wall. And if tests determine that the slurry wall actually needed to be expanded to the west, that would not necessarily dictate the surface soils remedy within the slurry wall there either.

Future Uses and Re-Use of the Site

EPA’s proposed remedies are based upon erroneously presumed future land uses and do not provide protection for the future uses the community has expressly made known to EPA as being desirable. EPA has consistently ignored community input regarding this primary goal of the Superfund program. EPA directive and guidance documents go to great lengths to emphasize the importance of providing a site capable of accommodating the future land uses deemed desirable by the community.

Reuse Assessments: A Tool to Implement the Superfund Land Use Directive (EPA):

“As reflected in the Superfund Land Use Directive, the reuse assessment process should include soliciting community input on future land use considerations for sites. Community input can be particularly useful for sites where the future land use is uncertain and should be directed toward understanding the types or categories of future land use that the community believes would be appropriate for the site, and categories of land use that the community believes inappropriate.”

Superfund Reuse Directive (EPA):

“When this document states that EPA “identifies” or “determines” the reasonably anticipated future land use of a site, it should be understood to mean that, based on the input of site’s stakeholders (local governments, community groups, individuals, states, tribes, etc.) and other remedy selection factors described in the CERCLA statute, the NCP and EPA guidance, the Agency makes a decision on what the future land uses are likely to be, so that remedies can, wherever practicable, support those future uses.”

Risk Assessment Guidance for Superfund (EPA):

“Assume future residential land use if it seems possible based on the evaluation of the available information. For example, if the site is currently industrial but is located near residential areas in an urban area, future residential land use may be a reasonable possibility.”

The City of Gainesville and the local community have made it crystal clear to EPA that as much of the site as possible should be sufficiently cleaned to be able to accommodate *all* types of residential uses; and sufficiently cleaned to eliminate the need for engineering and institutional controls over as much of the site as possible. And yet, the Feasibility Study upon which EPA is grounding its remedy selection states: “On-Site residential exposure scenarios are not applicable based on the expected commercial/industrial and/or recreational use of the property.”

It was the responsibility of EPA to develop, *at minimum*, a range of remedial alternatives that would achieve the different land use potentials for the Site.

Superfund Land Use Directive (EPA):

“Remedial action objectives provide the foundation upon which remedial cleanup alternatives are developed. In general, remedial action objectives should be developed in order to develop alternatives that would achieve cleanup levels associated with the reasonably anticipated future land use over as much of the site as possible. In cases where the reasonably anticipated future land use is highly uncertain, a range of the reasonably likely future land uses should be considered in developing remedial action objectives. These likely future land uses can be reflected by developing a range of remedial alternatives that will achieve different land use potentials.”

Instead, it appears that EPA chose only to provide a set of predetermined alternatives that place the interests of the Responsible Parties above the interests of the community.

The Site Re-Use Meeting with EPA’s “consultant,” E², Inc., was a complete sham. The main question posed to the community was “Where on the Site do you want the biggest pile of contaminants?”

Off-Site Soils and Sediments

Off-site soil testing is ongoing and the area of contamination has yet to be delineated. Testing must continue until such delineation is clarified; and off-site soils must be cleaned to Florida default residential soil cleanup target levels. At a 2009 joint City and County Commission meeting, as EPA’s Regional Project Manager for the Site, you specifically stated, in response to a specific question, that off-site soils would, unequivocally, be cleaned to 7 PPT for dioxin. We expect this declaration to be honored.

The proposed plan does not address in-home remediation; nor does it address temporary relocation of residents during remediation of their properties. These are issues that should be appropriately addressed.

The delineation of contaminants in creek sediments is not comprehensive. This is essential to providing a thorough remedy necessary to protect the creek ecosystem from continued adverse impact from these contaminants.

Contaminated off-site soils and creek sediments should not be brought onto the Site, adding to the contamination there. Off-site disposal alternatives for these soils were not evaluated in the Feasibility Study. They should be provided in an amended Feasibility Study.

Stormwater Management

Significant video evidence has been provided demonstrating the huge volume of untreated, contaminated stormwater runoff that flows off the Koppers site into Springstead Creek. Beazer has submitted an application for a new discharge permit. According to the diagram submitted with that application, there

are serious deficiencies with Beazer's stormwater management plan, with most of the runoff actually bypassing the proposed collection areas entirely, including runoff from the 4 primary source areas . Considering contaminant concentrations in runoff will likely be even worse during the remediation process where soils will be severely disturbed, effective, functional management is critical. These deficiencies must be addressed. Longer berms and larger retention areas must be provided in association with issuance of any interim stormwater permit.

Conclusions

EPA's disregard for the community has led to a Proposed Plan that makes a mockery out of what Congress intended to be a community guided remedial endeavor. Although everyone is anxious to begin the remedial process, the remedies must be suited to the location and actually clean the site.

The Record of Decision should be put on hold. EPA needs to provide an amended Feasibility Study addressing the numerous deficiencies enumerated above; and provide the community with a new Proposed Plan for its consideration. Thank you.

Sincerely,
Robert Pearce
714 NW 36th Avenue
Gainesville, FL 32609
robertpearce2000@gmail.com

Chair, Technical Advisory Committee for Protect Gainesville's Citizens
Former President, Stephen Foster Neighborhood Association