

## McLouth Steel Superfund Site Community Advisory Group

### Meeting Three

May 14, 2020

### Revised Meeting Summary

The May meeting of the McLouth Steel Superfund CAG took place online as a Zoom webinar on May 14, 2020. The purposes of that meeting included:

- Sharing an overview and explanation of the EPA Superfund process.
- Sharing an overview of the current investigations and conditions at McLouth.
- Finalizing the operating procedures and leadership board for the CAG.

#### **The Following primary CAG members were present:** \_\_\_\_\_

Jim Wagner, City of Trenton; Russell Bodrie, Grosse Ile Township; Brian Webb, Riverview Brownfield Authority; Wendy Pate, Trenton Visionaries; Doug Thiel, Nature and Land Conservancy; Greg Karmazin, Grosse Ile Civic Association; Robert Burns, Friends of the Detroit River; Paul Frost, DownRiver Waterfront Conservancy, Robert Johnson, Abutters; and the following At-Large Community Representatives: Larry Ladomer; Judith Maiga; Emily Hornbeck; Dennis O'Brien; Ryan Stewart, and; Edie Traster

#### **Decisions Reached**

- A revised version of the March meeting summary was approved by the CAG.
  - One addition was made: A participant offered a revised answer to a question about whether agreements with MSC had indicated how they would use the site to clarify that, in their response to the RFQ, MSC indicated that the site will be used as an intermodal shipping port.
- The CAG's operating protocols were finalized, with a correction made to remove a contradictory line forbidding the recording of meetings. An addition will be made to provide a renewable term of 1 year for the Leadership Board.
- The CAG's Leadership Board was finalized. The Leadership Board consists of:
  - Wendy Pate, Trenton Visionaries
  - Doug Thiel, Grosse Ile Nature and Land Conservancy
  - Brian Webb of the Riverview Brownfields Authority
  - Jim Wagner of the City of Trenton

#### **Action Items**

- EPA to post all meeting materials, including the (updated) slides presented, on the CAG website ([www.epa.gov/superfund/mclouth-steel](http://www.epa.gov/superfund/mclouth-steel)).

- Future topics for discussion: the meaning and applications of state and federal clean-up standards; different kinds of risk assessments that can be done at a site.

### **Summary of Discussions**

CBI (Consensus Building Institute) facilitator Stacie Smith welcomed everyone and explained the features of using the Zoom webinar interface for all on-line members and attendees from the public and reviewed the agenda and meeting ground rules. Stacie then introduced the speakers for the first part of the meeting. Speakers included: Diane Russell, Brian Kelly, and Nabil Fayoumi, all of USEPA. Slides used by the presenters can be found on the project website: [www.epa.gov/superfund/mclouth-steel](http://www.epa.gov/superfund/mclouth-steel)

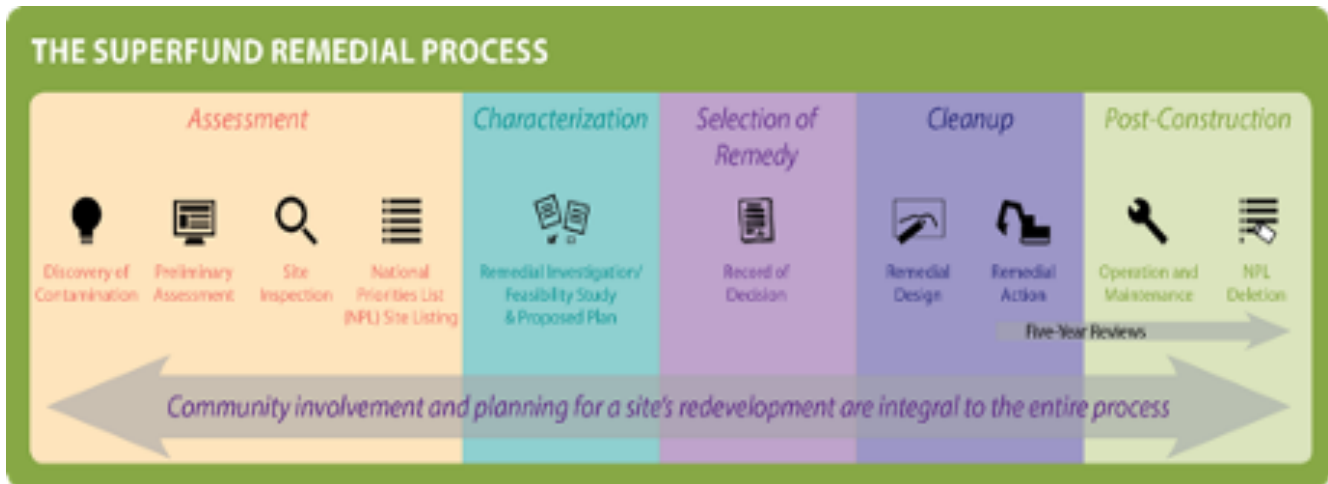
### **Diane Russell, USEPA - Overview of Superfund Process**

Ms. Russell gave CAG members and attendees an overview of Superfund law and the processes involved. Officially called CERCLA, the Comprehensive Environmental Response, Compensation, and Liability Act, and passed in 1980, this law provides the legal framework for taking action at hazardous waste sites, which have become known as “Superfund” sites. The term “Superfund” stems from a fund that was initial based on a tax on industries that added to pollution, with funds allocated to EPA to pay for CERCLA-related actions. (This tax was ended years ago, but the name stuck.)

The goal of Superfund is to protect human health and environmental well-being by cleaning up sites contaminated with hazardous substances. USEPA seeks to require responsible parties to pay for the clean-up, but if that is not possible (because responsible parties are no longer solvent or can’t be found), general funds are used. Given that there is no responsible party that can fund this process on the McLouth site, general funds will be used for all cleanup beyond that agreed to by MSC.

Ms. Russell went on to explain how the Superfund process works. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) regulates all federal agencies involved in responding to hazardous substance releases. Superfund processes are limited to hazardous substances that have been approved and listed by the EPA, like PCBs, lead, and asbestos, in sites with unacceptable risks to human health and the environment. There are substances, like PFOs in the State of Michigan, that have not yet been listed to be under the EPA’s jurisdiction. As defined by the EPA, risk happens when a contaminant exists, concentrations are high enough, an exposure pathway is present, and there are “receptors,” like humans, animals, or a sensitive environment. There is a misconception that the EPA is required to take action any time high concentrations of a contaminant are present; the EPA can only act when a

contaminant is present at high enough concentrations along with an exposure pathway to receptors. This is based on the reasonably anticipated future development of the site.



The cleanup programs that apply to the McLouth site are the remedial and removal programs within Superfund. The removal program focuses on short-term, immediate risk that is assessed and managed. A removal program can take place at any point in the overall Superfund process when a high-enough risk is found simultaneously with the remedial process. Many removal activities have occurred on the site over the past few years, overseen by Brian Kelly. Distinctively, the remedial program is longer term and requires in-depth examination and care of the site.

Ms. Russell clarified that work on the site will be transitioning from the removal program to the remedial program and described the steps of the remedial program (see graphic below). Within the remedial program, the site is moving from the assessment phase to the characterization phase, which begins with a remedial investigation, which is set to start in the summer of 2021.

The goal of the remedial investigation is to understand the extent of contamination, by taking additional samples to fill data gaps regarding the site and risks to human and ecological health. The remedial investigation provides insight into the contaminants, exposure pathways, and possible receptors. Once all the necessary information has been collected from a remedial investigation, a feasibility study is conducted to examine all the possible cleanup methods that could apply to the site by looking at their pros and cons and evaluating them by the EPA's Nine Criteria (these criteria are described further during Nabil Fayoumi's presentation). Once the EPA is done with the feasibility study, a cleanup approach is proposed, with opportunity for input

from the affected community during a public comment period before it is finalized in a Record of Decision.

The remedial program for McLouth is anticipated to begin in the summer of 2021, at the earliest, with an estimated submittal of a proposed cleanup plan for this site by 2025. This timeline depends on many things, including the availability of federal funds to complete all these processes in a timely manner.

**CAG members offered the following comments and questions (*answers in italics*):**

- Will the CAG or the community have input in determining the anticipated future development or use of the property?
  - *EPA has no influence over the future uses of the property. The property is currently privately owned, so the anticipated use is what the property owners select. Meanwhile, communities can be heard by advocating to their local governments and zoning boards.*
- Are there any areas in the site that are deemed risky to human and ecological health that are not under the ownership of MSC? If there are, who will determine the future use for them?
  - *The future use is based on the reasonably-anticipated future, and we look at the risk at spaces where contaminants could be released. There is a five-year review process at EPA, where EPA reevaluates sites and ensure that the remedy chosen is still protective of the site.*
- If MSC decides to sell the property before the Superfund process is complete to someone who wants to put a park there, does EPA revisit that use?
  - *Yes, if we are in the remedial investigation/feasibility study process and we find out that the planned use of the site has changed, we can change the ways that we gather data and continue our research to best accommodate the change in future use of the site.*
- There is confusion over the differences between the EPA standards for cleanup and the State of Michigan standard for nonresidential cleanup and what kind of redevelopment can be achieved under these different standards. What is the standard of clean-up anticipated for the site, and what can the site be redeveloped into based on that clean-up level? Can EPA and the State be clearer about the range of redevelopment options that can be possible at that site?
  - *The purchase agreement specifies MSC's anticipated use for the site as a multi-modal shipping port. The question of clean-up standards – how they are determined, how they might change, and what they are based on – is an*

*important topic that needs it's own discussion/ agenda item at a future CAG meeting to address.*

- What is the history of the tax that fed the Superfund? Why did it end?
  - *This tax was passed in the 80s, re-authorized in 1986, and ran out in the 90s.*
  - *The reasons for its end were political; although no EPA staff person can advocate for political action, there is knowledge that the power to revive this tax lies within Congress.*
- Which substances comprise the list of toxic substances under the jurisdiction of the EPA?
  - *CERCLA has a list of toxic substances and brings up other things under other laws, like RCRA, and TSCA. If you Google "list of lists" you can see the toxic substances included therein.*
- How does funding work for the Superfund process? Is the site awarded a lump sum of money to be used for the duration of the remedial phase, or is money distributed on an annual basis?
  - *This project will be incrementally funded on an annual basis; there will need to be funding in 2021, 2022, and 2023 to conduct the Remedial Investigation /Feasibility Study (RIFS) process.*
- Will funding be prioritized to be used on the most critical issues first?
  - *The process is fairly incremental. When the remedial program starts in 2021, we will start with the RIFS process.*
- One of the slides specifies that reuse of the property can resume if human health and environment are protected. Can there be redevelopment on the property during the assessment process? Will the CAG be informed if development begins on the site?
  - *If MSC wants to start development on a portion of the land before clean-up is complete, they can take samples of the area they want to develop for the EPA to test, if the samples show no risk of impacting human health and environment, then they are permitted to build on the property before remediation has been completed. However, it is unlikely that the current owners of the property would want to build anything on top of contaminated soil. If they want to reopen it, they would have to go through a sampling process with EPA and share what their plans are for the use of the property. There is a section on the settlement agreement about soil management and redevelopment, and how that would occur. If MSC were to start the process to redevelop, we would share that information with the CAG.*
- Can we get the updated slides?
  - *Final slides will be sent around and posted on the CAG website.*

## **Brian Kelly, USEPA - Current Conditions at McLouth**

Brian Kelly, USEPA, gave an overview of the current conditions at McLouth and the conditions that led to the McLouth site's inclusion on the National Priorities List (NPL). His presentation drew primarily on 3 reports that have assessed conditions on the site.

- EPA Expanded Site Inspection Report: <https://semspub.epa.gov/work/05/935038.pdf>
- ECT BEA Phase 1: <https://semspub.epa.gov/work/05/540626.pdf>
- EPA HRS: <https://semspub.epa.gov/work/HQ/197356.pdf>

ECT was asked to conduct an Environmental Site Assessment (ECT Beta Phase 1) before MSC took ownership of the property. A Phase 1 study is a standard research report on historical uses of properties, commonly done before transactions occur. EGLE then completed an Expanded Site Inspection to determine what the site conditions were, and this information flowed into the EPA's Hazard Ranking System Document, which outlined the reasons for listing the site on the Superfund list. The EPA's Hazard Ranking System Document looks at what substances can be found on a site, what are the pathways of exposure, and how these can be controlled. For example, if a toxic contaminant is found on the soil of a site, EPA assesses how exposure can be prevented: the soil could be capped, removed or fenced off. The EPA also utilizes different criteria depending on the route of exposure and nature of the site. For example, if the affected area will turn into a break area it will have a different risk assessment than it would if it would turn into an area where one person would visit weekly to cut the grass.

The ECT report is 572 pages long and details 134 recognized environmental conditions (RECs) found on the site. Many of these RECs are addressed by the work that MSC is doing. In turn, EPA will focus on the soil, sediments, and groundwater RECs.

In 2017, the Expanded Site Inspection report was published by the EPA, based on groundwork that ended in 2015. Mr. Kelly talked through some findings that stood out from the report, including groundwater sampling that found that cyanide concentration exceeded groundwater surface water interface criteria g, and pH levels at the site that ranged from less than 1 to more than 12. Pickling liquor on the site is causing the low pH water on the site - there were hundreds of barrels that MSC removed during its remediation work. In addition to sampling, EPA looked at different exposure pathways; once the surface water pathway scored, EPA stopped looking at other pathways and the site was able to be listed on the Superfund list.

In response to questions about current conditions, Mr. Kelly explained that EPA shutdown work on March 13 due to dust problems (not COVID) – MSC has since reworked their dust plan to better control it and wind speeds must now be under 10 MPH or work has to be shutdown. He

also noted that if Superfund designation were being evaluated today, after MSC's work on the site, it is not clear that it would meet the criteria for listing, but since it has already been listed, it retains its designation.

### **Nabil Fayoumi, USEPA - Current Investigations at McLouth**

Nabil Fayoumi, of USEPA, then expanded on the previous overview of the Remedial Investigation and Feasibility Study (RIFS) process. He noted that the remedial investigation and feasibility study are done concurrently and support each other. EPA begins with a remedial investigation that determines the nature and extent of contamination, and gradually moves toward the feasibility study, which is done to understand what method of cleanup would be best and to develop remedial action alternatives.

The RIFS process generally includes the sampling and monitoring of all affected media, which in the McLouth case include groundwater, soils, subsoils, and sediment. Remedial action objectives and a cleanup standard for the remedy will also be developed during the RIFS, following a site-specific risk-assessment. Possible remedial action objectives for this site will include: restoring groundwater to beneficial use, controlling the migration of groundwater into the channel and river, and eliminating all of the contaminant soil. During the development of the RIFS, but before remedy-selection, reasonably anticipated future use of the land is taken into consideration.

Once the EPA is ready to choose a remedial action, cleanup options are evaluated by nine different criteria:

- 1) Overall Protection of HH and Environment
- 2) Compliance with applicable or relevant and appropriate requirements (ARARs)
- 3) Long-Term Effectiveness and permanence
- 4) Reduction of Toxicity, Mobility, or volume through Treatment
- 5) Short-Term Effectiveness
- 6) Implementability
- 7) Cost
- 8) State Acceptance
- 9) Community Acceptance

The first criteria, overall protection to human health and environment, can be met by reducing or removing pollutants or pathways to exposure. The second criteria, compliance, ensures that the cleanup option examined complies with federal, state and tribal laws. The first two criteria must be met for each and every remedial alternative available for selection. All remedial

alternatives are then evaluated based on these criteria. Once a remedial action is chosen, a proposed plan is drafted, and the public comment period begins.

**CAG members offered the following comments and questions (*answers in italics*):**

- Will sampling of groundwater be limited to the site, or will samples be taken downstream?
  - *Sampling will not be limited by a site boundary. For this site, the definition is wherever groundwater can be traced back to the McLouth site. Similarly, if contaminated sediment is found downriver from site and can be traced back to the site, then it would fall under the clean-up.*
- One of the nine criteria is cost: what scope of cost does that include?
  - *We compare the cost of all of the different cleanup alternatives.*
- Who will incur the cost of cleanup?
  - *This is a government-financed cleanup. It will be paid for by USEPA.*
- Are there any publicly-available documents that one can reference to see how cleanup methods are scored under the nine criteria standards?
  - *Scoring is project-specific, but all scoring evaluates all nine criteria and how cleanup options compare to one another. Anyone interested could try googling “Records of decisions for steel mill facilities” for an idea of what the evaluation process looks like.*
- Although EPA did not conduct a full asbestos survey, asbestos and galbestos have been found at the site. Does the EPA plan to speciate the asbestos that remains there? Will the spread of asbestos at the site be studied?
  - *During ECT Phase 1, an asbestos survey was not conducted; the survey was done after that document came out. That is why some areas have been treated for asbestos. It is unclear whether there will be more investigations done on the soil area related to asbestos.*
- Were the asbestos and galbestos from the site removed in a contained manner?
  - *As outlined in the regulations: asbestos in pipes is removed by wrapping the pipes that contain it and cutting them off. As for the galbestos, water is used to knock down any kind of fibers.*
  - *There is asbestos in some of the soil areas; asbestos was used at the site throughout the site history.*
- I was under the impression that there were contained sites for galbestos and that its removal would be supervised by EGLE; was it?
  - *There were work areas that had clearance for asbestos removal, but in terms of building large containment structures over mills for asbestos removal is not required by EPA. As for the violation notice, EPA will defer to EGLE to discuss.*



- *David Kline, EGLE - None of our asbestos staff are on the line, but they can be invited to future meetings if that would be helpful.*
- If MSC decides to build a terminal, will any kind of environmental impact statement be required from them?
  - *An Environmental Impact Study is generally required when federal or state funding is involved; we don't know how MSC plans to fund the site.*
- The last disposal summary report for April stated that 2.8 million gallons of liquid waste were removed from the site. Where did this liquid waste come from? Where was that waste stored?
  - *All those liquids came from pits, basements, and lagoons. Contractors on site had a list of approved disposal facilities, and at the end of cleanup they are required to prepare a report listing where the waste went.*
  - *There were talks about taking some of the liquid waste to the Trenton Wastewater Facility, but this did not happen. All of the waste goes to licensed disposal sites.*
- Is MSC responsible for cleaning the 14 acres of land in the site that they don't own?
  - *No; that parcel is part of the Superfund site and will be cleaned up by the EPA.*

### **Finalizing Operating Procedures and CAG Leadership Board**

At the conclusion of the EPA presentations, Stacie Smith, facilitator for the McLouth CAG, enlisted the group in finalizing the operating procedures for the CAG, and seeking approval of its leadership board.

CAG members motioned to approve the final operating procedures, after approving a suggested edit by Ms. Smith, which removes a contradiction around whether meetings could be recorded or not.

Then, Ms. Smith moved to the topic of the leadership board, and reminded them that the role of the board is to help the planning team to refine meeting agendas, develop work plans, prepare presenters, and assist with decisions about logistics. She noted that the four nominees who accepted the role met the criteria outlined by the CAG of: representing all three affected communities, and representing both civil society and government stakeholders. Nominees to the board were: Wendy Pate, of Trenton Visionaries, Doug Thiel, of Grosse Ile Nature and Land Conservancy, Brian Webb of the Riverview Brownfields Authority, and Jim Wagner of the City of Trenton.

After a question, Ms. Smith clarified that the CAG decided on flexibility regarding the size of the leadership board. A CAG member expressed reservations about having Jim Wagner as a part of the leadership board, given that the board had two representatives from Trenton who are involved in the City's government. Ms. Pate noted that, though she does serve on Council, her primary role on the CAG was as a representative of Trenton Visionaries. She also noted that she felt having two Trenton members was appropriate, given the location of the site. Mr. Wagner then spoke about his extensive historical knowledge of the site and the perspective that he brings to the Leadership Board. Ultimately, a vote was taken, and the majority of participants agreed to support all nominees for the Board.

Before closing the meeting, Diane Russell (USEPA) made an announcement about next steps. She noted that funding for CAG facilitation is secure through September of this year, with the assumption that the group would take a break in August. Beyond that, given the timeline for beginning the remedial investigation, meeting frequency is likely to decrease.