

M-741

Formerly Utilized Sites Remedial Action Program (FUSRAP)

ADMINISTRATIVE RECORD

for the Maywood Site, New Jersey



**US Army Corps
of Engineers®**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

138-LQA-GAM-0005:
M-741

April 30, 1998

Colonel Gary Thomas
District Engineer
Army Corps of Engineers
26 Federal Plaza
New York, New York 10278

Dear Colonel Thomas:

I am writing to you in regard to the cleanup plan proposed by the Army Corps of Engineers for the Maywood Chemical Company Superfund site in New Jersey.

In connection with the above cleanup plan, I want to inform you about the role of the National Remedy Review Board (NRRB). The NRRB was established by the Environmental Protection Agency (EPA) in October 1995 as one of the Superfund Administrative Reforms to help control costs and promote consistent remedial action decision making. Board members include senior representatives from EPA's headquarters and regional offices across the country. The NRRB evaluates proposed cleanup actions for consistency with the National Contingency Plan and relevant Superfund policy and guidance. Based on the estimated cost of the proposed remedy for the Maywood site, it was subject to review by the NRRB. The results of the Board's review are attached for your consideration.

As you will note, the NRRB raised a number of concerns relative to the Corps' remedial approach for the site. One of the more significant concerns involves the land use assumptions and cleanup goals identified by the Corps, given the close proximity of the site to residences, the difficulties in establishing and enforcing institutional controls over the long term, the preferences of the affected community, etc. The Board recommends that the Corps develop and consider a cleanup alternative that would allow appropriate portions of the site property to be used for unrestricted or residential purposes. Although cleanup to commercial levels together with institutional controls may be viable for some of the land, such as that owned by the federal government, it may not be for other portions. There are serious questions about the potential effectiveness of institutional controls in view of the longevity of the radiological contamination and the residential nature of the surrounding area. The Board also did not believe that the Corps considered all of the relevant cleanup standards and guidance in developing its proposed remedy.

The Corps should address the comments and recommendations contained in the attached memorandum from the NRRB prior to the development and release of a proposed plan to the public. EPA regional staff are available to assist you and your staff in this regard.

If you have any questions or would like to further discuss this matter, do not hesitate to contact me. I can be reached at 212-637-4400.

Sincerely yours,

John S. Frisco

John S. Frisco, Manager
Superfund Remedial Program

cc: Colonel William Ryan
Dr. Marsha Davies




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 23 1998

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MEMORANDUM

SUBJECT: National Remedy Review Board Recommendations for the
Maywood Superfund Site

FROM: Bruce K. Means, Chair
National Remedy Review Board 

TO: Richard L. Caspe
Emergency and Remedial Response Division
EPA Region 2

Purpose

The National Remedy Review Board (NRRB) has completed its review of the proposed remedial action for the Maywood Superfund site in Maywood, New Jersey. This memorandum documents the NRRB's advisory recommendations.

Context for NRRB Review

As you recall, the Administrator announced the NRRB as one of the October 1995 Superfund Administrative Reforms to help control remedy costs and promote consistent and cost-effective decisions. The NRRB furthers these goals by providing a cross-regional, management-level review of high cost proposed response actions. The Board will review all proposed cleanup actions where: (1) the estimated cost of the preferred alternative exceeds \$30 million, or (2) the preferred alternative costs more than \$10 million and is 50% more expensive than the least-costly, protective, ARAR-compliant alternative.

The NRRB review evaluates the proposed actions for consistency with the National Contingency Plan and relevant Superfund policy and guidance. It focuses on the nature and complexity of the site; health and environmental risks; the range of alternatives that address site risks; the quality and reasonableness of the cost estimates for alternatives; Regional, State/tribal, and other stakeholder opinions on the proposed actions, and any other relevant factors.

Generally, the NRRB makes "advisory recommendations" to the appropriate Regional decision maker before the Region issues the proposed plan. The Region will then include these recommendations in the Administrative Record for the site. While the Region is expected to give the Board's recommendations substantial weight, other important factors, such as subsequent

-- Pre-decisional; Not for distribution --

public comment or technical analyses of remedial options, may influence the final Regional decision. It is important to remember that the NRRB does not change the Agency's current delegations or alter in any way the public's role in site decisions.

NRRB Advisory Recommendations

The NRRB reviewed the informational package for the site and discussed related issues with EPA's Robert Wing and Angela Carpenter on April 1, 1998. Based on this review and discussion, the Board offers the following comments.

- The Board believes that the land use assumptions (commercial/industrial) and cleanup goals (15pCi/g) associated with the preferred alternative may not be appropriate for the entire site. The Board recommends that the Army Corps of Engineers (Corps) reassess these assumptions and goals, taking into account the following concerns:
 - the site's proximity to residences,
 - housing development pressures as illustrated by development on and adjacent to the site property,
 - complications posed by multiple landowners, political jurisdictions, and public easements (e.g., roads and utilities) in establishing institutional controls,
 - the importance of institutional controls in ensuring remedy protectiveness over the long term at this site, and
 - the stated preference of the Maywood Technical Assistance Group that any cleanup allow unrestricted property use.

Because of these concerns the Board recommends that the Corps develop and consider a cleanup alternative that will allow unrestricted land use where appropriate. While the capital costs for such an alternative may be higher than those of the preferred alternative, an unrestricted land use alternative may still be cost effective in that it offers the added benefits of greater permanence and reliability over the long term. Further, such an alternative would require much less oversight to ensure that protective land uses are maintained.

- The site review package did not provide information sufficient to show that the preferred alternative will be protective for reasonably anticipated commercial use scenarios. As a result, the Board is concerned that the preferred alternative may limit even commercial development of the site.
- The Corps should establish a relationship between excavation depths and land use scenarios to ensure the effectiveness of the cleanup over the long term. The excavation depths should consider the possible effects of radon contamination in structures that may be built on the site in the future.
- The Board recommends that the Corps' alternatives analysis include requirements to excavate contamination underneath roads and buildings as it becomes accessible, and estimate the cost to carry out this important part of the remedy.
- The preferred alternative does not specify the institutional controls that the Corps will use to restrict certain land uses. OSWER Guidance No. 9355.7-04 "Land Use in the CERCLA

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Remedy Selection Process" (May 25, 1995) directs site managers to "... determine the type of institutional control to be used, the existence of the authority to implement the institutional control, and the appropriate entity's resolve and ability to implement ... the control." The Board recommends that the Corps perform such an analysis and include it in the decision documents for this action.

- The site review package did not provide information sufficient to determine whether some of the alternatives considered meet the NCP standards for protectiveness and compliance with "applicable or relevant and appropriate requirements" (ARARs). In particular, the Board questions why the Corps carried out a detailed analysis of Alternative 6 and included it in the proposed plan, given that the proposed soil cleanup level of 50 pCi/g for thorium and radium does not appear to meet the NCP definition of protectiveness. Further, the Board recommends that the Corps explain in the decision documents how the different alternatives address such basic NCP requirements as state ARARs and other criteria or guidance "to be considered" (e.g., OSWER Guidance No. 9200.4-25 "Use of 40 CFR Part 192 Soil Cleanup Criteria as Remediation Goals for CERCLA Sites" (February 12, 1998)).
- Based on experience at other Superfund sites, the Board believes that the Corps' evaluation may have underestimated the costs and overestimated the effectiveness of soil washing in treating contaminated soils. Nonetheless, the Board encourages the Corps to continue exploring ways to reduce off-site disposal costs as they design and implement the remedy.
- Considering their emphasis on "beneficial reuse," the Board questions whether Alternatives 2b and 5b are implementable. The site review package provided little information to suggest any realistic beneficial reuse opportunities.

The NRRB appreciates the Region's efforts in working closely with the Army Corps of Engineers, State and community to identify an appropriate remedy for the Maywood site. The Board members also express their appreciation to the Region for its participation in the review process. We encourage Region 2 management and staff to work with their Regional NRRB representative and the Region 2/6 Accelerated Response Center at Headquarters to discuss any appropriate follow-up actions.

Please do not hesitate to give me a call if you have any questions at 703-603-8815.

cc: S. Luftig
T. Fields
B. Breen
J. Woolford
C. Hooks
E. Cotsworth
OERR Center Directors