

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Region 9
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March 20, 2023

Chris Murawski
Executive Director
Clean Air Coalition of
Western New York
371 Delaware Avenue
Buffalo, NY 14202

**Re: 3821 River Road, Inc. Site, #C915003
Tonawanda (T), Erie County
BCP Application Comments**

Dear Chris Murawski:

The Department has reviewed your organization's comments, dated March 3, 2023, on the Brownfield Cleanup Program (BCP) Application and the associated Remedial Investigation Work Plan (RIWP) for the above referenced site. The Department appreciates your organization's continued involvement with environmental remediation projects in the region, and offers the following in response to your comments. Our responses are intended to match with the numbering used in your comment letter.

1. Community Impact and Area History: this comment closes with a question of why the pending BCP Application for this site was not discussed during Tonawanda Community Working Group (TCWG) meetings. The Department does not provide advance notice of any site that may apply to the BCP, as the Department does not have direct control over whether or not such application is actually submitted. To ensure that there is public engagement in the BCP, all complete BCP applications are subject to public notice and comment prior to acceptance to the program (if the site otherwise meets the eligibility requirements). I suggest the TCWG add discussion of this site as an agenda item at its next meeting.

The Department was not present for the October 26, 2022 site tour and cannot comment on what was or was not discussed.

2. General Comments

1. The Environmental Conservation Law §27-1407 allows applicants to include a work plan with their BCP application;
2. A BCP application is not required to include specific types of reports. The investigation report must be sufficient to demonstrate that the site requires remediation in order to meet the remedial requirements of the BCP; and
3. This comment is regarding interim remedial measures on the nearby Riverview Innovation & Technology Campus site (#C915353). This comment is not considered relevant to the eligibility of this site.

3. Interim Work Plan Specific Comments

1. The 1997 and 2008 Conestoga-Rovers Associates (CRA) reports are available on DEC Info Locator (DIL) at: <https://www.dec.ny.gov/data/DecDocs/915055/>. The 2002 O'Brien and Gere report was inadvertently not uploaded to DIL, which has since been corrected. Please visit <https://www.dec.ny.gov/data/DecDocs/915003/> for this and other historical reports;
2. This comment discusses various process units/areas that are evident from historical fire insurance maps. The Department shares your concerns regarding these areas and is assessing if the proposed RIWP adequately investigates these areas;
3. The Department has not been provided the referenced 1936 document. However, based on the Department's own research, furfural is derived from natural biomass, and it is not clear what the relationship between furfural, and its derivative furan, are to the polychlorinated dibenzo-p-dioxins or polychlorinated dibenzofurans (commonly referred to as 'dioxins' and 'furans'). The Department is not aware of chlorination activities that would have produced these chlorinated species at the site;
4. An EDR Report regarding cleanup actions completed under RCRA was not included in the BCP application nor the RIWP, therefore it is unclear to the Department what the source of this comment is. Based on Department records, a majority of the waste codes provided in this comment have not been shipped from the site. Regardless, sites in the BCP are required to sample for an extensive list of contaminants to ensure that the remedy is protective of public health and the environment;
5. The Department is reviewing the RIWP and will evaluate the need for additional monitoring wells at the site. The Department can require that additional monitoring wells be installed if the initial well network does not adequately define the nature and extent of contamination;

6. The draft RIWP includes the analysis of volatile and semi-volatile organic compounds for all soil and groundwater sample locations at the site; and
7. The Department uses the *New York State Department of Health Guidance for Evaluating Soil Vapor Intrusion in the State of New York* [October 2006, as amended] to assess the potential exposure of site occupants to contaminants via soil vapor intrusion. The need for a soil vapor intrusion assessment will be determined based on conditions observed during the remedial investigation. Currently, the on-site buildings are not occupied nor are they heated.

I hope that the above responses have addressed your comments regarding the BCP Application and RIWP. If you have any questions on the above comments, please contact me at 716-851-7220 or benjamin.mcpherson@dec.ny.gov.

Sincerely,

Benjamin McPherson, P.E.
Project Manager
Professional Engineer 1 (Environmental)

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