

# Superfund NEWS

March 2017

## San Jacinto River Coalition hears updates on environmental pollution problems

At their regular monthly meetings, members of the San Jacinto River Coalition heard updates on various issues related to pollution in the waste pits in the river, and in their private water supply wells.

In addition, SJRC director Jackie Young brought the latest news from the EPA, and the representatives of the PRPs, or Potential Responsible Parties.

Harris County's Rock Owens, who is managing attorney for the Environment and Infrastructure Practice Group in Vince Ryan's office, reported to the audience that they had dropped the appeal of the lawsuit against International Paper Company. The county lost this suit in a jury trial, but contended that the trial judge withheld evidence that would have brought a different outcome. Attorney Owens said that their office had decided to drop the appeal because of the unlikely result they could win, and to focus their resources on other environmental problems.

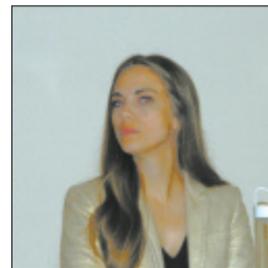
Harris County Pollution Control director Bob Allen reported on the next phase in the county's testing of private well water. He said that they had tested 101 wells in Channelview, Highlands, and Lynchburg, and found dioxin in all of them, but at levels that were considered not a risk to health. He said they now wanted to test the other wells in the area, and had sent out 148 letters and advertised in the local paper, to get consent to test more wells. They will be tested for 17 types of dioxin



**Bob Allen**  
HC Pollution Control



**Rock Owens**  
HC Assistant Attorney



**Jackie Young**  
San Jacinto River Coalition

and furan. He said they know of about 15 wells on the west side of Highlands, and 140 wells in Channelview that might qualify for this additional testing. Information on this is available at [pchs.harriscountytexas.gov](http://pchs.harriscountytexas.gov).

To be tested, well owners must be in a certain geographic area, can't be served by a public water supply, and can't have been tested previously by the county.

Pam Bonta suggested that they should also test in areas with high rates of cancer, such as Highlands Shores, the Highlands Reservoir area, and McNair. Allen seemed surprised at this news, and said it might be necessary to have a third round of testing at a later date.

Testing is being paid for by the county's successful lawsuit settlement with Waste Management and McGinnes IMC, who settled for a \$29.2 million payment. About \$10 million of this went to the county, who has pledged to use the money for remediation efforts and health issues.

The county has completed a study of supplying new water and sewer lines in the Highlands area, according to Pct. 2

infrastructure director Jeremy Phillips. It was learned from this study that it would cost around \$10 million dollars to supply water and sewers to about 1232 persons, from the Baytown Area Water Authority. This included 186 single-family homes, 31 mobile homes, and 60 other lots and businesses.

Pct. 2 Commissioner Jack Morman indicated that a project of this scope would require multiple funding sources and was beyond the capacity of the county to undertake alone.

During the meeting, Young revealed that the McGinnes company had another waste pit site in the area, that they began using after the San Jacinto River site was filled.

This site is along Halls Bayou near Hitchcock in Galveston County. It consists of 32 open pits, of which three have tested for dioxins. These lagoons have been there for over 40 years she said, and the McGinnes company has been monitoring them and making reports to the TCEQ and the EPA. They contend that in all that time, they have not leaked any toxins, even though they are near sea level and contained by only earthen berms.

Television Channel 26 has made a three-part video news

story about these pits, reported by their environmental reporter Greg Groogan. His report includes helicopter views and water level views of the lagoons, revealing a murky green color to the watery sludge in the pits.

In the video report, State Representative Mike Martin is quoted as saying these pits are not safe, and might spread toxins during a storm or hurricane.

Environmental attorney Jim Blackburn has also spoken out against the pits. The site is about 200 acres, much larger than the San Jacinto Waste Pits site, which is only about 14 acres. The dioxin tested in three of the pits shows a higher level than in the San Jacinto pits, according to the video.

The EPA issued a Site Update in February 2017. This report said that they were reviewing public comments that were sent to them. The quantity is 6000 individual comments, 48,000 signatures on various petitions, and about 2800 pages of detailed technical comments.

They said that written responses to all comments would be included in the ROD (Record Of Decision) that would be issued in late 2017.

Criteria for reviewing the comments were listed as follows:

1. overall protection of human health and the environment;
2. compliance with applicable, relevant, and appropriate requirements;
3. long-term effectiveness and permanence;

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### Who is involved in the San Jacinto River Waste Pits Superfund?

#### US EPA

The federal Environmental Protection Agency is the lead in dealing with the Superfund site. Congress has designated them with the responsibility to solve the problem.

#### PRP

Potential Responsible Parties include successors to the perpetrators of the Waste Pits. These include International Paper, and Waste Management.

#### US CONGRESS

Most legislators whose district includes the San Jacinto River, have expressed the need to remove the Waste Pits. This includes Congressmen Gene Green, Brian Babin, Ted Poe and others.

#### HARRIS COUNTY

County Attorney Vince Ryan led a lawsuit to make the Responsible Parties pay for remediation of the site. He won a \$29.2 million dollar judgement to be spent on environmental improvements in the area.

#### SJRC/THEA

A Citizens movement, led by previous Highlands resident Jackie Young, has been the leading voice to have the Waste Pits totally removed. She heads San Jacinto River Coalition, and the new Texas Health and Environmental Alliance, Inc.

#### KEEPITCAPPED

A Citizens Group named San Jacinto Citizens Against Pollution located in Baytown has a web site espousing its belief that a permanent cap is the best solution. Thomas Knickerboker is their attorney, but the leadership is anonymous.

# Environmental Warnings

## Updated FISH ADVISORY: New restrictions on eating fish from the San Jacinto River

### Seafood Consumption Advisories

While Galveston Bay is an outstanding place to fish, you need to be aware of seafood consumption advisories!

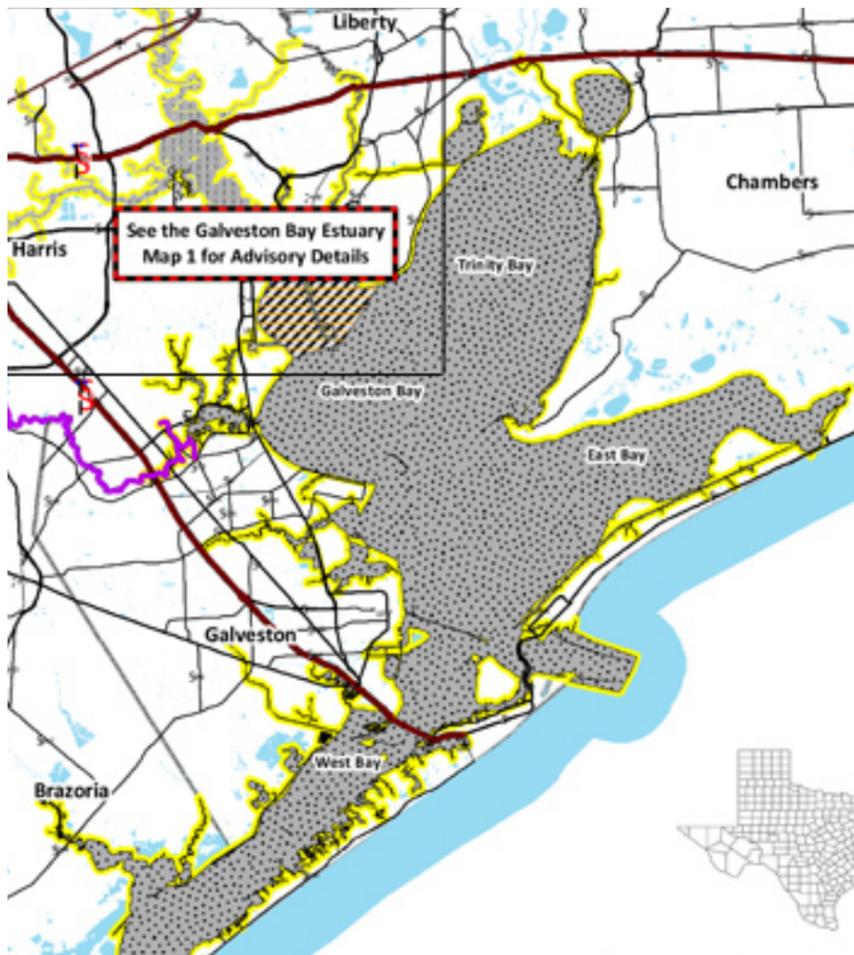
The Texas Department of State Health Services (DSHS) issues seafood consumption advisories when tests on fish and shellfish indicate there is an increased risk to human health from the presence of toxic pollutants.

This map shows the seafood consumption advisories that are currently in place in the Galveston Bay system and its tributaries. There are really four areas, each having its own set of affected species.

Species Affected, and DSHS Advisories in Each Area of Concern

1 The Houston Ship Channel and all contiguous waters north of the Fred Hartman Bridge (Hwy. 146), including the San Jacinto River below the Lake Houston Dam. All species of fish and blue crab. Dioxin and PCBs. ADV-55 (2015)

2 Upper Galveston Bay and all contiguous waters north of a line from Red Bluff Point to Five Mile Cut Marker to Houston Point. All catfish species, spotted seatrout, and blue crab.



Dioxin and PCBs. ADV-50 (2013)

3 Galveston Bay system south of a line from Red Bluff Point to Five Mile Cut Marker to Houston Point, including Chocolate Bay, East Bay, West Bay, Trinity Bay, and contiguous waters. All catfish species. Dioxin and PCBs. ADV-50 (2013)

4 Clear Creek upstream and west of Clear Lake. All species of fish. PCBs. ADV-37 (2009)

### Consumption Advice

#### For All Areas Except Clear Creek

In each of these three areas for the species listed, the following advice should be followed to decrease risks to

human health:

Women of childbearing age and children under the age of 12 – DO NOT EAT ANY AMOUNT OF THE SPECIES LISTED!

Women past childbearing age and adult men – DO NOT EAT MORE THAN 8 OUNCES PER MONTH OF THE SPECIES LISTED!

#### For Clear Creek upstream of Clear Lake

All persons – DO NOT EAT ANY AMOUNT OF ANY SPECIES OF FISH!

### Update on Pollution

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4. reduction of toxicity, mobility, or volume through treatment;
5. short-term effectiveness;
6. implementable;
7. cost effective;
8. state acceptance;
9. community acceptance.

Of some concern to the SJRC Coalition was the part of the EPA Update that a site inspection on January 23, 2017 revealed some missing rock in the cap, and some exposed geotextile membrane. In addition, some subsidence has occurred on the eastern side, up to one foot. Repairs were ordered by the PRPs, and additional rock will be placed.

In the February SJRC meeting, Young noted that the group wanting to “KeepItCapped” has enlisted more experts, including Sediment Management Work Group, Detroit, Michigan. They contend that solution 2N, an enhanced cap, is a better solution than 6N, a complete removal. They have also engaged another law firm, Winstead PC, to help their case.

The public is of course involved in many ways in this issue. Young noted that students at Furr High School had undertaken a class project, a video entitled “Jackie’s River” which won a prize in a film festival.

Another concern is a bill now in the Texas Legislature, HB2533, which would restrict counties and cities from lawsuits against polluters without state permission, and set a cap on the amount of the claim. She distributed a sample letter that she urged interested citizens to send to state representatives on the Environmental Regulation Committee, opposing the bill.

The coalition also discussed an area adjacent to the waste pits, known as the Upland Sand Separation Area.

### Who is involved in the San Jacinto River Waste Pits Superfund?

#### USArmy COE

The Army Corps of Engineers has completed Technical Studies on the Environmental impact of 6+ strategies to Cap or Remove the toxic wastes. Their recommendations are included in a 237 page report, favoring a modified cap over removal, but stating either is possible.

#### TPWD

Texas Parks and Wildlife Department was designated by the Legislature, with the help of Representative Wayne Smith, to administer \$10 million of the lawsuit settlement funds for environmental projects along the River.

#### HC PCT 2

Pct. 2 received \$10 million of the \$29.2 million settlement, and plans to use it for environmental projects within 5 miles of the Waste Pits, according to Commissioner Morman.

#### HARRIS COUNTY

Various departments are involved, including Grants Administration, Pollution Control, and Public Health.

#### GBF

Galveston Bay Foundation maintains a website with information on all of the Waste Pits parties actions, and other matters of interest to the environmental health of the River and Galveston Bay.

#### OTHERS

- TCEQ
- US Coast Guard
- Private Attorneys
- Houston Chronicle
- City of Baytown