

Superfund NEWS

May/June 2021

City of Devers opposes Landfill

CITY OF DEVERS OPPOSED TO DREDGE MATERIAL LANDFILL; CALLS ON CORPS OF ENGINEERS TO HOLD PUBLIC MEETING AND START OVER ON APPLICATION

By Gilbert Hoffman

The City of Devers in Liberty County is the proposed site for a landfill of dredged material, taken from the San Jacinto River near the toxic Waste Pit Superfund site. The site is located near Channelview on the west, and Highlands on the east. It is close to River Road and San Jacinto River Estates, and Precinct 2's Meadowbrook Park.

However, the city has sent two letters to the Army Corps



STEVEN HORELICA
MAYOR CITY OF DEVERS

of Engineers, objecting to the fact that the landowner, Holtmar Land LLC of Houston, is proceeding with only a Letter of Permission, not a complete public hearing for a permit, which the city contends is necessary. The Letter of Permission is based on an application that was filed 6 years ago, in 2015 with the Corps.

Residents and environmental groups have complained both at the dredge site, and the landfill

Continued Overleaf

VIRTUAL COMMUNITY MEETING: EPA Sees longer, more difficult remediation work

EPA holds virtual meeting to update community on San Jacinto River Waste Pits
EPA CONFIRMS LONGER TIME SCHEDULE, SLOWER WORK FOR SJRWP REMEDIATION

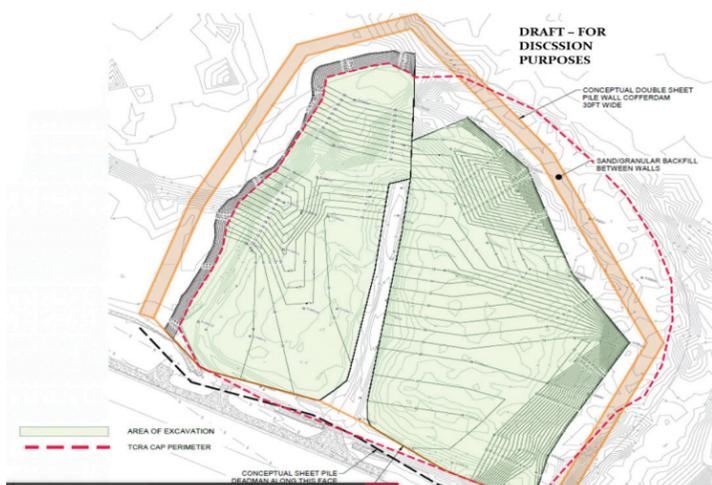
HIGHLANDS -- The EPA (Environmental Protection Agency) held a virtual meeting last Thursday night, June 10, to update the communities around the San Jacinto River on progress to remediate the Waste Pits. This is the first meeting to interface with the public since 2019, due to safety concerns with the Pandemic that limited the travel for the EPA. However, they did meet in person in April with the CAC, or Community Advisory Committee. For those unable to join the meeting by internet, two in-person viewing sites were set up by THEA, at the Highlands Community Center and the Channelview Fire Department.

EPA brought news that the original designs for excavation and dewatering would not work, and more investigation and planning was required. EPA had discovered that the toxic material existed much deeper than original sampling had indicated, not 12' but in some cases 35'. This meant much more material would have to be removed. The deeper excavation also meant that a double wall cofferdam would be required to safely excavate, and treating of ground water would have to be done "in the dry" by dewatering, not as originally proposed. All of this meant the project would require additional time, work, and money.

The presentation from EPA was made by Ashley Howard, the Remediation Project Manager for the Waste Pits. She was assisted by Janetta Coats, Lauren Poulos, and Heather Davis. Howard succeeded Gary Baumgarten,



The Single Wall Cofferdam, seen in the top illustration, won't work at the San Jacinto River site. A double Wall solution is required, similar to the bottom illustration.



EXTENT OF DOUBLEWALL COFFERDAM

who retired after many years working on the SJRWP project. There were about 53 individuals on the Zoom connection, and 4 from EPA. Attendees included representative of TCEQ, Harris County Precinct 2, and others.



LESLIE HOWARD, EPA

Howard started with a review of the history of the project, and showed some aerial photos of how the river has changed its course from 1966 to 1997 to 2006, and how the Waste Pits became eventually partially submerged. Then she stated that after the toxic pits were discovered in 1965, a plan eventually led to them being covered with a containment cap, with rock and a membrane in 2011.

Since then, the PRP (Potential Responsible Parties) have agreed to remediate and remove the wastes, and have been working with a consultant on how that might be accomplished. The original schedule for this work was developed after a Record of Decision was accepted in 2017. It called for the removal of 212,000 cu. yds. of waste material. It is now expected that at least 250,000 cu. yds. of material must be removed. The Final Design for the

Continued Overleaf

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 Knickerbocker is their attorney, but the leadership is anonymous.

Devers opposes landfill

Continued from Page 1

site, of the lack of public input and the public desire not to have this project take place near their homes.

Carolyn Stone, a resident of Channelview and member of the CHIC (Channelview Health & Improvement Coalition) has led a fight to have the project stopped, at least until a proper application and public hearing determine if the project should be permitted.

Stone has questioned the Corps on whether the project and Letter of Permission were ever properly notices to the public. She and THEA's Jackie Young claim they were not. The Corps Regulatory Project Manager, Brian Bader, is quoted as stating that "all permit applications that require a Public Notice... are posted on our web site." Therefore, no public knowledge unless you know when and where to look.

In a letter sent June 9 to Brian Bader at the Galveston Corps of Engineers, Mayor Steve Horelica said that due to many concerns expressed by citizens and agencies, Devers was requesting that "the Corps return the Application to the Applicant as the Letters of Permission permitting option is not suitable for a project of this magnitude and one that has generated appreciable opposition."

He continues:

I. The Project is more appropriate under an Individual Permit Application

Letters of Permission are only applicable to projects that are considered minor and lack appreciable opposition.(1) As evidenced by the City's March 2021 resolution, and manifold opposition letters submitted by other stakeholders, significant concerns have been raised, generating opposition from affected individuals/entities in both the proposed dredge site as well as the proposed placement area. Simply put, the Letters of Permission "abbreviated processing" (as provided in 33 C.F.R. § 325.2(e)) is inappropriate in this case, where affected individuals and entities like the City have flagged environmental concerns that merit a more searching permitting process that requires applicable evaluations and public input.

The City stands by its previous concerns, but notes that an individual permitting process would be appropriate to address many of the concerns, including avoiding the impacts to vegetation, water quality,

EPA Virtual Meeting June 10th

CONTINUED FROM PAGE 1

North and South Impoundments was due in 2021, and contract negotiation and remediation could start after that.

However, due to the discovery of deeper toxic material, and the unfeasibility of the water treatability scheme, the engineering consultant GHD asked for a time extension of 160 days, and later another 270 days. EPA granted these, which means that actual construction of remediation will not take place until 2023, and the Final Design calls for a 7 year project schedule. One year of mobilization, 5 years of excavation in 5 work zones, and one more year of demobilization until the land is deemed safe and free of toxins.

Jackie Young Medcalf of THEA/SJRC commented on how "very frustrating to our group" these delays and extensions have been. It has now been about 10 years that the group has been working to remove the waste pits, and it looks like it might be another 10 years to completion.

Reasons that the EPA stated for granting the extension request include:

1. It has learned that treating the waste water in a flooded environment is "infeasible" and another method must be explored.
2. Deeper excavations mean more study for safe techniques is required. The consultant must investigate "barriers and risks".
3. The original borings and sampling had "data gaps" and more information must be developed.
4. Work now starting on the Lake Houston dam and spillways may affect water levels around the waste pits. More information is required, and this may take time.

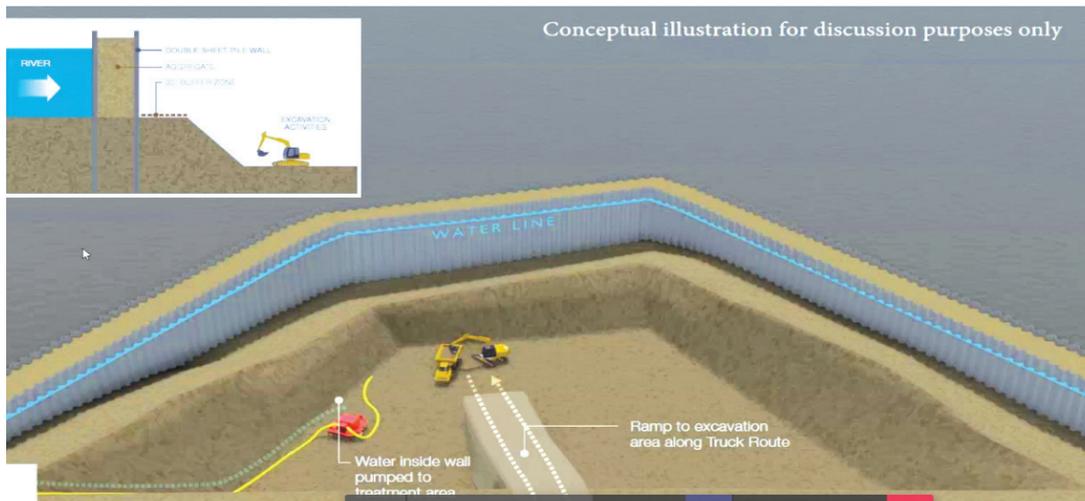
Most of the delay, Howard explained, involves the Northern Impoundment site. Work on the

runoff, flooding, impacts from the transportation of such materials, and other externalities as more specifically set forth in the City's earlier comments and adopted resolution.

At this point in Mayor Horelica's letter, he requests a Public Meeting.

II. Public Meeting Request

At a minimum the City requests the Corps conduct a public



Proposed method of Excavation with Double Wall Cofferdam

Southern Impoundment may precede the North, because the Final Design simply calls for a "cut and fill" technique, where toxic material can be excavated with a backhoe, loaded on trucks, hauled away, and clean fill material would replace it. The amount of material to be removed is only expected to be about 24,600 cu. yds. and the depth only 10'. Only a small area would require cofferdams to hold back the river water, according to the Final Design. The Final Design was approved on May 7, 2021 and now will move to the next step, negotiations for an "enforcement document". It was revealed recently that the responsible parties for the two sites are different. The Northern Site PRP is Waste Management and International Paper, and the Southern Site PRP is International Paper.

Howard said that a TWG, or Technical Working Group, meets monthly to coordinate the responsibilities of different agencies in the area. This is becoming more important, since not only the work on the Lake Houston spillway affects the site, but TXDOT plans in the near future to replace the I-10 bridge over the river with a higher, wider new bridge and highway. TXDOT is also

repairing, replacing, and adding to the bumpers or Dolphin structures in the river on either side of the channel, that are near the waste pits. That work is scheduled for this summer. The bridge replacement work is due to start in 2025, long before the Waste Pits remediation is complete. The two projects will exist beside each other, with potential for interference.

The consultant is now reviewing his plan for the Northern site, with concern on these problems:

- Excavation Depth
- BMP design (retaining wall)
- Water infiltration and risk of hydraulic heave
- Additional Sampling requirements

It is anticipated that the GHD consulting firm is going to recommend a double wall sheet pile cofferdam, a much larger structure than originally anticipated. This is one of the reasons the schedule has been moved back. Another problem to consider is that any cofferdam must be removed later, and now it has become larger and deeper than originally planned. EPA has called for 30 more borings as part of the new study.

In the Q & A session that followed, Howard said that if an

environmental spill or disaster occurred, the national Emergency Response Center can be reached at 800-424-8802 and they handle all types of emergencies and are in contact with all relevant agencies, local and national.

Question: What interaction does EPA have with the barge companies?

Answer: None, we do not have jurisdiction. The Coast Guard does.

Question: Where will the waste go for disposal?

Answer: We will know when the Final Design is submitted.

Question: Will workers be protected from the Dioxin?

Answer: There will not be any actual contact with waste, and Dioxin must be touched.

Question: Why do you leave the waste material in place now?

Answer: It is safe under the cap. It doesn't leach easily, but sticks to the soil.

The Final Design for the Northern Impoundment is due Feb. 2022. Then an enforcement document must be negotiated, and the one year of mobilization and procurement will proceed. That means at best construction or remediation should not start until 2023. The Southern Impoundment may happen sooner, said Howard.

hearing to address the comments received and address necessary environmental and public interest evaluations necessary for a project of this magnitude. The Application should not be advanced without such input opportunity, and engagement with those who stand to be most directly affected by the Applicant's proposed activities. Such meetings are contemplated under the individual permitting

process outlined in 33 C.F.R. § 325.2(a)(3) and are appropriate in this instance to ensure adequate opportunity for dialogue and discussion on the Application. There is simply no reason to rush the Application forward under the Letters of Permission process when appropriate public input and health/environmental concerns are abundant.

The City appreciates the

opportunity for continued engagement on the Application, and is willing to participate in a meeting at the earliest noticed opportunity.

Steve Horelica, Mayor

cc: Col. Timothy R. Vail, Galveston District Commander
The Honorable Brian Babin
The Honorable Ernest Bailes

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 former 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. Pct. 2 Commissioner Adrian Garcia leads this environmental effort.

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
- KRIV ch26
- Star-Courier