



Contract No.: EP-W-13-015
Task Order No.: 3 OSRTI – Multi Regions
Technical Directive No.: R3 #3 BoRit Asbestos

Location: BoRit Asbestos Superfund Site
Ambler, Pennsylvania
Meeting Location: Upper Dublin Township Building, 801 Loch Alsh Avenue, Fort Washington,
Pennsylvania
Date: June 3, 2015

Welcome and Announcements

Co-Chair Diane Morgan called the meeting to order at 6:35 p.m. The Community Advisory Group (CAG) members welcomed Dr. Steve Moraldo to the CAG, as the alternate for Michelle Naps. Dr. Moraldo provided a brief introduction of his background and interest in the CAG.

Ms. Diane Morgan called for additions or corrections to the April meeting minutes. No changes were made. The CAG members approved the April meeting minutes.

Ms. Diane Morgan called for additions to the meeting agenda. She stated that she would like to discuss the letters sent from the Environmental Protection Agency (EPA) to community members regarding construction on the Bast parcel. No other changes to the agenda were made.

Discussion

Ms. Diane Morgan opened the meeting with a discussion of the letters recently sent by EPA to members of the community, including Senator Greenleaf. The letters were sent in response to inquiries from the community regarding the cleanup and redevelopment of the Bast parcel. EPA's letters noted that cleanup of the Bast parcel is managed under the Pennsylvania Department of Environmental Protection's (PADEP) Act 2 cleanup program.

CAG member Gordon Chase called for a point of order. He stated that he believed the letters were personal letters and not business for the CAG's agenda. His point was noted but Ms. Diane Morgan stated that EPA had recommended the letters be shared with the CAG.

Ms. Diane Morgan asked how EPA transferred authority of the Bast site to PADEP.

Ms. Carrie Deitzel of EPA stated that a Memorandum of Agreement (MOA) between EPA and PADEP discusses the roles of each agency regarding cleanup at a property. The MOA is a legal document that outlines how the state and EPA will interact to ensure that resources are utilized to their greatest potential and efforts are not duplicated.

CAG co-chair Bob Adams asked if the MOA was a standard part of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Ms. Carrie Deitzel stated that the MOA is not a site-specific document. It applies to the relationship between the PADEP and the EPA regarding responses at hazardous sites, in general. It was not a document developed just for the BoRit site.

Ms. Diane Morgan noted that her impression of the letters received from EPA is that PADEP has blanket authority to manage the site without the need for EPA approvals. She questioned how a site can be divided when it has links to both EPA and PADEP.

Mr. Joe McDowell of EPA noted that at the time of the Ambler Asbestos Piles Superfund listing in the 1980s, the Bast/Frumin parcels were active sites, operating as Nicolet Manufacturing. Back in the 1980s, EPA did not list active sites as Superfund sites. He further clarified the role of EPA when a MOA is in place. He noted that if a site is cleaned up under a state's hazardous waste cleanup program, EPA recognizes that and acknowledges that the state has the lead role.

Ms. Jill Lowe of EPA further noted that when operations ceased at the Nicolet facility, investigations did not automatically ensue. The investigation and cleanup process began when someone expressed an interest in redeveloping the site and that developer was willing to go through the state's Act 2 cleanup program.

Mr. Gordon Chase then asked if cleanup hinges only on an interest in development rather than the level of contamination. Ms. Lowe responded that there could be other mechanisms for initiating an investigation or cleanup, such as citizen complaints or PADEP request.

Mr. Steve Sinding of PADEP also clarified that the state promotes redevelopment but does not regulate development. PADEP's role is to ensure that the cleanup at redeveloped sites meets the requirements and standards of the Act 2 program.

Ms. Sharon McCormick further questioned the roles of EPA and PADEP on the Bast/Frumin sites. She noted that she has read the MOA. Her interpretation of the MOA is that EPA and PADEP should be working together. She noted that several site documents she has read indicate that any disturbance to the soil and asbestos require notification to PADEP and EPA within 45 days of the proposed work. She also questioned why the Bast/Frumin parcels were not investigated when the sites were first abandoned. She noted that the remedial investigation/feasibility study (RI/FS) report for the Ambler piles mentioned that other manufacturing facilities could have contributed to the asbestos contamination.

Ms. Jill Lowe clarified that under the Superfund program for the BoRit site, PADEP and EPA do work together as partners in the Superfund process. Both agencies review work plans, the RI/FS, proposed remedies, etc.

Mr. Joe McDowell addressed Ms. Sharon McCormick's question about the 45-day notification requirement. He stated that the notification is not a Superfund requirement. Rather, it is a Clean Air Act National Emission Standards for Hazardous Air Pollutants (NESHAP) requirement. In Pennsylvania, the state takes the lead in delegating the Clean Air Act. PADEP's air quality program provides oversight and inspections. EPA may be called in, if needed.

There was further discussion on EPA's role in cleanup at the Bast/Frumin parcels. EPA and PADEP representatives noted that there is communication between the agencies regarding these parcels, but ultimately the state is the lead agency for cleanup. The MOA addresses these roles.

Ms. Sharon Vargas asked if there was a formal avenue of response when EPA receives the 45-day notification that an activity will occur at a site. Mr. Joe McDowell stated that there is communication between agencies, but in most cases, EPA relies on the state to handle a response, if one is needed. Mr. Steve Sinding of PADEP further clarified that most of the notifications are addressed by the state's air

quality program unless it is an activity that requires coordination with other departments or EPA. Mr. Joe McDowell noted that for the Bast/Frumin parcels, EPA is aware of the notifications and has responded as needed. For example, during demolition of the buildings, an EPA air quality inspector visited the site. PADEP also provided oversight during the demolition. Mr. Joe McDowell noted that EPA does not need to provide approvals for work at the Bast/Frumin parcels.

Dr. Steve Moraldo asked whether there was sufficient time for the agencies to address deficiencies, if any are noted during the notifications. Mr. Joe McDowell responded that the 45-day notification period allows sufficient time for a response, if one is needed.

There was additional discussion on how a property enters into the PADEP Act 2 program. Mr. Steve Sinding noted that when a developer wants to work at a site with either known or suspected asbestos contamination, that developer needs to notify the state's air quality program. The air quality program will then coordinate with the hazardous waste cleanup program, if necessary. Oversight of any activities with potential to affect air quality will come from the state's air quality program whereas the hazardous waste cleanup program will ensure that any cleanup meets the Act 2 standards. Ms. Jill Lowe noted that it is the responsibility of the developer to do his/her due diligence to find out whether a site is contaminated or not.

Ms. Sharon McCormick questioned why the cleanups of the BoRit and Bast/Frumin parcels are being handled differently. She noted that she had not been aware of EPA's involvement with air quality when the buildings at the Bast/Frumin parcels were demolished. She also wanted to know what actions EPA has done at the parcels since 1986.

Mr. Pat Patterson of PADEP noted that the sites had sat idle for some time.

Mr. Gordon Chase interjected that the Bast/Frumin cleanup plans have already been approved and he believed that looking at historical activities from 30 years ago was not a prudent use of time for the meeting. Ms. Sharon Vargas and Ms. Sharon McCormick disagreed. Both points were noted.

Ms. Diane Morgan asked why there have not been many on-site inspections. She wanted to point out that PADEP and EPA do not always work together.

Mr. Steve Sinding noted that the air quality program does conduct inspections when they are needed, which is usually when work is occurring at the site.

Ms. Diane Morgan asked about the parking lot behind the Bast parcel. Her understanding of the project is that the developer of the Boiler House needed extra parking, so he paved ground that did not meet the state's cleanup criteria. She believed the developer would need to remove the parking lot within two to three years.

Mr. Steve Sinding commented that an investigation on the Bast parcel had been completed. He again noted that a developer's use of a site is not regulated by the state. Mr. Steve Sinding noted that when the developer presented his proposal, he noted that he needed a temporary parking lot, approval of which would have likely been made by the borough, not PADEP.

Ms. Diane Morgan asked if the developer needed an RI for the area. Mr. Steve Sinding responded that an RI specific to that area was not required. Mr. Joe McDowell commented that it was his recollection that the developer wanted a temporary parking lot, not intended to be part of the cleanup. The area was going to be restored after the entire site was capped. It had been related to an elevation issue.

Mr Chase advised that the parking lot question had been asked and answered at the RR&M meeting in January 2015 and subsequently at the full CAG in February 2015 and that the answers to this question are duly minuted in these earlier meetings.

There was additional discussion on what contaminants of concern were addressed at the site. Ms. Sharon McCormick noted that the cleanup plan only addressed lead and arsenic, but there was also asbestos in the parking lot area. Due to time constraints, the discussion on this topic was tabled.

Health, Environment, Risk and Safety (HERS) Workgroup Update

Ms. Lora Werner of the U.S. Agency for Toxic Substances and Disease Registry provided a brief summary of a recent call with the members of the HERS Workgroup. She noted that the group's recent call discussed remedial efforts at the sites, the University of Pennsylvania's (UPenn) research efforts and outreach and education efforts. Dr. Ted Emmett noted that there have been some concerns about identifying the appropriate person or agency to address specific questions. One of the group's concerns was the impact on a groundwater run. Ms. Sharon McCormick also stated that she wanted to know what has happened at the Bast parcel since the 2006 Langdan Report, which identified asbestos contamination at depths of 5 to 5.5 feet. Ms. Sharon McCormick read an excerpt from her EPA letter that addressed the Bast parcel.

Mr. Joe McDowell noted that his recollection of the activities at the parcel included the initial abatement activities, the subsequent demolition of the buildings, and removal of the toluene tanks. PADEP agreed.

Mr. Steve Sinding noted that when actual construction occurs at the Bast site, the developer will need to obtain stormwater permits from the state's clean water department.

Removal, Remediation and Monitoring (RR&M) Workgroup Update

Mr. Gordon Chase noted that there were no updates from the RR&M Workgroup.

Observer Comments

An observer in the audience asked whether any recent ambient air testing for asbestos has been conducted in Ambler. He also asked if there was a specific number that EPA considers elevated. Mr. Joe McDowell responded that air testing occurred around the BoRit site in 2011. He also noted that EPA had made a presentation to the CAG regarding ambient air monitoring in the community. The presentation is available on the CAG website at: <http://www.boritag.org/about/presentations.html>. Mr. McDowell also noted that there are screening levels for asbestos in ambient air. None of the 90 samples collected exceeded the acceptable screening level.

Ms. Lora Werner further noted that the Public Health Assessment Report, available at <http://www.boritag.org/health/reports.html>, includes a summary of all air testing over time.

Another observer in the audience, a resident of Ambler Borough, commented on the construction at the Boiler House building. He noted that he is concerned that the area behind this building, proposed for residential use, is contaminated with asbestos. He requested that EPA clean it up, and noted that the current path of cleanup sets a dangerous precedent.

CAG member Ms. Sharon Vargas asked if housing has been built on any other asbestos sites. The PADEP representatives were not aware of any sites in Pennsylvania. Ms. Sharon Vargas noted that she disapproves of building on top of the asbestos contamination and she wants it stopped.

CAG member Mr. Gordon Chase further addressed the observer's initial comment. Mr. Gordon Chase noted that the site will be cleaned up to PADEP standards. He also noted that the Boiler House building was constructed to a Platinum Leadership in Energy and Environmental Design (LEED) standard and that the developer intends to build the apartments to the same high standard.

Mr. Vance Evans from EPA noted that it is the observer's opinion that EPA should be protecting citizens from the contamination; however, on the other side, EPA cannot go beyond what the law finds acceptable. He also wanted to make the observer aware of other things that require consideration when selecting a cleanup approach (such as many years of construction, transportation of contamination past multiple communities, etc.).

CAG member Dr. Steve Moraldo expressed his concern with the cleanup plan. He was concerned about the future of the site many years from now. He believed yearly inspections were not adequate for an aging facility. He believed current efforts need to address future exposures.

A third observer from the audience, whose husband died from mesothelioma, asked how the state defines its standards. She also noted that she believes a cover is not a cleanup.

The PADEP representatives indicated that in the case of the Bast property, the developer is seeking to achieve a site-specific standard for pathway elimination. A 2- to 5-foot cover is intended to eliminate any contact or exposure to contamination. He acknowledged that an annual inspection may not be adequate for all sites, but the law does not require more. Annual inspections are typical but it is also possible to modify this schedule. PADEP will consider input on this matter.

Mr. Peter Lowry noted that the environmental covenant is a vital document that could answer questions about the site's future. It could be used to institute deed restrictions in perpetuity. He asked about the potential for the CAG's involvement in development of the environmental covenant. He stated that he would like to see the environmental covenant be a joint venture with the community, PADEP and the developer. He requested that a vote be taken on this issue. Ms. Diane Morgan noted that she will formalize a write-up for the vote and distribute it to the CAG members.

Ms. Sharon McCormick expressed her concern that an environmental covenant might give the developer a "pass" on future problems with the site.

Mr. Steve Sinding noted that under Act 2, the developer gets liability protection for those things he/she has investigated and remediated. If conditions arise that are different than what was previously known, that person could lose his/her liability protection. It is in the developer's best interest to maintain the site as required by an environmental covenant. If the site is sold in the future, the obligation of the environmental covenant falls onto the new owner. Mr. Steve Sinding also noted that including a CAG in an environmental covenant is not standard. Typically, an environmental covenant involves the state and the party who is remediating or owns the site.

Ms. Diane Morgan indicated that she has read the environmental covenant for the Boiler House building. The environmental covenant requires annual inspections, repair of the cap in a timely manner and restricts site use. She noted that the environmental covenant includes subjective language. She also stated that she believes a residential site should be held to a higher standard than a commercial one. She then referred to the December 19, 2014 email the RR&M Group sent to EPA regarding the group's stance on cleanup of the Bast/Frumin parcels. She read the following excerpt from the letter:

“The RR&M [Workgroup] therefore concludes that its preference is for the Bast/Frumin tracts to undergo the same investigation by EPA as did the BoRit site prior to its Superfund listing, and the Ambler Piles site prior to that. We are confident that the already known heavily contaminated Bast/Frumin asbestos waste site will reveal itself as falling into the same category as the BoRit/Ambler Piles sites and therefore requires the same standard of remediation under EPA supervision, rather than the fast track Act 2 provision which was not designed to deal with such hazardous materials as asbestos and leaves the oversight pretty much to the developing contractor.”

Ms. Sharon Vargas also expressed concern that the developer is not required to disclose the site’s status to residents moving into the apartment building. She stated that she believes people need to know now and in the future. PADEP acknowledged that this was not an unreasonable request. Ms. Lora Werner stated that maybe this is something that could be included in the environmental covenant. Mr. Steve Sinding stated that PADEP could cover what is expected and covered in an environmental covenant during a subsequent meeting. CAG members agreed that would be helpful.

Mr. Joe McDowell also noted that the developer does not intend to hide the fact that the site was a contaminated site, and instead, may use the information as a marketing tool.

Ms. Sharon McCormick interjected that she does not want any of the CAG’s participation in the environmental covenant to be construed as its approval of the project.

There were no additional comments from observers.

BoRit Removal Action Update

Eduardo Rovira, On-Scene Coordinator, updated the CAG on recent work at the BoRit site. About four million gallons of accumulated water in the pond had been pumped out, so work could continue on reconstructing the floor of the pond. Mr. Rovira presented an aerial photograph of the site, taken on May 14, 2015. He pointed out areas of the geotextile fabric and newly planted vegetation. He also noted that the soil cover was placed on the northern berm and the berm was seeded. Site work is also addressing the area in the southwest corner where liquid material had been found. Future plans include installing the geosynthetic layer on the western side of the site by the end of June and possibly the reintroduction of water into the reservoir in September. Mr. Rovira noted that the entire floor of the reservoir would be surveyed prior to adding the water to ensure there is 2-feet of clean soil. Mr. Rovira also pointed out the area for a proposed new island.

Mr. Gordon Chase asked if there would be a substrate for the island. Mr. Rovira stated that it will be soil only.

Dr. Steve Moraldo asked about the life expectancy of the membrane. Mr. Rovira did not know the answer but would find out.

Mr. Bob Adams asked if the road shown on the aerial photo was temporary. Mr. Rovira stated that it was a temporary access road.

Mr. Sal Boccuti asked if the water in the pool near Maple Avenue was rising or falling. Mr. Rovira stated that it stays about the same.

Mr. Gordon Chase asked about the purpose of the lime. Mr. Rovira stated that it was added to the southwest area to make the soil less “soupy.”

Ms. Diane Morgan asked if the yearly walk along the creekbed had occurred. Mr. Rovira stated that it occurred on Earth Day. They found more asbestos-containing material (ACM) in a low area, but it was much less than in prior years. It was likely trapped in sediment and the movement of the water in the creekbed disturbed it.

Ms. Jill Lowe noted that EPA had posted the final Remedial Investigation Addendum for the BoRit site onto its website at <http://www.epa.gov/reg3hscd/npl/PAD981034887.htm>.

Closing

Ms. Diane Morgan noted that EPA will no longer be providing a note taker for the CAG meetings. The CAG will be responsible for finding its own note taker.

Ms. Diane Morgan noted that researchers at Fox Chase have isolated a gene (BAP1) that might be a link to mesothelioma. A more detailed update to the UPenn research, including Dr. Testa's research on the BAP1 gene, will be provided at the next meeting.

The meeting adjourned at 8:40 p.m.