



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1990-0011; FRL-9780-6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities

List: Deletion of the Kerr-McGee Sewage Treatment Plant Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 5 is publishing a direct final Notice of Deletion of the Kerr-McGee Sewage Treatment Plant Superfund Site (Site) located in West Chicago, Illinois, from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Illinois, through the Illinois Environmental Protection Agency (IEPA), because EPA has determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days from date of publication in the *Federal Register*]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the *Federal Register* informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1990-0011, by one of the following methods:

- <http://www.regulations.gov> . Follow on-line instructions for submitting comments.
- Email: Timothy Fischer, Remedial Project Manager, at timothy.fischer@epa.gov or Janet Pope, Community Involvement Coordinator, at pope.janet@epa.gov.
- Fax: Gladys Beard, NPL Deletion Process Manager at (312) 886-4071.
- Mail: Timothy Fischer, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-5787, or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353-0628 or (800) 621-8431.
- Hand delivery: Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI-7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal business hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1990-0011.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise

protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at

<http://www.regulations.gov> or in hard copy at:

- U.S. Environmental Protection Agency-Region 5

77 West Jackson Boulevard, Chicago, IL 60604

Phone: (312) 353-1063

Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

- West Chicago Public Library

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9:00 a.m. to 5:00 p.m. CST; and Sundays until May, 1:00 p.m. to 5:00 p.m. CST

FOR FURTHER INFORMATION CONTACT: Timothy Fischer, Remedial Project Manager, U.S. Environmental Protection Agency (SR-6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886-5787, or fischer.timothy@epa.gov.

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I. Introduction

EPA Region 5 is publishing this direct final Notice of Deletion of the Kerr-McGee Sewage Treatment Plant Superfund Site (Kerr-McGee STP Site) from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as

amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date 30 days after this publication in the *Federal Register*]. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the “*Proposed Rules*” section of the *Federal Register*. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Kerr-McGee STP Site and demonstrates how it meets the deletion criteria. Section V discusses EPA’s action to delete the site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

- (1) EPA consulted with the State of Illinois prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in the “*Proposed Rules*” section of the *Federal Register*.
- (2) EPA has provided the State thirty (30) working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the IEPA, has concurred on the deletion of the Site from the NPL.
- (3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, “The Daily Herald.” The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.
- (4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.
- (5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL.

Site Background and History

The Kerr-McGee STP Site is located in West Chicago, DuPage County, Illinois, and is comprised of the West Chicago Sewage Treatment Plant and approximately 1.2 miles of the West Branch DuPage River. The Site property and the sediments, banks and floodplain soils along the river were contaminated with radioactive thorium waste materials that originated at a thorium milling facility in West Chicago known as the Rare Earths Facility (REF). West Chicago is located approximately 30 miles west of downtown Chicago, has a population of approximately 27,086 (2010 census), and is characterized as suburban, with primarily high-density, single-family residential housing. The STP property is owned and operated by the City of West Chicago and is located at Illinois Routes 59 and 38 at Sarana Drive. The West Branch DuPage River is located along the eastern edge of the STP property and flows south through forest preserve and residential properties. The STP site extends as far south as the river's confluence with Kress Creek; all areas of the river south of that point are included as part of the Kerr-

McGee Kress Creek/West Branch DuPage River Site, a related site in the West Chicago area.

The REF, operated by Lindsay Light and Chemical Company and its successors from 1932 until 1973, produced radioactive elements such as thorium, radium and uranium, along with gas lantern mantles, by extracting the elements from monazite sands and other ores. These operations resulted in the generation of radioactive mill tailings. Radioactive ore, tailings and process wastes from the REF were used at the STP property as fill material and to contour grounds, and also were used as fill along portions of the riverbank. Over time, some of the contaminated materials located on the STP property and along the riverbank entered the river through erosion and surface water runoff and were deposited downstream in sediments, banks and flood plain soils. Kerr-McGee purchased the REF in 1967 and maintained operations until closing the facility in 1973.

EPA proposed the STP site to the National Priorities List (NPL) on October 15, 1984 (49 FR 40320), and added it to the final list on August 30, 1990 (55 FR 35502). In 1985, Kerr-McGee entered into an agreement with the City of West Chicago under which Kerr-McGee conducted cleanup activities at the STP property, removing an estimated 57,000 cubic yards of material from the site during 1986 and 1987.

Contaminated materials were left behind in certain areas of the STP property and along the riverbank, and the 1.2 mile stretch of the river was not addressed by the City's agreement with Kerr-McGee. No other removal actions were taken at the site until the EPA required the time-critical removal action discussed below. Currently, there are no redevelopment plans for the STP site.

Remedial Investigation and Feasibility Study

EPA began a fund-lead remedial investigation/feasibility study (RI/FS) at the STP site in 1992. EPA's RI was designed to (1) identify areas of the STP property where residual contamination was left behind during the mid-1980s cleanup, and (2) fully investigate the nature and extent of contamination in the river. During settlement negotiations with Kerr-McGee, a potentially responsible party (PRP), associated with this site and three other related NPL sites in the West Chicago area, Kerr-McGee agreed to take over the completion of the RI/FS and to conduct a time-critical removal action at the STP property. EPA then divided the STP site into two operable units: an Upland Operable Unit (STP Upland OU) consisting of the STP property, and a second OU, consisting of the riverbank along the STP property and the 1.2 mile stretch of the West Branch DuPage River from the STP property to the confluence with Kress Creek (STP River OU).

On October 7, 2003, EPA signed an action memorandum for a time-critical removal action at the STP Upland OU, and on October 16, 2003, EPA entered into an administrative order on consent (AOC) in which Kerr-McGee agreed to conduct the removal action. The selected removal action included excavation and offsite disposal of materials contaminated with radiation until predetermined verification points based upon relevant and appropriate state and federal regulations were achieved. The predetermined verification points, consisting of specified depths/elevations at numerous points across the STP property, were based on extensive site characterization data and were designed to remove materials that had been identified during site characterization activities as exceeding 7.2 picoCuries per gram (pCi/g) combined radium. (The relevant and

appropriate state and federal regulations include a health-based surface soil standard of 5 pCi/g above background, and background in the West Chicago area was determined to be 2.2 pCi/g.) The selected removal action also included backfilling and restoring the excavated areas of the site. Kerr-McGee began on-site removal action work at the STP Upland OU in October 2003.

On November 21, 2003, EPA signed an AOC with Kerr-McGee under which they agreed to complete the RI/FS at the STP site. Kerr-McGee completed the RI and FS reports, and EPA completed the human health and ecological risk assessment reports. Human health risks that were identified above protective levels include soil ingestion and inhalation (non-Radon) risks to maintenance workers and radon inhalation risks to future residential users at the Upland OU. At the STP River OU, residential risks to radon inhalation and recreational risks to fish ingestion were found to be above a protective level. For the ecological risk assessment, chemical and radiation effects were assessed at both OUs. EPA determined that potential risks to environmental receptors would be minimized or eliminated by the cleanup actions taken at the site.

Kerr-McGee completed most of the on-site removal action work at the STP Upland OU during 2004. A total of 6,557 loose cubic yards of contaminated soil was removed from the site. Because portions of the STP property were used to support remedial action work at the STP River OU, final restoration activities could not be completed at the Upland OU until 2006. EPA and the State conducted a pre-final inspection of the removal action work at the STP Upland OU on August 8, 2006 and determined that Kerr-McGee had constructed the remedy in accordance with the removal action plans and specifications. One minor item was identified during the pre-final

inspection; regrading and reseeding of a small area around a storm inlet manhole - and that action was completed by August 11, 2006.

In accordance with the AOC for the STP Upland OU, on September 12, 2006, Kerr-McGee prepared and submitted a final removal action report to EPA for review and approval. EPA approved the removal action report and issued a Notice of Completion of activities required by the AOC on August 12, 2008. The cost of the time-critical removal action at the STP Upland OU reported in the final removal action report was \$3.15 million.

Record of Decision Findings

On September 30, 2004, EPA signed a Record of Decision (ROD) for the STP Site. The ROD for the STP Site addressed both the Upland OU and the River OU and identified the following remedial action objectives (RAOs) for the site:

- Reduce risks to human health and the environment presented by sediments and soils containing elevated levels of total radium by reducing soil concentration to levels that are consistent with the requirements outlined in 40 CFR Part 192 (the regulations implementing the Uranium Mill Tailings Radiation Control Act) and Illinois Source Material Milling Regulations; and
- Mitigate, to the extent practicable, potential adverse effects to the environment as a result of implementation of remedial activities at the site.

For the STP Upland OU, the ROD selected no further action after completion of the ongoing time-critical removal action at that portion of the site. For the STP River OU, the ROD selected the following remedy:

- Excavation and off-site disposal of contaminated soils and sediments from the site using mechanical "dry excavation" techniques. Contaminated materials are those materials within pre-defined excavation envelopes based on extensive site characterization activities that identified materials exceeding 7.2 pCi/g;
- Mitigation and restoration activities to restore aquatic and terrestrial areas of the site, including revegetation of appropriate areas and stabilization of stream banks;
- Monitoring and maintenance of restored areas to assess the effectiveness of stabilization and revegetation measures.

Similar to the removal action at the STP Upland OU, the cleanup at the STP River OU included excavation of materials contaminated with radiation until predetermined verification points were achieved. The predetermined verification points, consisting of specified depths/elevations at numerous points, were based on extensive site characterization data and were designed to remove materials that had been identified as exceeding 7.2 pCi/g.

The ROD specified that the selected remedy for the site is protective of human health and the environment and will not result in hazardous substances, pollutants or contaminants remaining on-site above levels that allow for unlimited use and unrestricted exposure. As a result, institutional controls are not required for the Site.

In a 2005 federal consent decree with the United States, EPA, Department of Interior, and the State of Illinois, Kerr-McGee agreed to perform the remedial design/remedial action (RD/RA) at the STP River OU and to complete the removal action at the STP Upland OU in accordance with the AOC for that portion of the site. Kerr-McGee conducted the RD for the STP River OU as required by the ROD, and the STP

River OU was divided into two discreet "Reaches" for design and construction purposes. Reach 5A comprises the northern portion of the STP River OU, and extends from the STP property to Gary's Mill Road. Reach 5B comprises the southern portion of the STP River OU and extends from Gary's Mill Road to the river's confluence with Kress Creek. On-site remedial action construction work began in Reach 5A on November 1, 2004, after EPA conditionally approved the remedial design for a portion of that reach. Remedial action work continued in Reaches 5A and 5B of the site during portions of 2005 and 2006. The sequencing of work at the STP River OU depended on Kerr-McGee's progress conducting remedial action work at the related Kerr-McGee Kress Creek site. Kerr-McGee conducted remedial activities at the STP River OU as planned.

Reach 5A of the site was cleaned up using dry excavation methods. Individual excavation areas located along the river bank and/or in the river corridor were isolated with "super sac" or sandbag enclosures, and the area within each enclosure was then dewatered so that excavation and restoration work could proceed in relatively dry conditions. A total of 1,432 loose cubic yards of contaminated soil and sediment was removed from Reach 5A. EPA and the State conducted a pre-final inspection of the remedial action work in Reach 5A on August 8, 2006, and determined that Kerr-McGee constructed the remedy for that portion of the site in accordance with the RD plans and specifications. Minor items were identified during the pre-final inspection, which included completing several plantings and removing some silt fence, and these were completed by August 11, 2006.

Dry excavation of Reach 5B of the site was accomplished by using a pump bypass and dewatering system which (1) isolated the entire reach with sheet pile diversion and

backflow dams, (2) diverted the flow of the West Branch DuPage River through a 48" bypass pipe, and (3) used dewatering sumps within the Reach to control groundwater in the excavation areas. All excavation work associated with the removal of contaminated materials was completed by September 9, 2006, and all contaminated materials were shipped off-site by September 20, 2006. The pump bypass system remained in operation to complete bank stabilization activities and in-stream habitat enhancements in dry conditions. Under a separate consent decree between Kerr-McGee and the local communities, Kerr-McGee was required to conduct additional habitat enhancement activities that were not required by the 2005 federal consent decree. These additional activities necessitated the pump bypass system operating for a longer period of time than would have been required to achieve the requirements of the ROD and the 2005 federal consent decree.

EPA and the State conducted a pre-final inspection of the remedial action work in Reach 5B on September 29, 2006, and determined that Kerr-McGee constructed the remedy for that portion of the site in accordance with the RD plans and specifications.

Cleanup Goals

Contaminated areas at the Kerr-McGee STP site were identified by the installation of hundreds of soil and sediment borings where gamma radiation logging was conducted to determine the lateral and vertical extent of contamination. To verify that the cleanup goals were achieved at the STP Upland OU, confirmatory soil samples were collected and the results were documented in the Final Removal Action Report, dated September 12, 2006. Compliance with the 7.2 pCi/g cleanup standard in the STP River OU was determined using field surveys to verify that excavation in the river and flood

plain had achieved the identified elevations and lateral extent where contamination was deposited.

In accordance with the 2005 federal consent decree, the extensive excavation and radiation logging, and the field surveys document the successful completion of the remedial action and show that verification soil samples are not necessary. In addition, the 7.2 pCi/g cleanup standard at the River OU is a residential cleanup number which represents a conservative standard for the reasonably anticipated uses of the River area.

Operation and Maintenance

There are no remaining operation and maintenance requirements for the Kerr-McGee STP Site. All response activities are complete and all physical components of the response have been removed.

Five-Year Review

Hazardous substances will not remain at the site above levels that allow unlimited use and unrestricted exposure after the completion of the remedial action. Pursuant to CERCLA section 121(c), and as provided in the current guidance on Five Year Reviews: OSWER Directive 9355.7-03B-P, Comprehensive Five-Year Review Guidance, June 2001, five-year reviews are not required for this site.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this site from the NPL are available to the public in the information repositories and at www.regulations.gov.

Determination that the Site Meets the Criteria for Deletion in the NCP

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Illinois, has determined that all required response actions have been implemented and no further response action by the responsible parties is appropriate.

V. Deletion Action

EPA, with concurrence from the State of Illinois through the Illinois Environmental Protection Agency, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective [insert date 60 days from the date of publication in the *Federal Register*] unless EPA receives adverse comments by [insert date within 30 days of this publication in the *Federal Register*]. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Radiation protection, Radionuclides, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: January 28, 2013.

Susan Hedman,
Regional Administrator,
Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B – [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing “Kerr-McGee (Sewage Treatment Plant)”, “West Chicago”, “IL”

[FR Doc. 2013-03595 Filed 02/15/2013 at 8:45 am; Publication Date: 02/19/2013]