



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1990-0011; FRL-9963-95-Region 8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the Mystery Bridge Road / U.S. Highway 20 Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 8 is publishing a direct final notice of Partial Deletion of the property currently owned by Tallgrass Energy Partners, LP, (formerly owned by KM Upstream LLC and hereinafter referred to as the former KMI Property), on the Mystery Bridge Road/U.S. Highway 20 Site (Site) from the National Priorities List (NPL). The Site is located in Natrona County, northeast of Casper, Wyoming. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution and Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the State of Wyoming through the Wyoming Department of Environmental Quality (WDEQ) because EPA has

determined that all appropriate response actions under CERCLA, other than maintenance of institutional controls and five-year reviews, have been completed for the former KMI source area and the resultant groundwater contamination. However, this deletion does not preclude future actions under Superfund.

This partial deletion pertains to the former KMI Property. EPA is proposing to delete the entire former KMI Property from the NPL, including the groundwater (OU1) and the soil/former source area (OU2). The remaining areas and media of the Site for both OU1 and OU2 containing the volatile halogenated organic chemicals (VHOs) source soils and plume, which are attributable to the Dow Chemical Company/Dowell Schlumberger, Inc. (DOW/DSI) facility, will remain on the NPL and are not being considered for deletion as part of this action. However, this partial deletion does not preclude future actions under Superfund.

DATES: This direct final rule 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 THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial 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.
- *E-mail:* Andrew Schmidt (schmidt.andrew@epa.gov)
- *Mail:*

Andrew Schmidt

Remedial Project Manager, 8EPR-SR
Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202

- *Hand Delivery:*

Andrew Schmidt
Remedial Project Manager, 8EPR-SR
Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202

Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

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 website, <http://www.regulations.gov>, 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 is not 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 hard copy. Publicly available docket materials are available either electronically in

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

U.S. EPA Region 8

Superfund Records Center & Technical Library

1595 Wynkoop Street

Denver, CO 80202-1129

Viewing hours: 8 a.m. to 4:00 p.m., Monday through Thursday, excluding holidays;

Contact: Andrew Schmidt; (303) 312-6283; email: schmidt.andrew@epa.gov

and

Natrona County Public Library

Reference Desk

307 East 2nd Street

Casper, WY 82601-2593

(307) 237-4935

Monday – Thursday: 9am – 6pm

Friday and Saturday: 9am – 5pm

FOR FURTHER INFORMATION CONTACT: Andrew Schmidt, Remedial Project Manager, 8EPR-SR, U.S. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129, (303) 312-6283, e-mail: schmidt.andrew@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Partial Deletion Procedures
- IV. Basis for Partial Site Deletion
- v. Partial Deletion Action

I. Introduction

EPA Region 8 is publishing this direct final notice of Partial Deletion for the former KMI Property of the Mystery Bridge Road/U.S. Highway 20 Superfund Site (Site) from the National Priorities List (NPL). The former KMI Property includes areas of soil and groundwater formerly impacted by benzene, toluene, ethylbenzene, and total xylenes (collectively known as BTEX) contamination. A map and surveyed boundaries of the former KMI Property are included in the docket and at the information repositories listed above. 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). This partial deletion of the Mystery Bridge Road/U.S. Highway 20 Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the NPL, 60 FR 55466 (Nov. 1, 1995). As described in §300.425 (e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial action if future conditions warrant such actions.

Because EPA considers this action to be non-controversial 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 Partial Deletion, EPA is co-publishing a Notice of Intent for Partial Deletion in the "Proposed Rules" section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely withdrawal of this direct final Notice of Partial Deletion before the effective date of the partial deletion, and the partial 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 for Partial Deletion 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 Mystery Bridge Road/U.S. Highway 20 Superfund Site and

demonstrates how portions of the Site proposed for deletion meet the deletion criteria. Section V discusses EPA's action to partially 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 Section 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 responses under CERCLA have 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. Partial Deletion Procedures

The following procedures apply to the deletion of the former KMI Property of the Site:

1. EPA has consulted with the State of Wyoming prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published in the "Proposed Rules" section of the **Federal Register**.
2. EPA has provided the State 30 working days for review of this notice and the parallel Notice of Intent for Partial Deletion prior to their publication today. The State, through the Wyoming Department of Environmental Quality (WDEQ), has concurred on the partial deletion of the Site from the NPL.
3. Concurrent with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in a major local newspaper, the Casper Star Tribune. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.
4. The EPA placed copies of documents supporting the partial 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 partial deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial 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 for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion 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 further response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The following information provides EPA's rationale for deleting the former KMI Property from the Mystery Bridge Road/U.S. Highway 20 Superfund Site.

Site Background and History

The Mystery Bridge Road/U.S. Highway 20 Superfund Site (Site), EPA ID No. WYD981546005, is located in Natrona County, Wyoming northeast of Casper, Wyoming and one mile east of Evansville. The Site is bordered on the north by the North Platte River, on the west by the Sinclair Refinery (formerly known as the Little America Refining Company or LARCO), on the south by U.S. Highway 20 and on the east by Mystery Bridge Road. The northern two thirds of the Site contain residential housing units built primarily between 1973 and 1983. The former KN Energy (KN) facility, now owned by Tallgrass Energy Partners, LP, formerly owned by KM Upstream LLC and referred to in this Notice of Partial Deletion as the former KMI Property, and the adjacent Dow Chemical Company and Dowell-Schlumberger,

Inc (DOW/DSI) facilities comprise the southern third of the Site. Site investigations, initiated due to resident complaints of poor water and air quality, were completed in 1986 and 1987 and identified a BTEX plume originating from the former KMI Property and a volatile halogenated organic chemicals (VHOs) plume originating from the DOW/DSI property, moving northeast towards the North Platte River. The Site was proposed for listing on the National Priorities List June 24, 1988 (53 FR 23996, 23749-24010 (June 24, 1988)), and was listed on the National Priorities List on August 30, 1990 (55 FR 35508, 35419–35554 (August 30, 1990)). Potential releases at the Sinclair Refinery (formerly LARCO) facility are currently being addressed under a RCRA 3008(h) order.

KM Upstream LLC and its predecessors have operated a natural gas fractionation, compression, cleaning, odorizing, and transmission plant at the Site since 1965. During the plant start-up, an underground pipe burst, injecting 5,000 to 10,000 gallons of absorption oil into the subsurface. Also, initially, an earthen flare pit was used to collect spent material generated by the facility. Absorption oil, emulsions, anti-foulants, and anti-corrosive agents, crude oil condensate, liquids accumulated in the flare stack, potassium hydroxide treated waste, and lubrication oils and blowdown materials from plant equipment were all possibly collected in the flare pit. In 1984, a concrete-lined flare pit was constructed and put into operation. Leaks from the earthen flare pit, the initial absorption oil spill, and a catchment area that collected surface water run-off are all believed to have contributed to the BTEX soil and groundwater impacts.

The DOW/DSI facility has conducted oil and gas production enhancement services for the oil and gas industry since the 1950's. Contamination originating from the DOW/DSI facility is believed to have come from the truck wash water disposal system (believed to have contained chlorinated solvents) and the toluene storage area on the northern end of the facility.

EPA is the lead agency for the Site, and WDEQ is the support agency. Pursuant to the 1991 Consent Decree, KN, its successor Kinder Morgan Inc. (KMI), and DOW/DSI have jointly conducted and funded the remediation work at the Site. The former KMI Property is in continued operation as mid-stream gas processing facility.

The Site was divided into two media-specific operable units (OUs). OU1 refers to the groundwater at the Site and OU2 refers to the source areas in the soil at the Site.

Remedial Investigations and Feasibility Study (RI/FS) and Engineering Evaluations/Cost Analysis (EE/CA)

Numerous studies and remedial investigations conducted within the Site have addressed the former KMI Property. In December 1987, KN and DOW/DSI entered into Administrative Orders on Consent (AOCs) to perform removal actions at their respective facilities. Based on the findings of the initial investigation, each PRP was required to prepare an Engineering Evaluation/Cost Analysis (EE/CA) of its property to document the extent and nature of the contaminants present and to support proposals of expedited removal actions. The AOC also required the two PRPs to perform a Remedial Investigation/Feasibility Study (RI/FS) of the Brookhurst

Subdivision site. The Mystery Bridge/U.S. Hwy 20 Superfund site includes the former KMI Property, the DOW/DSI property, several adjacent industrial properties, the Burlington Northern right-of-way and the Subdivision. The Brookhurst Subdivision RI/FS was submitted in June 1990 and concluded that two groundwater plumes originated from the industrial area, one from the DOW/DSI property containing VHOs and one from the former KMI Property contaminated with BTEX and suggested that the two plumes were not commingled.

In early 1988, Phase I and Phase II Environmental Site Assessments were performed on the former KMI Property, focusing on the area around the flare pit. Based on the free product findings, a Phase III Environmental Site Assessment, including a soil vapor survey, was conducted in mid-1988 to identify the extent of impacts. The EPA developed site-specific soil action levels (SALs) in 1988 for the former KMI Property that were based on toxicity data current at the time including:

- Benzene 80 to 82 micrograms per kilogram ($\mu\text{g}/\text{kg}$)
- Ethylbenzene 182,000 to 325,000 $\mu\text{g}/\text{kg}$
- Toluene 71,000 to 107,000 $\mu\text{g}/\text{kg}$
- Total Xylenes 176,000 $\mu\text{g}/\text{kg}$

In March 1989, the KN EE/CA was submitted to the EPA.

Selected Remedy

On July 14, 1989 the EPA signed an action memorandum, choosing the suggested response strategy outlined by the EE/CA. In November 1989, KN started the OU1 response actions, coupling a groundwater pump and treat system with a soil vapor extraction system, to remove BTEX contaminants in three phases: soil vapor, floating

product, and dissolved in groundwater. In September 1990, EPA issued a Record of Decision (ROD) dividing the Site into two operable units: OU1, groundwater contaminant plumes, and OU2, contaminated soils which represent a source for the groundwater contamination. The 1990 ROD selected a remedial action for OU1, the groundwater, and deferred selection of the remedial action for OU2. The OU1 ROD set out the following remedial action objectives (RAOs) for the BTEX contamination:

1) Prevent ingestion of water containing benzene, toluene, ethylbenzene, or xylene at concentrations that either a) exceed MCLs or proposed MCLs, or b) Present a total carcinogenic risk range greater than 1×10^{-4} to 1×10^{-6} ; and

2) Restore the alluvial aquifer to concentrations that both a) meet the MCLs or proposed MCLs for benzene, toluene, ethylbenzene, and xylene, and b) Present a total carcinogenic risk range less than 1×10^{-4} to 1×10^{-6} . The area of attainment included the entire BTEX groundwater plume.

The applicable MCLs for BTEX were the National Primary Drinking Water Regulations (40 CFR 141.61):

- Benzene 0.005 milligrams per liter (mg/L)
- Ethylbenzene 0.7 mg/L
- Toluene 1 mg/L
- Total Xylenes 10 mg/L

An institutional control to restrict the groundwater use was also included in the OU1 ROD. In October 1991, a Consent Decree, where parties agreed to implement the OU1 remedy, was signed between EPA, KN and DOW/DSI.

Response Actions

The KN OU1 remediation system operated from November 1989 to August 1996 and involved a pump-and-treat system, where the effluent was sent through an air stripper and a soil vapor extraction system. The clean effluent from the air stripper was returned to the subsurface. A groundwater monitoring plan (GWP) was developed in 1993 and specified that quarterly post-remedial action (RA) monitoring would begin after the remediation system was discontinued and 12 months of groundwater sampling results were below the MCLs.

KMI assumed responsibility for KN's portion of the Site when KMI purchased KN in 1999. After a minimum of eight quarterly post-RA sampling events were conducted where the 90 percent one-tailed upper confidence limit (UCL90) concentrations for benzene, ethylbenzene, toluene, and total xylenes were below the MCLs for each chemical, compliance with the RAOs for the BTEX groundwater plume was achieved. It was confirmed that the OU1 RAOs were achieved in 2010 and the results were recorded in the September 30, 2010 OU2 ROD.

KN, KMI, and DOW each conducted work at the Site under an Administrative Order on Consent that addressed the contaminated soils on their respective properties. The OU2 ROD served to document that this previous work was completed and that this work cleaned up the DOW/DSI property and the KMI Property to levels safe for industrial use. Contaminants have been left above levels that allow for unlimited use and unrestricted exposure and it is acknowledged that land uses around these properties are transitioning from rural to residential and commercial. The OU2 ROD concluded that ICs were necessary for future protectiveness. Specifically for the former KMI Property, the RAOs specified in the OU2 ROD include:

- Restricting the use of the KMI Property to industrial uses.
- Controlling the handling of excavated soils on the KMI Property.

The OU2 RAOs have been achieved through institutional controls placed on the former KMI Property and implemented through restrictive covenants within the deed transferring the KMI Property from KMI to KM Upstream LLC and, more recently, to Tallgrass Energy Partners, LP. The ground water institutional control from the OU1 ROD restricting ground water use except for sampling purposes at the former KMI Property was also implemented in 2010 as part of the restrictive covenants.

Operation and Maintenance

No operation and maintenance is required at the former KMI Property in addition to maintaining institutional controls.

Five-Year Review

Because the remedial action implemented for the former KMI Property results in contaminants remaining on site above concentrations that allow for unlimited use and unrestricted exposure, continued five-year reviews will be necessary to ensure that the remedy is protective of human health and the environment. The Fourth Five-Year Review for the Site, noted that the pump and treat remedy, as selected in the ROD, was shutdown prior to meeting cleanup levels at the site. Proper documentation for the shutdown, and Agency approval was identified for the decision to turn of the pump and treat system, and can be found in the deletion docket.

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 partial deletion docket, which the EPA relied on for the partial deletion from the NPL, are available to the public in the information repositories, and a notice of availability of the Intent for Partial Deletion has been published in the Casper Star Tribune to satisfy public participation procedures required by 40 CFR 300.425(e)(4).

Determination That the Criteria for Deletion Have Been Met

For the former KMI Property of both OU1 and OU2, EPA and the WDEQ have determined that the responsible parties completed all appropriate response actions required by the OU1 and OU2 Records of Decision and the 1991 Consent Decree. Additionally, institutional controls are in place that will limit property use to industrial purposes only and will control the handling of excavated soils and restrict ground water use to sampling only without further approval from EPA or the State. EPA has consulted with the State on the proposed partial deletion of the former KMI Property from OU1 and OU2 from the NPL prior to developing this notice of Partial Deletion.

Pursuant to CERCLA section 121(c) and the NCP, EPA will conduct the next five-year review by September 2019 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.

V. Partial Deletion Action

The EPA, with the concurrence of the State of Wyoming through WDEQ, has determined that all appropriate response actions under CERCLA, other than maintenance of institutional controls and five-year reviews, have been completed. Therefore, EPA is deleting the former KMI Property, including the groundwater from

OU1 and the soils/source area from OU2 of the Mystery Bridge Road/U.S. Highway 20 Superfund 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 partial deletion before the effective date of the partial 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 partially 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, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 1, 2017.

Debra H. Thomas,

Acting Regional Administrator,

U.S. Environmental Protection Agency, Region 8.

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

**PART 300— NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION
CONTINGENCY PLAN**

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.

2. Table 1 of Appendix B to part 300 is amended by revising the entry under "WY,"

“Mystery Bridge Road/U.S. Highway 20,” “Evansville” to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1—GENERAL SUPERFUND SECTION

| State | Site name | City/County | Notes (a) |
|-----------|--|--------------------|-----------|
| * * * * * | | | |
| WY | Mystery Bridge Road/U.S. Highway 20 | Evansville/Natrona | P |

^(a) = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).

P = Sites with partial deletion(s).

* * * * *

[FR Doc. 2017-13678 Filed: 6/29/2017 8:45 am; Publication Date: 6/30/2017]