

**EXPLANATION OF SIGNIFICANT DIFFERENCES
for the
KANE AND LOMBARD SUPERFUND SITE
OPERABLE UNIT NO. 1
BALTIMORE, MARYLAND**

I. INTRODUCTION

Site Name: Kane and Lombard Superfund Site

Site Location: Baltimore, Maryland

Lead Agency: U.S. Environmental Protection Agency, Region III

Support Agency: Maryland Department of the Environment

II. STATEMENT OF PURPOSE

The U.S. Environmental Protection Agency ("EPA") is issuing this Explanation of Significant Differences ("ESD") for Operable Unit No. 1 ("OU1") of the Kane and Lombard Superfund Site ("Site") in accordance with Section 117(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. § 9617(c); and Section 300.435(c)(2)(i) of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. § 300.435(c)(2)(i). CERCLA and the NCP require the publication of an ESD when modifications to the remedial action selected in a Record of Decision ("ROD") are necessary, and such modifications significantly change, but do not fundamentally alter, the remedy with respect to scope, performance, or cost.

On September 30, 1987, EPA issued a ROD selecting a remedy for OU1 of the Site to protect human health and the environment from exposure to contaminants in soil and groundwater resulting from historic drum and waste disposal activities. The selected remedy included containment of waste using a slurry wall and a multi-layer cap which prevents exposure to Site contaminants.

EPA is issuing this ESD to modify the remedy selected in the OU1 ROD to add institutional controls ("ICs") to protect the integrity of the remedy. The remedy selected in the OU1 ROD did not include ICs. Land use controls via agreement with various owners of the OU1 property have been in place since 1992. EPA's 2015 Five Year Review for OU1 included a recommendation that ICs be formally added to ensure the long-term protectiveness of the OU1 remedy.

This ESD provides an explanation of the land use controls in place, summarizes the information that supports this modification, and confirms that the remedial action as modified will comply with the statutory requirements of Section 121 of CERCLA, 42 U.S.C. § 9621.

III. PUBLIC PARTICIPATION

This ESD is based on the Administrative Record for the Site. The documents that form the basis for EPA's issuance of this ESD have been incorporated into the Administrative Record in accordance with Section 300.825(a)(2) of the NCP, 40 C.F.R. § 300.825(a)(2). The Administrative Record is available for review during business hours at the information repository at the following locations:

Enoch Pratt Free Library
Patterson Park Branch
158 North Linwood Avenue
Baltimore, Maryland 21224
410-396-0983

EPA Public Reading Room
1650 Arch Street
Philadelphia, PA 19103
215-814-3157

or online at http://loggerhead.epa.gov/arweb/public/advanced_search.jsp.

In accordance with Section 117(d) of CERCLA, 42 U.S.C. § 9617(d), and Section 300.435(c) of the NCP, 40 C.F.R. § 300.435(c), EPA will publish a notification in the *Baltimore Sun* announcing the issuance of this ESD.

IV. SUMMARY OF THE SITE HISTORY

OU1 of the Site is located southwest of the intersection of Kane and Lombard Streets in Baltimore, Baltimore County, Maryland. OU1 consists of a 9.7-acre former waste disposal area that is part of a larger area formerly used for landfilling. OU1 contains the portion of the landfill south of Lombard Street (see Figure 1). Operable Unit No. 2 ("OU2") consists of the remainder of the landfill as well as a contaminated groundwater plume.

From 1962 through 1984, dumping and burning of waste occurred at the Site. Between 1962 and 1971, portions of the Site were excavated and used for solid and hazardous waste disposal. Between 1971 and 1984, construction debris, household wastes, industrial waste, hazardous materials, and drums containing liquid waste were disposed of at the Site.

In 1984, EPA conducted a CERCLA response action at the area later designated as OU1 which included the removal and off-site disposal of over 1,100 drums and contaminated surface soil, construction of a security fence, site stabilization through regrading, and capping and revegetation. A health assessment concluded that the Site posed a risk to human health and the environment. In 1986, the Site was listed on the National Priorities List ("NPL").

In 1987, EPA completed a remedial investigation ("RI") for OU1 which determined that volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), and metals were present in soil and groundwater. The RI also confirmed the presence of perched groundwater beneath OU1 located

approximately 10-40' below ground surface. The perched water, or first water-bearing zone, was contaminated by historic waste disposal operations.

A feasibility study ("FS") evaluated several potential remedial alternatives for a final remedy at OU1. On September 30, 1987, EPA issued a ROD selecting the remedy that is the subject of this ESD.

V. DESCRIPTION OF ROD AND CURRENT SITE CONDITIONS

The 1987 OU1 ROD identified remedial action objectives including isolating and containing contaminated soil, preventing clean water from entering OU1, and preventing off-site migration of contaminants through the flow of groundwater from OU1. The actions selected in the OU1 ROD included:

- Removal of drums, hot spots, and contaminated soil;
- Cleaning and removal of vegetation to the extent necessary for construction of remedy components;
- Construction of subsurface containment/diversion structures (slurry wall) to both prevent the uncontrolled lateral migration of presently contaminated shallow groundwater and prevent the lateral recharge flow of uncontaminated groundwater into the waste area;
- Construction of a multi-layer soil cap over the area to prevent the infiltration of precipitation and surface water into the waste area;
- Construction of a drainage system;
- Clearing of a drainage ditch along the east side of OU1;
- Development of necessary surface water runoff management facilities; and
- Continued groundwater monitoring.

In 1991, EPA completed the construction of the selected remedial action including a 3-5' soil-bentonite slurry wall around the perimeter of the waste disposal area within OU1 and a multi-layer cap. The cap includes a drainage system which directs stormwater from OU1 into the City of Baltimore stormwater system.

As part of the remedial action, EPA installed 21 groundwater monitoring wells to monitor the performance of the slurry wall and multi-layer cap (Figure 2). By 1997, the first water-bearing zone within OU1 was dewatered using two extraction wells.

Currently OU1 contains a golf driving range and a parking lot. Under a federal consent decree approved by the U.S. District Court for the District of Maryland in 1995, several private parties operate

and maintain the OU1 remedy by, among other things, conducting inspections and maintaining the cap, stormwater system, and erosion control structures.

Monitoring wells inside the slurry wall have been dry since 1997, which confirms that the slurry wall is effective in preventing groundwater infiltration. Groundwater in downgradient wells outside of the slurry wall is contaminated with VOCs and is being addressed as part of OU2. Groundwater use at the Site is restricted by a formal permitting process with the local and state agencies as well as local prohibitions on the installation of domestic wells within areas served by public water. Well permits will not be issued for potable wells in the City of Baltimore County where public water supplies are available (the covered area includes the Site and the surrounding areas).

The remedy at OU1 protects human health and the environment because the potential for exposure to contaminated soil and groundwater has been eliminated by the selected remedy.

VI. DESCRIPTION OF SIGNIFICANT DIFFERENCES AND THE BASIS FOR SUCH DIFFERENCES

The remedial action selected by EPA in the 1987 OU1 ROD did not include land use restrictions or other controls (collectively “institutional controls” or “ICs”) to protect the integrity of the remedy components (*e.g.*, the slurry wall or cap).¹ EPA took steps to protect the remedial action, however, using various administrative documents including the following:

- **1992 Administrative Order to the OU1 Owners.** In 1992, EPA issued an administrative order pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), which, among other things, prohibited Edward Azarel, Harriett Azrael, and the Estate of Cele Landay (the owners of OU1 at the time) from (a) interfering with the operation of, or disturbing, the integrity of any structures or devices then or thereafter built, installed, or otherwise placed at the Site under CERCLA; (b) excavating or regrading the site without prior written approval from EPA and the State; and (c) altering, damaging, or removing existing vegetation at the Site without prior approval of EPA and the State. The 1992 administrative order additionally required that the named owners file a copy of the order in the land records in such manner that would put persons searching title on notice of the existence of the order.
- **1997 Prospective Purchaser Agreement.** In September 1996, the owners of OU1 desired to sell OU1 to Double Eagle Enterprises, Inc. (“Double Eagle”), an entity that would ultimately construct and operate a golf driving range atop the capped landfill. In that year, the United States and the State of Maryland finalized a Prospective Purchaser Agreement (“PPA”) with Double Eagle. Under the PPA, the United States and the State of Maryland provided a covenant not to sue to Double Eagle that was contingent on certain conditions. Under the conditions, the company was prohibited from, among other things, (a) interfering with the operation, or disturbing the integrity,

¹ EPA guidance defines “institutional controls” as “nonengineered instruments, such as administrative and legal controls, that help to minimize the potential for exposure to contamination and/or protect the integrity of a response action.” See “*Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites*” (OSWER 9355.0-89 (December 2012))(available at https://www.epa.gov/sites/production/files/documents/final_pime_guidance_december_2012.pdf).

of any structures or devices then or thereafter built, installed, or otherwise placed pursuant to CERCLA by EPA, by the State of Maryland, and/or by others pursuant to any agreement with EPA or the State on or under OU1; (b) knowingly permitting others to conduct such actions; and (c) excavating or regrading OU1 without prior written approval from EPA and the State of Maryland. Double Eagle was also required to submit a vegetation plan for approval by EPA and the State and was prohibited from altering, damaging, or removing permitted vegetation at OU1. Double Eagle was also required to file a copy of the PPA in the land records in such manner that would put persons searching title on notice of the existence of the document. Double Eagle acquired OU1 in February 1998.

- **2002 Agreement to Assign/Transfer the Covenant Not to Sue.** In 2002, Double Eagle desired to sell OU1 to Bayview Golf Center, Inc. ("BGC"), an entity which would continue to operate the golf driving range at the Site. In that year, the United States and the State of Maryland finalized an assignment/transfer, to BGC, of the covenant not to sue provided to Double Eagle in the PPA. Under such assignment/transfer, the covenant not to sue BGC was subject to the same conditions placed on Double Eagle. BGC acquired title to OU1 in June 2002 and remains the current owner of the property.

While these documents have protected the OU1 remedial components over time, the ICs they encompassed were never formally selected by EPA as part of the OU1 remedial action. EPA is issuing this ESD to add such ICs as a component of the OU1 remedial action.

By this ESD, EPA is modifying the remedial action selected for OU1 of the Site in the 1987 ROD by adding ICs to:

- (a) Prevent interference with the operation of, or disturbance of, the integrity of any structures or devices built, installed, or otherwise placed at OU1 of the Site under CERCLA;
- (b) Prevent excavation or regrading at OU1 of the Site without prior written approval from EPA and the State of Maryland; and
- (c) Prevent alteration, damage, or removal of vegetation at OU1 of the Site without prior approval of EPA and the State of Maryland.

Since 1992, controls have consisted of a combination of an administrative order and a Prospective Purchaser Agreement with notices in the land records. Such controls have to date proven adequate to maintain protectiveness of the remedial action. EPA will continue to review the form of controls in place and may determine that additional or different controls be established to meet the goals of the ICs selected in this ESD.

VII. SUPPORT AGENCY COMMENTS

In accordance with 40 C.F.R. § 300.435(c)(2) EPA has consulted with MDE concerning the changes to the OU1 remedy in this ESD. MDE concurred with this ESD in a letter dated June 26, 2018.

VIII. STATUTORY DETERMINATIONS

EPA has determined that the remedy selected by EPA for OU1, as revised by the actions described in this ESD, continues to comply with the statutory requirements of Section 121 of CERCLA, 42 U.S.C. § 9621. EPA believes that the selected remedy, as revised by this ESD, will remain protective of human health and the environment and will meet the Federal and State requirements that are applicable or relevant and appropriate to the remedial action as described in the OU1 ROD. There are no applicable or relevant and appropriate requirements associated with the implementation of ICs.

IX. SIGNATURE

This Explanation of Significant Differences modifies the selected remedy for OU1 of the Kane and Lombard Superfund Site to include institutional controls to ensure the long-term protectiveness of the remedy.

Approved By:



Karen Melvin, Director
Hazardous Site Cleanup Division
EPA Region III

NOV 21 2018

Date

Figures

Figure 1 - Site Location Map

Figure 2 - Map of OU1

Figures

Figure 1 - Site Map (does not show groundwater plume)
Kane and Lombard Superfund Site
Baltimore, Maryland
Explanation of Significant Differences (OU1)
November 2018



Figure 2 - Map of OU1
 Kane and Lombard Superfund Site
 Baltimore, Maryland
 Explanation of Significant Differences (OU1)
 November 2018

