

**McLouth Steel Superfund Site Community Advisory Group
Meeting Two**

**April 9, 2020
Revised Meeting Summary**

The second meeting of the McLouth Steel Superfund CAG took place online as a Zoom webinar on April 9, 2020. The purposes of that meeting included:

- Sharing history of the involvement of the City of Trenton, Wayne County Treasurer's Office, Wayne County Landbank, and EPA on the site.
- Discussing and finalizing the McLouth Steel CAG's operating protocols given the feedback received on SurveyMonkey.
- Discussing the CAG's information needs and future topics of discussion.

The Following primary CAG members were present:

Jim Wagner, City of Trenton; Dean Workman, City of Riverview; Kevin Langley, Grosse Ile Township; Brian Webb, Riverview Brownfield Authority; Wendy Pate, Trenton Visionaries; Doug Thiel, Nature and Land Conservancy; Greg Karmazin, Gross Ile Civic Association; Robert Burns, Friends of the Detroit River; Paul Frost, DownRiver Waterfront Conservancy, Robert Johnson, Abutters; Larry Ladomer, At-Large Community Representative; Dick Whiteman, At-Large Community Representative; Judith Maiga, At-Large Community Representative; Edie Traster, At-Large Community Representative; Emily Hornbeck, At-Large Community Representative; Dennis O'Brien, At-Large Community Representative; Ryan Stewart, At-Large Community Representative

Decisions Reached

- This meeting and all forthcoming meetings will be recorded. The recordings will be uploaded to the Consensus Building Institute's YouTube channel and will only be accessible via direct links posted to the McLouth Steel CAG website.
- The CAG's operating protocols were finalized, with changes made as suggested by CAG members.

Action Items

- CBI to send out Daniel Rosenberg's email address (drosenbaum@waynecounty.com)
- CBI to revise Operating Protocols as suggested by CAG members, and circulate to all
- CBI to compile and circulate the documents requested by CAG members (the PPA, the Settlement Agreement and Covenant Not To Sue, the email address of the Executive Director of the Wayne County Land Bank, information from EGLE about site inspections, environmental violations) [Note: all MSC Work Plans, as well as the Settlement

agreement, DEQ Violation Notice, and monthly reports can be found at <http://formermclouth.com/>. Further, CBI is setting up a Dropbox to share requested documents to all CAG members.]

- EPA to post all meeting materials, including the timeline and slides used, on the CAG website. (www.epa.gov/superfund/mclouth-steel).
- CBI will work with the CAG members who were nominated to serve on the Leadership Board to help develop the agenda for the May meeting. The CAG will formally determine the Leadership Board at the May meeting.

Summary of Discussions

CBI (Consensus Building Institute) facilitator Stacie Smith welcomed everyone and explained the features of using the Zoom webinar interface for all on-line members and attendees from the public and reviewed the agenda and meeting ground rules.

Diane Russell (USEPA) made two announcements:

- Kirstin Safakas (USEPA) is back on the team. Diane remains the main person to contact for the CAG, and Kirstin will be providing updates and sending out emails.
- A McLouth site email listserv has been created. The listserv will allow participants to change their email preferences or select a different email address.

Stacie then introduced the speakers for the first part of the meeting. Speakers included: Jim Wagner, former City Administrator for the City of Trenton; Eric Sabree Wayne County Treasurer, and Daniel Rosenbaum, Executive Director of the Wayne County Land Bank. These speakers spoke about different characteristics of the history of the site from the perspective of the City, the County, and EPA, respectively.

Jim Wagner, former City Administrator for the City of Trenton

Mr. Wagner provided a history of the site from the perspective of the City of Trenton. He noted that in 1995, McLouth Steel, the original proprietors of the site, declared bankruptcy and sold the property to the Detroit Steel Company (DSC). Despite many attempts to work with them, DSC did not pay taxes they owed to the City of Trenton, Wayne County, and the Riverview School District, and a lien was placed on the property in the year 2000 due to the accrued debt. To pay off part of their tax debt, DSC looked to sell three sections of the parcel, of which only one section, made up of 75 acres, was sold. In addition to the debt owed, DSC failed to comply with agreements they had with Wayne County, the EPA— which by 2009 had spent more than \$3 million dollars on cleanup for the site, and other regulatory organizations.

In 2005, DSC mortgaged the property again and put it on the market. During this time, REI, a developer, showed interest in buying the site and creating some residential units, but did not follow-through with the purchase because they could not secure \$90 million funding for cleanup. In 2009, the EPA OSC advised that the site should be considered for listing on the National Priorities List (NPL), but the City of Trenton was not ready to give up hope on finding a buyer. In 2015, Trenton, Riverview, and Grosse Ile all voted to support NPL listing. In 2017, after DSC made clear their inability to pay in 2016, the City of Trenton received loans and hired experts to explore the option of exercising the Right of Refusal (ROR) to take ownership of the site, but ultimately the City's leadership determined that they could not do so given the large liability, and the land passed to Wayne County.

Eric Sabree, Treasurer, Wayne County

Mr. Sabree explained that, when DSC mortgaged the property in 2005, there was a hope that they would be able to sell the property and eventually pay their back taxes, actions which at this point had become a regular pattern of business for them. DSC executed a forbearance agreement to make quarterly payments to its tax debtors and placed the property on the market. During this time DSC, , filed for bankruptcy and the State of Michigan and considered taking the property, but the State Treasury ultimately decided not to do so given the environmentally hazardous state it was in. DSC became unable to make payments in late 2016, and the property was foreclosed on March 31st, 2017. The property was offered to the State and to the City of Trenton, both of whom declined ownership due to the concerns about liability. Once the property came to the County, the selected purchaser of the property Crown Enterprises turned to EPA for assistance to negotiate a Settlement Agreement.

Daniel Rosenbaum, Executive Director, Wayne County Land Bank

Mr. Rosenbaum added that, once the property was foreclosed upon, a shared goal for all involved was to prevent it from going into public auction, where it might be sold to someone who could not properly address the environmental and financial conditions, or who lacked the accountability to do something productive on the site. The County was looking for a purchaser who could fulfill three conditions: payment of the back taxes, access to sufficient resources and capacity to clean the site, and a plan to develop the site into something that would create jobs and tax revenue for Trenton and the County.

Wayne County then began to search for a purchaser. The RFQ process was led by the County and included the Land Bank, the City of Trenton, and the Treasurer as formal parties to the procurement. (While the EPA was involved throughout the process, it wasn't a formal party at that point.) Ultimately, MSC (a subsidiary of Crown Enterprises) was chosen as the purchaser and developer of the property and an agreement was made between the parties to ensure that

MSC committed to the three conditions noted above. In 2017, Wayne County was able to use money from the purchase to pay back the taxes owed, which helped the County pull the property through the Right of Refusal and out of the foreclosure process. Finally, in 2018, the title of the property was officially transferred to MSC and they continued working with the EPA to address environmental issues.

CAG members offered the following comments and questions (answers in italics):

- Has a plan been submitted by MSC outlining their approach for the creation of jobs and tax revenue for the City of Trenton, as required by the purchase agreement?
 - *Yes, the agreement made between MSC and the Wayne County Land Bank contains a detailed plan for philanthropic donations for non-profits in the area, the use of local contractors, and other provisions*
 - *Additionally, there are stipulated penalties for MSC if they fail to comply with the terms of the agreement, and clear agreements for monitoring by the State and EPA.*
- What authority ultimately made the decision to authorize MSC to purchase the property?
 - *The City of Trenton had the right of refusal after the state passed, but they passed on the purchase, and so the responsibility was moved to Wayne County, which signed the agreement.*
- The Grosse Ile Civic Association submitted a Freedom of Information Act for all the documents related to the RFQ. We have copies of the proposals that can be shared with the CAG. No documentation for the scoring for the submissions could be obtained from the County.
- Why did the City of Trenton not agree to the purchase? Was it the cost or the scope?
 - *The City of Trenton considered the purchase and sought outside council and a loan for that purpose, but the opportunity to get back \$1.4 million dollars and the liability presented by the environmental hazards in the property prompted the City Council to decline.*

Once local government representatives presented, EPA representatives presented the history of the agency's involvement on the site.

Brian Kelly, EPA

Mr. Kelly gave an overview of the EPA's involvement with the site, which began in 1990¹, when the property was placed under the Resource Conservation and Recovery Act (RCRA) program.

¹ EPA inspected the site in 1979, under the Comprehensive Environmental Response, Compensation, and Liability ACT, but a preliminary assessment which determined No Further Actions necessary.

When DSC purchased the property from McLouth in 1996, a Baseline Environmental Assessment was not done. Instead, DSC entered into an order with the State of MI that also addressed DSC's properties in Gibraltar.

From 2007 to 2009 there were a number of emergencies that EPA addressed in the property, including fires, and the presence of PCBs and Leachate. In 2009, Mr. Kelly sent a recommendation to the EPA and Michigan's Department of Environmental Quality (DEQ) to consider listing the site on the National Priority List (NPL) for the Superfund program, which was backed up by a citizen's petition from the Friends of the Detroit River. In 2011, the site was officially moved from RCRA to the Superfund program.

In 2015 Trenton, Riverview, and Grosse Ile passed a resolution in support of placing the McLouth site on the National Priority List (NPL) for Superfund sites, followed by the State of Michigan's own letter of support for NPL designation for the site in 2019. By doing so, the State committed to funding 10% of the costs of investigation and cleanup, indicating the priority it confers on the clean-up of the McLouth site.

Steven Kaiser, EPA

Mr. Kaiser explained the EPA's involvement in supporting Wayne County in the settlement agreement and what was being considered when going through that process. He clarified the challenge of cleaning up a site when the responsible party had gone bankrupt and the costs of cleanup were likely to vastly outweigh the value of the property, and noted that such a situation requires a public-private partnership, where the private entity puts up initial funding and commits to meeting a set of cleanup and redevelopment requirements in exchange for government funding to complete the clean up and to remove liability. In the case of McLouth, almost every environmental issue is present, and the fact that the site was a former steel mill adds an additional layer of complexity; there are fewer than ten former steel mill brownfield sites in the country, and none have been successfully rehabilitated. Although this property has the potential for a high market value because of its location along the river, this value is unlikely to get recuperated due to the high cleanup costs. An example is REI estimated the cleanup cost at more than \$90 million dollars.

When the property was under its ownership, DSC was under robust orders to remedy its environmental situation under the RCRA program but lacked the resources necessary to follow-through. In 2016, the City of Trenton reached out to EPA about marketing the site – EPA did not anticipate the foreclosure of the property in 2017.. As part of MSC's purchase of the site, a Settlement Agreement and Covenant Not to Sue was made between the US Department of Justice, the State of MI, MSC Land Company, and Crown Enterprises. This agreement took ten months to negotiate before it was published for public comment. The most urgent concerns that were addressed in this agreement were: securing the site against break ins, the demolition of a self-service water structure, the removal of asbestos and related products from the site, and the removal of transformers. Mr. Kaiser clarified that EPA was not involved in decisions about who purchased the site.

EPA and the State (EGLE) have oversight responsibilities over the cleanup process. Cleanup of the property has started with lots of success as well as some obstacles. The Agreement calls for robust dust prevention procedures; however, the demolition of the stoves and other structures in the site has been difficult to do without creating dust that could migrate off-site, as was the case this past February. At EPA's demand, MSC worked with their contractor to revise their demolition procedures. Furthermore, PCB areas identified have been tested and EPA will have a baseline understanding of the PCB presence in those areas. Finally, MSC is moving forward with a stormwater management plan which involves the installation of structures that ensure that water moves away from the river.

CAG members offered the following comments and questions (answers in italics):

- In response to Mr. Kaiser's comment about the difficulty of recovering former steel mill sites: there is a former steel mill site that was re-developed for innovative use in an environmentally-friendly basis. (www.hazelwoodgreen.com/thehistory)
- Is funding for this site secure given competition across several different sites?
 - *As of now, the EPA planned for funding to initiate the immediate action on the remedial investigation work, which will begin around July 2021.*
- Is funding for the cleanup of the site at risk given the COVID-19 pandemic?
 - *All budgets are under extraordinary strain in this moment. This is not a question that can be answered at this time.*
- Have any steps been taken to identify what contaminants were in the dust being released?
 - *Not lead. Most of the surface contamination and what is in the rafters is related to steel and manganese, which was found at the perimeter of the site.*
- Manganese is a good indicator compound to be measuring, nonetheless.
- Why are there no penalties for mishandling of cleanup or spreading of contaminants into the community? What about the asbestos incidences?
 - *The agreement notes that MSC is not responsible for what McLouth left at the site; they are, however, responsible and liable if they make it worse. The ultimate penalty is that MSC would void the liability protections outlined in the agreement. Asbestos violations are a Clean Air Act violation, which are handled by the State. Nevertheless, EPA looked into the demolition procedures and found that one of the factors that contributes to the spread of dust is the presence of wind. In the revised cleanup no demolitions can happen if the wind is stronger than 10 miles per hours. Overall, the goal is to end with a successful clean-up and reuse.*
 - *The guideline set by the National Air Quality Standard is a 24/7 3-year average of particulates in the air. MSC closely monitoring the dust levels, and when dust gets kicked up they move quickly, but one incident would not necessarily be in violation of the settlement agreement.*
 - *The asbestos event is under the jurisdiction of the state of MI, not the EPA*
- Did the RFQ to solicit potential bidders include the promise that limited liability would be included in the impending agreement?

- *Most bidders are familiar with the fact that one can acquire property without becoming liable for the contamination that is already present there, so I imagine that that information was available to purchasers of the McLouth site.*
- I understand that given the settlement agreement, the company is under some pressure to begin redevelopment of the land. Given the clauses in the cleanup process and investigation, could MSC be given some relief to be able to take longer to do their development?
 - *The agreement allows for some dynamism and the revisiting of clauses like that. In almost all agreements, if something presents itself that was outside of the expectations of the parties, one of them can advocate for appropriate amendments to the agreement (e.g., the onset of a pandemic was unexpected, so timelines may need to be extended).*
- Do any of the agreements name how MSC plans to redevelop the site?
 - *I don't think they have specified in the purchase and redevelopment agreement; I imagine that they'd be happy to at some point talk with the public about their plans. Meanwhile, members should read the development agreement. [Note: it was clarified afterward that in their response to the RFQ, MSC indicated that the site will be used as an intermodal shipping port.]*

Once the presentations from EPA was done, Stacie Smith led the group in a discussion about the CAG's operating protocol and the feedback received on these over SurveyMonkey. She clarified that these protocols can be revisited over time, and addressed the following sections of the protocols that participants raised in the Survey Monkey:

- In response to a range of views about video recording, Stacie suggested – and the CAG agreed – that meetings will be recorded, but that CBI will continue to write thorough meeting summaries, and that any comments that members wanted to keep anonymous could be sent to Stacie by private chat, so that she could share it without attribution. Furthermore, recordings will be posted by CBI on their Youtube channel, accessible only by a specific link to be posted on the CAG's website.
- Meeting summaries will first be distributed to CAG members in draft form between meetings, and members will have the opportunity to suggest edits. Once finalized, summaries can be referred to as a neutral record of what happened at each meeting.
- To maintain the balance of participation, alternates will be at the table only when their respective member is unable to attend.
- A section on the role of the CAG's Leadership Board will be added to the Operating Protocols document.
- In the Public Comment and Media section: wording will be changed to "CAG meetings are held primarily to uphold the business of the CAG and to move forward on CAG goals."
- The CAG decided that in speaking to the media, members should only speak for themselves, and that if the CAG reaches consensus on a decision it will write a consensus-based statement for the media. Immediate questions can be directed to the facilitator, who will provide process-based, neutral answers on the proceedings of the CAG.

- Voting may be used to gauge support for different initiatives, but dissenting points of view, even when expressed by only one person, will be noted in any recommendations to EPA.

Participants also requested that slides used in meetings be sent to CAG members in advance, to the extent possible.

Stacie then shared with the group the list of topics that had been suggested for future discussion. Participants were invited, using the Zoom poll function, to identify their top 3 priorities, noting that this would be used only to help the group understand which topics might be addressed first. The polling resulted in the following ranking of topics (consolidated for clarity):

- Information about MSC's Business plan for the development of the property and expected operations
- Information about known and potential on-site contaminants, and the potential migration of contaminated groundwater to the Detroit River
- Explanation about the steps involved in Superfund Cleanup, including feasibility assessment and typical clean up activities
- Review of State and Federal clean-up standards (residential and non-residential)
- Rules regarding railroads, possible cleanup outcome scenarios, and implications for the site redevelopment
- Information on expected contaminated remediation activities, review of monthly pollution reports and explanations of monitoring exceedances

Since time had run out before discussing the composition of the Leadership Board, Stacie suggested that all the nominees be invited to help plan the next meeting. The next meeting will be held on May 14.