



GALVESTON BAY FOUNDATION

January 12, 2017

[Via Email to R6_San_Jacinto_Waste_Pits_Comments@epa.gov](mailto:R6_San_Jacinto_Waste_Pits_Comments@epa.gov)

Mr. Gary Miller
Remedial Project Manager
U.S. EPA Region 6 (6SF-RA)
1445 Ross Avenue
Dallas, Texas 75202-2733

RE: U.S. EPA Proposed Cleanup Plan for the San Jacinto River Waste Pits Superfund Site

Dear Mr. Miller:

The Galveston Bay Foundation (Foundation) respectfully submits the following comments on the U.S. EPA (EPA) Proposed Cleanup Plan for the San Jacinto River Waste Pits Superfund Site (SJRWP).

The Foundation would like to thank the EPA for its work on the SJRWP and strongly supports, with the two caveats noted below, EPA's preferred Alternative 6N (Removal of Materials Exceeding Cleanup Levels, Monitored Natural Recovery, and Institutional Controls) for the northern impoundments and aquatic area and for Alternative 4S (Removal and Offsite Disposal with Institutional Controls) for the southern impoundment.

First, the Foundation requests that the EPA enhance Alternative 6N by requiring removal of dioxin wastes in the northern impoundments that exceed the more protective recreational fisher Preliminary Remediation Goal (PRG) of 30 ng/kg, at the least, in lieu of the current proposal to remove only those wastes that exceed the recreational visitor PRG of 200 ng/kg. To ensure that this currently proposed fisher-based PRG is protective of all of our local fishers and crabbers, the Foundation further requests that EPA reconsider the Texas Department of State Health Services' determination that subsistence fishers are not present in the area, as we discuss in the paragraph below. If the EPA finds that subsistence fishers are present, we request that the EPA reevaluate the proposed fisher-based PRG and replace it with a more stringent PRG as appropriate.

The Foundation believes that removal of all wastes within the northern impoundments with concentrations exceeding an appropriate fisher-based PRG will reduce the risk of residual dioxins becoming available to the biota of the San Jacinto River and Galveston Bay Estuary and ultimately to humans at toxic levels in recreationally- and commercially-caught seafood. This is critically important given the number of popular fishing and crabbing sites located within the EPA Preliminary Site Perimeter, as well as popular fishing and crabbing sites beyond the perimeter to which these species will travel. Additionally, based on the evidence we have seen first-hand in our capacity in installing and maintaining seafood consumption advisory signs in

the area since 2011, we believe that there is a high probability that many of these fishermen and crabbers are subsistence fishermen.

Given the degree of fishing and crabbing activity in the San Jacinto River and Galveston Bay Estuary; the persistent nature of the dioxins over hundreds of years; and the risk of mechanisms such as storm surge, hurricane wind-driven waves, flood flow-induced river bed scour, changes to channel morphology, propwash from barge tow operations and barge strikes to resuspend the dioxins into the water column and transport them into sediments both upstream and downstream from the SJRWP and ultimately make them available via ingestion of contaminated seafood, we believe the application of the more protective fisher-based PRG is justified.

Second, the Foundation further requests that sediments outside of the pits that are suspected to exceed the final fisher-based PRG, such as those in the sand separation area and other areas as shown on Figure 9 of the Proposed Cleanup Plan, be further sampled to confirm their toxicity levels. If these or other sediments outside of the northern impoundments are found to contain dioxin concentrations above the final PRG, the Foundation requests that EPA investigate implementation of a suitable technique other than monitored natural recovery to address their remediation given the dynamic, high-energy nature of the site. We feel that the potential for the contaminated sediments to be resuspended by the mechanisms noted in the paragraph above necessitates such an investigation.

With these caveats noted, the Foundation has one final request regarding the implementation of a final cleanup plan. Given some of the potentially responsible parties' (PRPs') history at the site, the Foundation requests that the EPA require rigorous third-party oversight the PRP's completion of the Remedial Design/Remedial Action activities. This history includes their failure to identify problems with the temporary cap such as the December 2015 northwest area major deficiency that the EPA dive team instead discovered; their delay in their reporting the 8-foot deep scour adjacent to the cap that the EPA shared with the public at the October 2016 public meeting; and the fact that the EPA had to take over and complete the writing of the *Final Interim Feasibility Study Report* (Feasibility Study).

The Foundation strongly agrees with EPA's assessment, as described in the Proposed Cleanup Plan, that an attempt to contain the wastes via Alternative 3N, Alternative 3aN, or any other containment strategy is prone to failure from the variety of failure mechanisms as noted in the above paragraph. This statement is supported by information and findings contained in additional Superfund documents for this site, including the U.S. Army Corps of Engineers *Evaluation of the San Jacinto River Waste Pits Feasibility Study Remediation Alternatives* (Corps Report) and the Feasibility Study, as well as EPA's *Guidance for In-Situ Subaqueous Capping of Contaminated Sediments* guidance. Alternative 3aN, as you note, has the further complication that the additional weight from enhanced armoring could cause cap settling or the waste to be pushed out of the sides of the cap, exposing the river to the toxins. Further, we cannot be sure as to whether the PRPs will be operating and will have the capabilities to survey and maintain such a site for hundreds of years into the future. Given such evidence, the Foundation is convinced that containment is not appropriate for this site.

The track record of the existing armored cap, the problems with attempting permanent containment in such an unsuitable site on the San Jacinto River, the feasibility of the wastes to be isolated from the river before they are removed, and our review of toxic waste cleanup techniques and examples of successful removal actions at other sites around the country, provides the Foundation with ample evidence that implementation of Alternative 6N and 4S is the only reasonable course of action at the SJRWP.

Removal will ensure, once and for all, that these dioxin wastes no longer pose a threat to the San Jacinto River and Galveston Bay and to those who consume seafood harvested from these waters or other associated tidal water bodies.

The Foundation appreciates the opportunity to provide these comments on the Proposed Cleanup Plan and looks forward to continuing to work with EPA to ensure human and environmental health in our community.

Sincerely,

Scott A. Jones
Director of Advocacy
The Galveston Bay Foundation

cc: Satya Dwivedula, TCEQ