

Community Fill Plan Response to Comments

Introduction

A total of 16 individuals or groups submitted comments on the Community Fill Plan (CFP). Some comments received were not relevant to the CFP. For example some comments discussed radioactive waste limits and tire disposal. Since the CFP does not apply to either of these materials, these comments have not been addressed. Responses to other comments are discussed below.

Responses to Comments

1. *Some commenters were concerned about the placement of contaminated materials as fill.* The extensive nature of the contamination at the Bunker Hill Superfund Site resulted in a remedial approach that removes some contaminated materials to repositories and manages those materials that are left in place through the Institutional Controls Program (ICP) to limit exposures. Clean soil barriers are placed upon the material that is left at depth and this, along with the ICP, forms a lasting remedial action to protect human health and the environment. The surface barriers that will cover CFP locations will be as robust as those used to remediate contaminated residential and commercial properties.
2. *Some commenters expressed general support for the CFP as a common sense way to manage contaminated material to protect human health and the environment. They commented on the value of supporting economic development and saving cleanup dollars at repositories.* Comments noted.
3. *One commenter suggested segregating wastes.* The Bunker Hill Project does segregate materials to reduce volumes of materials going to repositories. Segregated materials are usually concrete, asphalt, and wood waste. Most of the segregated concrete and asphalt has gone into the construction of one existing repository. The wood waste has been chipped and composted to be used as a soil amendment.
4. *One commenter expressed concerns about property owner obligations.* The obligations associated with owning a fill site are to comply with the ICP and all other applicable laws and regulations. The ICP is a locally based regulatory program selected in the EPA Records of Decision (RODs). The ICP regulates soil excavation and also contaminant migration by requiring clean soil barrier caps. This is the same obligation for all property owners who live or own property within the ICP boundary. The ICP permit used for CFP projects includes a signed acknowledgement by the permit holder that the ICP permit does not give the authority to violate any federal, state, or local regulations governing construction and environmental protection.
5. *Commenters expressed concern about groundwater being contaminated.* Adding contaminated fill does not turn a clean site into a contaminated site because only areas already contaminated will be eligible for the CFP. Wetlands, even if contaminated, are not eligible for the CFP. Filling low areas with contaminated soil can reduce impacts to groundwater by reducing the ponding of water that collects and infiltrates through the existing contaminated soil into groundwater. Additionally, if a fill project leads to development, much of the

construction would result in an impermeable barrier such as a building and parking lot. This would further reduce water infiltration through contaminated materials into groundwater.

6. *Commenters expressed concern about blowing dust from trucks and losing contaminated materials in transport during fill activities.* These concerns are addressed under ICP requirements for managing and hauling contaminated soils. The ICP requires covering of contaminated materials in trucks and stipulates other contamination control measures to be used on and off the work site to avoid tracking and migration of contaminated materials.

7. *One commenter suggested that each CFP site should be monitored.* PHD will monitor the sites to ensure that clean soil barrier or other appropriate caps are installed and maintained. There may be a rare case where a specific site might require groundwater monitoring or additional evaluation. EPA and IDEQ will review all large fills sites and determine if such a need exists. However EPA and IDEQ believe, based on the remediation history within the Coeur d'Alene Basin, that groundwater monitoring of fill sites (that as a prerequisite are already in a contaminated area) would most likely not be able to show that additional fill caused a significant change in groundwater quality. The reason is that the shallow aquifer associated with the mining-contaminated river sediments is already contaminated. Rearranging contaminated wastes that will be capped and managed on an already contaminated floodplain is not going to appreciably affect the contamination characteristics of the groundwater.

8. *One commenter questioned the capacity of the Panhandle Health to manage the CFP.* The PHD has successfully implemented the ICP since 1995, issuing thousands of permits and performing oversight of excavation, site management, and contaminated soil transport activities. The ICP Rule gives the PHD authority to ensure clean barriers are installed and replaced when damaged and that contamination migration from sites does not occur. The PHD has a strong track record to show that they have the resources to successfully administer the ICP and implement the CFP. If there are difficult or complex issues, the PHD works in coordination with EPA and IDEQ. This coordination is centered on mutual support among the agencies. The CFP is an example where the three agencies bring their resources together to manage contaminated materials in a way that is consistent with the site RODs and the ICP Rule, saves scarce cleanup resources, and provides opportunity for economic development.

9. *One commenter suggested that those doing the filling should cover the costs of inspections, monitoring, and capping at fill sites.* The entities doing the filling and/or receiving the fill will be required to cover the costs to cap fill sites. Government costs for inspections and monitoring will be covered as part of cleanup costs because the ICP is a no fee permitting system. Free permits are a critical component of the ICP in order to insure property owners are aware of the requirements and PHD can ensure compliance with those requirements. Property owners bear the costs under the ICP to restore damaged caps, install new caps if the land use changes, and haul contaminated material to disposal sites. There are no fees to cover administrative or oversight costs. Nor are there tipping fees for disposal.

10. *Some commenters suggested that smaller fill sites should be subject to EPA and IDEQ evaluation.* In response, the CFP was modified to require notification to EPA and IDEQ for sites greater than 500 cubic yards. Also, EPA and IDEQ will evaluate sites greater than 5,000 cubic yards. The public review draft of the CFP used 1,000 and 10,000 cubic yards, respectively. The CFP was also modified to require EPA and IDEQ evaluation of some of the threshold criteria for sites smaller than 5,000 cubic yards.

11. *A comment was received that suggested using a setback of 300 feet from high water lines.* Such a setback might be feasible in an area that does not contain large scale pre-existing contamination in floodplains. However, this area does contain widespread contamination throughout the floodplain and valley floor. Properly managed fill sites under PHD oversight in existing contaminated areas do not pose significant additional risk for contaminants entering river waters. A benefit of the CFP project will be that a fill site will be required to place a clean cap that could reduce sediment transport to surface waters.

12. *One commenter requested that all fill soils be tested before using for fill.* In response, the revised CFP now requires testing for fill projects greater than 500 cubic yards as opposed to 1000 cubic yards as proposed in the public review draft of the CFP. In almost all cases, sampling data will be collected or available for projects that are 500 cubic yards or less. In the rare exceptions when data is not available, the PHD can rely on data from adjacent properties and visual inspection of materials to determine if there are jig tailings or slimes present in the soil. These two types of materials typically exhibit the highest lead concentration in soils outside of the industrial complex. If these materials are found, the project would need to be sampled because jig tailings and slimes almost always exceed the 20,000 ppm lead CFP eligibility limit.

13. *A commenter recommended placing a visual barrier between clean fill material and the existing material located at the fill site.* The ICP already requires installation of a visual barrier between a clean cap and underlying contaminated material; therefore, this requirement is applicable to all CFP projects. The exception is that visual barriers are not installed under asphalt or concrete caps.

14. *A commenter recommended redundancy in maintaining CFP records and notification of property owners.* The PHD is currently finishing up a project to digitize their property records. The result is that hardcopy and digital records and backups will be available for all ICP projects including CFP projects. Backup electronic copies will be provided on an annual basis to EPA and DEQ. The potential to lose records is very low.

15. *There was a request for more details about the balancing criteria.* The balancing criteria are intentionally non-prescriptive to allow EPA and IDEQ evaluators the ability to use their professional judgment in evaluating how fill projects meet the requirements of the site RODs. The agencies attempted to develop more prescriptive criteria. However, it proved to be a daunting task to anticipate every possible permutation of a particular issue in the criteria. The approach selected provides for EPA and IDEQ to evaluate site specific conditions and, in consultation with the PHD, to make recommendations for improving fill projects to protect

human health and the environment. Language for the water well Balancing Criteria was modified to clarify that the well infrastructure would be protected and that the fill may require raising the well to ensure protection from runoff.

16. *A commenter asked if PHD will maintain records for all fill projects.* The answer is yes, including projects that are less than 500 cubic yards.

17. *A commenter asked the basis of the 1,000 cubic yard and 10,000 cubic yard threshold values and recommended that the values be evaluated and modified if necessary on a more frequent than annual basis.* The values were based on experience with fill projects that predate the CFP. However, the 1,000 and 10,000 cubic yard values were both reduced to 500 and 5,000 cubic yards based on public comment. The revised CFP allows modification of the plan as necessary and is not tied to only an annual review.

18. *A commenter suggested that EPA and IDEQ perform monitoring and evaluation of the cumulative impacts of CFP projects.* Monitoring of impacts of individual CFP projects may occur if EPA and IDEQ determine it is necessary. However, monitoring multiple sites and performing a cumulative impact assessment for CFP projects would take dollars away from cleanup and would likely not be useful in identifying impacts from the CFP projects whether positive or negative. This is because of the large magnitude of contamination in the valley floors. Rearranging contaminated soil, if done properly, within an already contaminated mass is not expected to have a measurable impact on ground or surface water quality.

19. *A commenter asked if the property owner will be required to demonstrate compliance with other local, state, and federal regulations.* Demonstration of compliance with other applicable regulations is not a requirement for the CFP. However, property owners are required to sign the ICP permit acknowledging that the ICP permit does not relieve them of complying with other applicable federal, state, and local regulations. Owners of the source and receiving sites are required to obtain an ICP permit. Agency review to determine if threshold criteria are met will help projects meet some regulatory requirements.

20. *A commenter suggested that the criteria applied to large fill sites should also be applied to small fill sites.* This comment was addressed in two ways in the modified CFP. First, the size of small projects was reduced to 500 cubic yards from 1,000 cubic yards. Second, all small projects will be evaluated against the threshold criteria.