6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-1983-0002; FRL-9901-60-Region 2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Ludlow Sand & Gravel Superfund Site

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Direct final rule

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is publishing a direct final Notice of Deletion of the Ludlow Sand & Gravel Superfund Site (Site), located in the Town of Paris, Oneida County, New York, from the National Priorities List (NPL). 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 Contingency Plan (NCP).This direct final Notice of Deletion is being published by EPA with the concurrence of the State of New York (State), through the New York State Department of Environmental Conservation (NYSDEC). EPA and NYSDEC have determined that all appropriate response actions under CERCLA, other than monitoring and maintenance (M&M) and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion will be effective **[insert date 60 days after the publication date in the *Federal Register*]** unless EPA receives adverse comments by **[insert date 30 days after the publication date in the *Federal Register*].** If adverse comments are received, EPA will publish a timely withdrawal of this direct final deletion in the *Federal Register*, informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA-HQ-SFUND-1983-0002, by one of the following methods:

- http://www.regulations.gov. Follow the on-line instructions for submitting comments.
- E-mail: rodrigues.isabel@epa.gov.
- Fax: To the attention of Isabel Rodrigues at 212-637-4284.
- Mail: To the attention of Isabel Rodrigues, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, NY 10007-1866.
- Hand Delivery: Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007-1866 (telephone: 212-637-4308). Such deliveries are only accepted during the Record Center's normal hours of operation (Monday to Friday from 9 A.M. to 5 P.M.). Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA-HQ-SFUND-1983-0002: EPA's policy is that all comments received will be included in the 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 via e-mail. The http://www.regulations.gov website 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 comments. If you send comments to EPA

via e-mail, your e-mail address will be included as part of the comment that is placed in the Docket and made available on the website. If you submit electronic comments, EPA recommends that you include your name and other contact information in the body of your comments and with any disks or CD-ROMs that you submit. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comments. Electronic files should avoid the use of special characters and any form of encryption and should 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 can be viewed electronically at http://www.regulations.gov or obtained in hard copy at:

U.S. Environmental Protection Agency, Region 2
Superfund Records Center
290 Broadway, 18th Floor
New York, NY 10007-1866
Phone: 212-637-4308
Hours: Monday to Friday from 9:00 A.M. to 5:00 P.M.

and

Town of Paris, Town Hall
2580 Sulphur Springs Road
Sauquoit, NY 13456-0451
Phone: 315-839-5400
Hours: Monday-Thursday from 9:00A.M. to 4:00 P.M.
Friday from 9:00 A.M. to 12:00 P.M.

and

NYSDEC Central Office
625 Broadway
Albany, NY 12233-7016
Phone: 518-402-9775
Hours: Monday-Friday from 9:00 A.M. to 5:00 P.M.
Please call for an appointment.

and

NYSDEC Region 6 Sub-Office
State Office Building
207 Genesee Street
Utica, NY 13501
Phone: 315-793-2555
Hours: Monday-Friday from 8:30 A.M. to 4:45 P.M.
Please call for an appointment.

FOR FURTHER INFORMATION CONTACT: Isabel Rodrigues, Remedial Project Manager, by mail at Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th floor, New York, NY 10007-1866; telephone at 212-637-4248; fax at 212-637-4284; or e-mail at rodrigues.isabel@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. INTRODUCTION

EPA Region 2 is publishing this direct final deletion of the Ludlow Sand & Gravel Superfund Site from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of 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). As described in Section 300.425(e)(3) of the NCP, a site deleted from the NPL remains eligible for remedial actions if conditions at the site warrant such action.

Because EPA considers this action to be noncontroversial and routine, this action will be effective **[insert date 60 days after the publication date in the *Federal Register*]** unless EPA receives significant adverse comments by **[insert date 30 days after the publication date in the *Federal Register*]**. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to delete the Site in the "Proposed Rules" section of today's *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 Deletion before the effective date of the deletion and the deletion will not take effect. EPA will, if appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments received. In such a case, there will be no additional opportunity to comment.

Section II below explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless significant 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 300.425(e), sites may be deleted from the NPL where there is no risk posed or 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 parties have implemented all appropriate response actions required;

ii. All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release of hazardous substances poses no significant threat to public health or the environment and, therefore, 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. Deletion Procedures

The following procedures apply to deletion of the Site.

(1) EPA consulted with the state of New York prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete also published today 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 to Delete prior to their publication today, and the State, through the NYSDEC, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, *The Observer-Dispatch* (Utica). The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the 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 deletion action, EPA will publish a timely notice of withdrawal of this direct final

Notice of Deletion before its effective date and will prepare a response to comments. If appropriate, EPA may then continue with the deletion process based on the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion 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's management of sites. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following summary provides the Agency's rationale for deleting the Site from the NPL.

Site Background and History

The Site is located in the Town of Paris, Oneida County, New York, approximately six miles south of Utica. The Ludlow Sand & Gravel property encompasses approximately 60 acres with landfill activities confined to approximately 18 acres. The fill area is fenced on the western boundary along Holman City Road. The south and east sides of the landfill are bounded by a designated wetland and an unnamed stream, while to the north, the landfill is bounded by a gravel pit which is also part of the Site.

The landfill began receiving municipal refuse from surrounding communities in the 1960's. The landfill also received bulk liquid, including septage, waste oils, coolants, and sludges containing metals. The bulk liquids were disposed of at the landfill by surface application. The on-site gravel pit, known as the North Gravel Pit (NGP), located to the north of

the landfill, was also periodically used for the disposal of bulk waste oils. Drummed liquid wastes were reportedly not disposed of in the landfill. Drummed liquids were bulked using a vacuum truck and were applied to the landfill in a manner similar to the bulk liquids previously described. The landfill continued to accept waste until it was shut down by court order in 1988.

As early as 1966, New York State cited the owner/operator, Mr. Ludlow, for improper or illegal waste disposal practices. A variety of legal actions were taken against Mr. Ludlow in response to legal complaints made by the New York State Department of Law.

Preliminary site investigations conducted by NYSDEC in 1982 identified the presence of polychlorinated biphenyls (PCBs) in leachate seeps emanating from the landfill. Reports from the community and site inspections conducted by the NYSDEC indicated that the Site warranted proposal for the NPL. In December 1982, the Site was proposed to the NPL (47 FR 58476). In September 1983, the Site was placed on the NPL (48 FR 40658). EPA, in consultation with the State, divided the site into two operable units (OUs). OU1 addressed the landfill proper and OU2 was to address contamination in off-site groundwater, the on-site wetlands, and the NGP.

Remedial Investigation and Feasibility Study

Special Metals Corporation of Utica, New York, a potentially responsible party (PRP), agreed to perform a Remedial Investigation/Feasibility Study (RI/FS) for the site in an Administrative Consent Order with the State that was signed on September 10, 1984. The completed RI/FS was submitted to the State in 1986 and included a recommendation for landfill closure as the remedy for the site. The FS recommended alternatives for remediating the landfill that were less stringent than the federal and state requirements. Subsequently, Mr. Ludlow, another PRP, engaged a contractor to perform additional investigations to supplement the initial investigation and prepare a closure plan. A second investigation report with a final closure plan

was submitted to the State for review. In July 1987, a Federal District Court Judge in the District Court of Binghamton ordered the landfill to close by February 15, 1988 pursuant to federal and state regulation and ordered the partial payment of response costs to the State. Concurrent with the PRP's additional investigations, the EPA tasked a contractor to perform a supplemental RI/FS in response to the State's request for assistance in evaluating the cost of the alternatives. The supplemental RI/FS was released to the public for comments in August 1988.

A supplemental RI to investigate the drinking water supply was also conducted. The Village of Clayville's water system is located approximately three quarters of a mile northwest of the landfill. This system consists of a supply well 81 feet deep that has a capacity of 70 gallons per minute. The only individual water supply wells within 1,000 feet of the landfill are three homeowner wells along Mohawk Street located upgradient to groundwater flow around the landfill and eight additional homeowner wells located between 1,000 and 3,000 feet from the landfill. The three closest residential wells and the Clayville public water supply were sampled for organics and metals. The results indicated that all off-site residential and public water supplies met federal and state drinking water standards.

In 1994, the PRPs proposed a work plan for a supplemental RI/FS to address OU2. As some removal of contaminated material had occurred as part of the implementation of the OU1 remedy, the PRPs believed that sufficient work was done to address the contamination at the NGP and that any further remedial action was unnecessary. The EPA and NYSDEC disagreed and the dispute was taken to court. Subsequently, the work plan was approved for implementation under a Consent Judgment, by order of the court, dated August 3, 1996. The purpose of the supplemental RI was to characterize the extent of groundwater contamination

further and to define the nature and extent of residual contamination at the NGP. The supplemental RI was conducted between November 1996 and January 1998.

Selected Remedy

Based upon the results of the RI/FS, EPA signed a Record of Decision (ROD) on September 30, 1988. The remedial measures identified in the 1988 OU1 ROD were as follows:

- Consolidate approximately 10,000 cubic yards of contaminated soil and sediment located adjacent to the landfill and dispose of it in the landfill and then place either a clay or synthetic cover over it to prevent rain water from coming into contact with the buried materials;
- Collect leachate from seepage areas;
- Dewater the landfill, if necessary, by using either a passive drain system or groundwater extraction wells;
- Implement upgradient groundwater controls to lower the water table to prevent groundwater from coming into contact with the waste material;
- Treat the contaminated leachate and groundwater at an on-site facility, or if the volume of water were small, transport the water and leachate to an approved disposal facility;
- Install a perimeter fence around the site, including the wetlands;
- Recommend that institutional controls be established in the form of deed restrictions on future uses of the site; and
- Monitor the groundwater, private wells, and surface water to ensure that remediation of the landfill is effective.

In addition, the ROD called for implementation of a soil/sediment sampling program to fully define the volume and extent of contaminated soils to be consolidated under the cap. New York State and the PRPs entered into a Consent Judgement in the Northern District of New York for the implementation of an Approved Remedial Plan (ARP). The ARP addressed the elements of the 1988 ROD. The ARP also included elements that were to be addressed as part of OU2, including the excavation and consolidation of contaminated sediments from the wetlands and PCB-contaminated soil from the NGP into the landfill. It also included a supplemental groundwater study that was completed by the PRPs in January 1990.

Many soil and groundwater samples were collected at the site to characterize the nature and extent of contamination as part of the supplemental RI. These and other data indicated that PCBs were the principal contaminants which exceeded soil cleanup values. These PCB concentrations remained at depth in the NGP because of the limitations of the excavation equipment which was used when the NGP was excavated as part of the OU1 remedial activities. In addition, low levels of volatile organic compounds (VOCs) and inorganic compounds (metals) were also detected in soil and groundwater samples on a sporadic and limited basis. During the supplemental RI quarterly groundwater sampling was performed at five wells around the perimeter of the NGP from September 1997 until March 1999 for a total of seven sampling events. Monitoring well MW11-R had detectable concentrations of PCBs (0.13 parts per billion (ppb) and 0.24 ppb) in the unfiltered samples during two of the seven sampling events (September 1997 and June 1998). All other wells sampled and all filtered samples did not demonstrate detectable concentrations. This indicated that PCB contamination is not migrating in groundwater and is confined to the pit area. Based upon these data, it was determined that no further remedial action was necessary for the groundwater, with the assumption that the residual

PCB contamination remaining below the water table in the NGP would be addressed as part of the OU2 remedy.

The remedy for OU2, specified in a ROD issued by NYSDEC on March 31, 2003, primarily addressed residual PCB contamination at depth in the NGP and specifically called for:

- Solidifying soil at depth with PCB concentrations above 10 parts per million (ppm);
- Implementing a pre-design delineation sampling program to determine the area to be treated;
- Implementing soil bench-scale testing to determine the grout characteristics;
- Backfilling the NGP to its original elevation, covering the area with clean soil to raise the surface elevation to its original grade, and applying a vegetative cover;
- Limiting site access and issuing a deed restriction to prohibit groundwater usage and limiting the land use to nonresidential purposes;
- Installing at least two downgradient deep groundwater monitoring wells to ensure that PCB migration in the groundwater is not occurring; and
- Implementing a groundwater monitoring program.

Response Actions

The remedial action (RA) for OU 1 was conducted by the PRPs pursuant to the Consent Judgement with the State. During the remedial design, the soil contamination in the wetlands areas and NGP were delineated. The Remedial Design Report was approved by the NYSDEC in June 1990.

RA activities for OU 1 started in 1990 and were performed under the oversight of the NYSDEC. Sediment from the wetlands was excavated to the NYSDEC Technical and Administrative Guidance Memorandum (TAGM) No. 94-HWR-4046 surface soil guidance value

of 1 ppm for PCBs and consolidated into the landfill prior to the cap completion. Approximately 40 cubic yards of sediment with PCB concentrations greater than 500 ppm were disposed of off-site at an approved disposal facility. Approximately 60,000 cubic yards of soil were excavated from the NGP, of which approximately 40,000 cubic yards were found to be contaminated with PCBs and were consolidated into the landfill prior to completion of the cap. The other 20,000 cubic yards of material had nondetectable levels of PCBs and were placed on the bank of the NGP. The total amount of soil that was excavated from the NGP was greater than anticipated and the excavation using conventional excavation equipment became difficult when groundwater was encountered. Topsoil and seeding were placed over the entire capped area which was enclosed within a chain link fence. A leachate collection system, a leachate treatment system, gas collection/lateral drainage layer and gas venting systems were also installed. Monitoring wells were installed downgradient from the landfill. Construction was completed in 1992.

A report documenting the cleanup efforts, *Construction Document Report*, was submitted by the PRPs and approved by the NYSDEC in May 1995.

The United States Army Corps of Engineers (USACE) prepared the RD plans and specifications for OU2 through an interagency agreement with the EPA. The 2003 ROD identified pressure grouting as the method to be used to solidify the PCB-impacted soils in the NGP. The EPA performed a Value Engineering Assessment between the proposed pressure grouting technology and soil mixing technology. In-situ soil mixing (ISSM), sometimes referred to as in-situ solidification/stabilization (ISS), was identified as having the potential to complete the project at a lower cost and in a shorter time frame. As a result the EPA decided to use this technology to address the PCB contamination above 10 ppm in the NGP. The EPA Region 2 removal program staff directed and oversaw construction activities.

From May 21 to June 8, 2007, the contractor mobilized at the site to prepare the site for construction activities. Also during this period of time, ponded water within the proposed work area was pumped into four 22,000-gallon frac tanks where it was stored until laboratory results indicated that it was acceptable to discharge.

Following on-site mobilization in June 2007, construction activities were conducted in two phases. Phase I of the RA included ISSM of PCB-contaminated soils and installation of groundwater monitoring wells. Phase II included backfilling the pit with clean fill to its original elevation, seeding the area to provide a vegetative cover, and installing culverts, swales, and a retention basin for storm water runoff.

On July 17, 2007 the ISSM contractor mobilized equipment to begin the field demonstration activities. Three sets of two 8.5-foot diameter overlapping grouted columns were advanced in a noncontaminated area of the NGP. The center of the columns were placed 7.36 feet apart to ensure column overlap. The columns were advanced to 15 feet below ground surface (bgs). Each set was made with a different mixture of Portland cement. A few days later these columns were exposed and samples were collected for physical testing to ensure the desired specs were met. Based on the results of the testing, a 7% Portland cement mixture was selected and full production was initiated. By August 22, 2007, a total of 582 columns were completed resulting in approximately 17,000 cubic yards of solidified soil.

On September 25, 2007, a final inspection was conducted by EPA and NYSDEC for OU2. Subsequently, on April 30, 2009, a site-wide inspection was conducted by EPA and NYSDEC in conjunction with the most recent five-year review of the site. Based on the result of these inspections, it was determined that construction for the entire site had been completed, that the remedy had been implemented consistent with the RODs, and is functioning as intended by

the decision documents.

Cleanup Goals

OU1

Following the completion of the OU1 RA a long-term monitoring program was implemented to monitor the effectiveness of the cap and leachate collection system. Results indicated that the system was effective. An evaluation and comparison of historical leachate and groundwater data were conducted in 2006 and concluded that there was minimal potential for impacts to downgradient water supply wells and groundwater. Based on this evaluation, a decision was made to discontinue the operation of the leachate collection and treatment system operation while continuing the monitoring program for groundwater, water supplies and leachate. The leachate treatment system was shutdown on June 10, 2008.

During the most recent leachate monitoring event in December 2011, results were similar to pre-shutdown concentrations. Water level measurements were also consistent with the levels measured pre-shutdown. Water quality analytical data indicated that PCBs continued to be below method reporting limits, and data for other contaminants were similar to previous results with the exception of two contaminants, total phenols and antimony, which exceeded state ambient water quality criteria for the first time. Concentrations of total phenolics are, however, less than the required discharge limit of 0.008 ppm. Elevated antimony, along with continued elevated iron and manganese concentrations in leachate water, are attributed to the release of these metals from soils due to the reducing conditions within the leachate and groundwater beneath the landfill and are not landfill-related contaminants of concern.

During the most recent site inspection, the landfill cover and other site features, including manholes, fencing, roads, site building and monitoring wells were generally noted to be in good

condition and the presence of seeps was not observed. Therefore, the landfill cover system appears to be operating effectively to limit or prevent concentrations of site contaminants from exceeding groundwater criteria off-site.

OU2

CDM, under contract with EPA, conducted pre-design field investigation soil sampling in January 2006 to horizontally and vertically delineate the PCB contamination in the NGP area. Activities were completed in accordance with USACE-approved Final Sampling and Analysis Plan (SAP) which consists of the Field Sampling Plan (FSP) and Quality Assurance Project Plan (QAPP).

During this investigation, CDM collected 305 soil samples from both surface and subsurface locations. Surface samples were collected less than 0.5 feet bgs, and deeper subsurface samples were collected 0.5 feet to 36 feet bgs in the NGP area. Only PCB analyses were performed on theses samples in accordance with the approved SAP. Only two Aroclors (1254 and 1248) were detected in varying concentrations in the soil samples. The Data Quality Control Summary Report (DQCSR) discusses both the data quality and analytical results of the soil samples collected by CDM during the investigation.

The ROD states that performing end-point verification sampling outside the perimeter of the grouted area is required to ensure that all PCB-contaminated soils have been solidified in accordance with the Remedial Action Objectives. The EPA and NYSDEC agreed to completely delineate the contamination before the soil mixing took place in lieu of end-point verification sampling after the soils had been stabilized. Additional soil sampling was performed between January and August, 2007 to satisfy this requirement. Results from the 2006 and 2007 delineation sampling events showed PCB concentrations ranging from below the detection limit,

in numerous samples, to 500 ppm at soil boring SB-14, located in the northwest portion of the NGP, at a depth of 8-10 feet. As noted above, all soils with PCB concentrations above the cleanup criterion were addressed during the RA.

Monitoring and Maintenance

The Long-Term Monitoring Program for the Ludlow site commenced in 2000. This program consists of the following activities:

- Monthly inspections are performed to visually assess and document the condition of the landfill perimeter fence and access road, leachate management system building, gas collection system, monitoring wells and manholes, and overall integrity of the cover;
- Water level measurements are obtained from designated monitoring wells at the landfill to assess seasonal water levels fluctuations and evaluate groundwater flow direction;
- Groundwater samples are collected from 17 monitoring wells, three residential wells and one public supply well during the monitoring events in accordance with the Long-Term Monitoring Program and analyzed for PCBs and VOCs;
- Surface water is sampled annually from the culvert where the ponded wetland discharges beneath Holman City Road to monitor PCBs;
- Annual methane monitoring at the landfill gas vents, manholes, and monitoring wells is conducted; and
- Leachate collected from the landfill is pumped through the on-site leachate treatment facility prior to discharge in accordance with the Operation, Maintenance and Monitoring Manual (O&M Manual). As noted above, operation of the leachate collection and treatment system was discontinued in 2008 after it was determined that there was

minimal potential for the capped landfill to impact to downgradient water supply wells and groundwater.

No operation or maintenance for the stabilized soils is necessary for OU2. The area covering the solidified columns was backfilled to the former existing grade. This covered the columns with up to 30 feet of clean soil. In accordance with the OU2 ROD, a groundwater monitoring program was implemented. Five new wells installed during the OU2 remediation were sampled to establish a baseline. The monitoring of these wells is subject to the OU1 Long-Term Monitoring Program for the site. Monitoring and maintenance will continue to be performed by MACTEC Engineering and Consulting, P.C., under contract with NYSDEC. Institutional controls were established in the Declaration of Covenants, Restrictions and Environmental Easement which was executed on August 9, 2013.

Five-Year Review

Hazardous substances remain at this Site above levels that would allow for unlimited use and unrestricted exposure. Therefore, pursuant to CERCLA Section 121(c), EPA is required to conduct a review of the remedy at least once every five years. Three five-year reviews have been completed at the Site. The first five-year review was completed on July 1, 1999, the second was completed on July 1, 2004, and the third was completed on July 1, 2009. The 2009 five-year review included a recommendation to implement institutional controls. This was completed on August 9, 2013 with the execution of the Declaration of Covenants, Restrictions and Environmental Easement. The fourth five-year review is scheduled to be completed on or before July 1, 2014.

Community Involvement

Public participation activities for this Site have been satisfied as required in CERCLA Sections 113(k) and 117, 42 U.S.C. §§9613(k) and 9617. As part of the remedy selection process, the public was invited to comment on the proposed remedy. Prior to each five-year review, the public was notified through an ad in a local newspaper, *The Observer-Dispatch* (Utica), that a review of the remedy would be conducted and that the results would be available in the local site repository upon completion. Contact information for questions related to the five-year review was also provided. All other documents and information that EPA relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

Determination that the Site Meets the Criteria for Deletion from the NCP

The implemented remedy achieves the degree of cleanup specified in the ROD for all pathways of exposure. All selected remedial action objectives and clean-up levels are consistent with agency policy and guidance. No further Superfund responses are needed to protect human health and the environment at the Site.

The NCP specifies that EPA may delete a site from the NPL if "all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate." 40 CFR 300.425(e)(1)(ii). EPA, with the concurrence of the State of New York, through NYSDEC, believes that this criterion for deletion has been met. Consequently, EPA is deleting this Site from the NPL. Documents supporting this action are available in the Site files.

V. Deletion Action

EPA, with the concurrence of the State of New York, has determined that all appropriate responses under CERCLA have been completed and that no further response actions under CERCLA, other than M&M and five-year reviews, are necessary. Therefore, EPA is deleting the Site from the NPL. Because EPA considers this action to be noncontroversial and routine, EPA is taking this action without prior publication. This action will be effective **[insert date 60 days after the publication date in the *Federal Register*]** unless EPA receives adverse comments by **[insert date 30 days after the publication date in the *Federal Register*].** If adverse comments are received within the 30-day public comment period of this action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion and the deletion will not take effect. EPA will, if appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments received. In such a case, 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, Natural Resources, Oil Pollution, Penalties, Reporting and record keeping requirements, Superfund, Water Pollution Control, Water Supply.

Dated: September 20, 2013.

Judith A. Enck

Regional Administrator

EPA, Region 2

For the reasons set out in the preamble, 40 CFR Part 300 is amended as follows:

Part 300 - [Amended]

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.

Appendix B to Part 300 [Amended]

2. Table 1 of Appendix B to part 300 is amended by removing “NY,” “Ludlow Sand & Gravel,” “Clayville".

[FR Doc. 2013-24116 Filed 10/01/2013 at 8:45 am; Publication Date: 10/02/2013]