

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

FINAL DECISION AND RESPONSE TO COMMENTS

DETERMINATION OF
CORRECTIVE ACTION COMPLETE WITH CONTROLS

UNDER THE
RESOURCE CONSERVATION AND RECOVERY ACT
AS AMENDED BY THE HAZARDOUS AND SOLID WASTE
AMENDMENTS OF 1984

Issued: J.G. Wilson Facility
ID Number: VAD 000 000 125
Facility Address: 120 Jefferson Street
Chesapeake, VA 23324

Purpose

The United States Environmental Protection Agency (EPA) is issuing this Final Decision and Response to Comments (Final Decision) under the authority of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, and the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 U.S.C. Section 6901 to 6992k for the former J.G. Wilson Facility located in Chesapeake, Virginia (the Facility).

Response to Comments

On July 9, 2010, EPA issued a Statement of Basis (SB) which summarized the information gathered during the environmental investigations at the Facility and proposed that no further corrective actions were necessary at the Facility except for the implementation and maintenance of institutional controls (ICs). Consistent with the public participation provisions under RCRA, EPA requested comments from the public on the proposed Final Remedy. The commencement of a thirty (30)-day public comment period was announced in The Virginian Pilot on July 9, 2010. The public comment period ended on August 9, 2010. EPA received no comments on its proposed Final Remedy. The SB is hereby incorporated into this Final Decision by reference and made a part hereof as Attachment A to this document.

Final Remedy

EPA received no comments on its proposed Final Remedy. Therefore, EPA is selecting institutional controls as the Final Remedy. In EPA's February 2003 Final Guidance on Completion of Corrective Action Activities at RCRA Facilities, 68 Fed. Reg. 8757 (February 2003), a determination that the cleanup objectives for a facility have been met and all that remains is the implementation and maintenance of ICs, is referred to as a Corrective Action Complete with Controls determination. A Corrective Action Complete with Controls determination is appropriate at the Facility because protection of human health and the environment has been achieved, and ICs are necessary for the continued protection of human health and the environment.

Under this Final Remedy, some concentrations of contaminants will remain in the groundwater at

the Facility above levels appropriate for residential and domestic uses. As a result, the Final Remedy will require the Facility to implement ICs in order to restrict use of the groundwater to prevent human exposure to contaminants while contaminants remain in place. In addition to Institutional Controls, EPA will require Truxton to implement a groundwater monitoring plan to monitor progress towards attaining the groundwater cleanup standards.

EPA has identified the Commonwealth of Virginia State Board of Health Private Well Regulations, 12 VAC 5-630-10 *et seq.* (“Regulations”) and its implementing statute set forth at the Code of Virginia, Title 32.1 (Health), Chapter 6 (Environmental Health Services), Va. Code §32.1. as an institutional control mechanism that will reduce potential human exposure to contaminated groundwater attributable to the Facility. Pursuant to Section 12 VAC 5-630-30, the purpose of these Regulations is to “ensure that all private wells are located, constructed and maintained in a manner which does not adversely affect ground water resources, or the public welfare, safety and health.”

Accordingly, Section 12 VAC 5-630-230 through 12 VAC 5-630-270 of the Regulations prescribes the process by which construction permits for the installation of private wells are received and issued. Pursuant to the Regulations, if a private well is installed or modified without a permit, Section 12 VAC 5-630-150 sets forth an enforcement mechanism which provides for the notification of violations of the Regulations, the issuance of orders requiring cessation and correction of violations, appropriate remedial action to ensure that the violation does not recur, and any appropriate corrective action to ensure compliance with the Regulations.

An environmental covenant, pursuant to the Virginia Uniform Environmental Covenants Act, Title 10.1, Chapter 12.2, Sections 10.1-1238-10.1-1250 of the Code of Virginia (“Environmental Covenant”), will be recorded with the Clerk’s Office of the Circuit Court of Chesapeake. Additionally, as part of the Environmental Covenant, Truxton, the current owner of the Facility, will be required to provide a coordinate survey as well as a metes and bounds survey of the closed surface impoundments and the Facility boundary. Mapping the extent of the land use restrictions will allow for presentation in a publicly accessible mapping program such as Google Earth or Google Maps. A clerk-stamped copy of the Environmental Covenant will be sent to EPA and VDEQ within 60 days of recordation.

The Environmental Covenant will set forth the prohibition on use of groundwater from the upper aquifer below the property for any purpose except environmental monitoring and testing until such time as groundwater cleanup standards for unlimited use and unrestricted exposure have been reached. In addition to the use prohibitions, the Environmental Covenant will also require the Facility owner and any subsequent owners to submit to the EPA and VDEQ written documentation following the transfer of the property concerning changes in the use of the Facility property. This includes notice of the filing of applications for building permits for the property or proposals for any Facility work potentially affecting the groundwater use restriction identified in the Environmental Covenant.

The groundwater use prohibition will be incorporated either in full or by reference into all deeds, easements, mortgages, leases, licenses, occupancy agreements, or any other instrument of transfer, whereby an interest in and/or a right to use the property or a portion thereof is conveyed.

If the Facility owner or subsequent owners fail to meet its obligations under the enforceable mechanisms selected or if EPA, in its sole discretion, deems that additional ICs are necessary to

protect human health or the environment, EPA has the authority to require and enforce additional ICs, such as the issuance of an administrative order.

Declaration

Based on the Administrative Record compiled for the corrective action at the former J.G. Wilson Facility in Chesapeake, Virginia, EPA has determined that this Final Decision is protective of human health and the environment.

Abraham Ferdas, Director
Land and Chemicals Division
U.S. EPA Region III

Date

Attachment: Attachment A