

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

I hereby certify that the
within is a true and correct copy
of the original ADMINISTRATIVE ORDER
filed in this matter.

BENJAMIN COHAN
Attorney for US EPA

IN THE MATTER OF:

Roxbury Terminal LLC)
Maintenance Facility)
1902 Roxbury Road)
Roxbury, Virginia 23140)

EPA I.D. No. VAD 000 799 379)

FACILITY)

Roxbury Terminal LLC)

1902 Roxbury Road)
Roxbury, Virginia 23140)

RESPONDENT)

) ADMINISTRATIVE ORDER

) ON CONSENT

) DOCKET NO.

) RCRA-03-2016-0165AM

) Proceeding under Section 3013

) of the Resource

) Conservation and Recovery

) Act, as amended, 42 U.S.C.

) § 6934.

ADMINISTRATIVE ORDER ON CONSENT

The parties to this Final Administrative Order on Consent (Consent Order), the United States Environmental Protection Agency (EPA), and Roxbury Terminal LLC (Roxbury or Respondent), having agreed to entry of this Consent Order, it is therefore Ordered and Agreed that:

I. JURISDICTION

1. This Consent Order is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency by Section 3013 of the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6934. The authority vested in the Administrator has been delegated to the Regional Administrators by EPA Delegation No. 8-20 dated May 11, 1994, and was further delegated to the Director of the Land and Chemicals Division by EPA Region III Delegation No. 8-20 dated September 20, 1999.

2. EPA granted the Commonwealth of Virginia (the Commonwealth) authorization to operate a state hazardous waste program in lieu of the federal program, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), effective December 18, 1984 (49 FR 47391). Subsequent to the December 18, 1984 authorization, EPA granted authorization for revisions to the Commonwealth's authorized hazardous waste program effective August 13, 1993, September 29, 2000, June 20, 2003, July 10, 2006, July 30, 2008, and November 4, 2013. The Commonwealth, however, does not have authority to enforce Section 3013 of RCRA. The Commonwealth has been given notice of the issuance of this Consent Order.

3. This Consent Order is issued to Respondent, the owner of the subject facility located at 1902 Roxbury Road, Roxbury, Virginia 23140 (the Facility), as defined further in Section V.2 below and depicted in Exhibit 1 attached to this Consent Order and a part thereof.

4. Respondent consents to issuance of this Consent Order, agrees to comply with its terms and will not contest EPA's authority to issue this Consent Order and to enforce its terms. Further, Respondent will not contest EPA's jurisdiction to compel compliance with this Consent Order in any subsequent enforcement proceeding, either administrative or judicial; require Respondent's compliance with the terms of this Consent Order, or impose sanctions for violations of this Consent Order.

II. DEFINITIONS

This Consent Order incorporates the definitions in RCRA, 42 U.S.C. §§ 6901 - 6922k, and the regulations promulgated under RCRA unless otherwise specified.

III. PARTIES BOUND

1. This Consent Order shall apply to and be binding upon EPA, the Respondent, and Respondent's agents, successors, assigns, trustees, receivers, and all persons, including but not limited to contractors and consultants, acting on behalf of Respondent. Respondent will be responsible for and liable for any violations of this Consent Order, regardless of Respondent's

use of employees, agents, contractors, or consultants to perform work required by this Consent Order.

2. Except with the written consent of EPA, no change in ownership of any property covered by this Consent Order or in the corporate or partnership status of the Respondent, shall in any way alter, diminish, or otherwise affect Respondent's obligations and responsibilities under this Consent Order. Respondent will give written notice of this Consent Order to any successor in interest prior to transferring operation of the Facility or a portion thereof and will notify EPA in writing at least fifteen (15) days prior to the transfer.

3. Respondent shall provide a copy of this Consent Order to all supervisory personnel, contractors, subcontractors, laboratories, and consultants retained to conduct activities set forth in Section VII of this Consent Order and shall do so within fifteen (15) calendar days of the effective date of this Consent Order or date of such retention, whichever is later. All contracts, agreements or other arrangements with such persons shall require such persons to conduct any and all activities set forth in Section VII of this Consent Order in accordance with the requirements of this Consent Order. Notwithstanding the terms of any such contract, agreement or arrangement, Respondent is responsible for complying with this Consent Order and for ensuring that all such persons perform the activities set forth in Section VII in accordance with this Consent Order.

4. In the event of any change in majority ownership or control of the Respondent, Respondent shall notify EPA in writing of the nature of any such change no later than fifteen (15) calendar days after the effective date of such change. In addition, Respondent shall provide a copy of this Consent Order to any successor to the Respondent and/or to the Facility at least fifteen (15) calendar days prior to the effective date of such change.

IV. STATEMENT OF PURPOSE

In entering into this Consent Order, the mutual objective of EPA and Respondent is to have Respondent implement and maintain the activity and use restrictions, selected in the June 4, 2013 Final Decision and Response to Comments (FDRTC), attached hereto as Exhibit 2, and as required herein.

V. FINDINGS OF FACT

1. Respondent is a limited liability company and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).

2. The Facility is located at 1902 Roxbury Road, Roxbury, Virginia 23140.

3. Hazardous wastes are, or have been stored, treated or disposed of at the Facility, within the meaning of Section 3013 (a) of RCRA, U.S.C. Section 6934 (a).

4. The Respondent is the owner of the Facility within the meaning of Section 3013(a) of RCRA, 42 U.S.C. Section 6934(a).

5. Atlantic Bulk Carrier Corporation leases the Facility from Roxbury and is the operator of the Facility within the meaning of Section 3013(a) of RCRA, 42 U.S.C. Section 6934(a).

6. Trichloroethylene (TCE), tetrachloroethylene (PCE), 1,1-dichloroethane (1,1-DCA) and vinyl chloride (VC) have been found in on-site groundwater at concentrations exceeding their respective Maximum Contaminant Levels (MCLs) promulgated at 40 C.F.R. Part 141 pursuant to Section 1412 of the Safe Drinking Water Act, 42 U.S.C. Section 300g-1, and /or Region III's Risk Based Concentrations.

7. Spent or discarded TCE, PCE, 1,1-DCA and VC are "hazardous wastes" as defined in 40 C.F.R. Section 261.3 and Section 1004(5) of RCRA, 42 U.S.C. Section 6903(5).

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

EPA hereby determines that there is a release of hazardous waste from the Facility that may present a substantial hazard to human health or the environment within the meaning of 3013 of RCRA, 42 U.S.C. Section 6934, and that monitoring, testing, analysis, and reporting set forth in this Consent Order are reasonable to ascertain the nature and extent of the hazard at the Facility.

VII. ORDER FOR MONITORING, TESTING, ANALYSIS AND REPORTING

Pursuant to Section 3013 of RCRA, 42 U.S.C. Section 6934, without any prejudice to EPA's right to bring a claim or action against any other party to perform the Work, Respondent agrees to and is hereby ordered to finance and perform the following acts in the manner and by the dates specified below:

A. CORRECTIVE MEASURES IMPLEMENTATION

1. Commencing on the Effective Date of this Consent Order and continuing thereafter, Respondent:

- a) Shall not use groundwater at the Facility property, being the property depicted in Exhibit 1, for any purpose other than the operation, maintenance, and monitoring activities required by the Virginia Department of Environmental Quality (VADEQ) and/or EPA, unless it is demonstrated to EPA, in consultation with VADEQ, that such use will not pose a threat to human health or the environment or adversely affect or interfere with the Final Remedy and EPA, in consultation with VADEQ, provides prior written approval for such use.

- b) Shall not use the Facility property, depicted in Exhibit 1, in a way that will adversely affect or interfere with the integrity and protectiveness of the Final Remedy.
- c) Shall not install any new wells on Facility property, depicted in Exhibit 1, unless it is demonstrated to EPA, in consultation with VADEQ, that such wells are necessary to implement the Final Remedy selected in the FDRTC and EPA provides prior written approval to install such wells.
- d) Shall install a vapor intrusion control system, the design of which shall be approved in advance by EPA, in each new structure constructed by or on behalf of Respondent above the contaminated groundwater plume or within 100-foot around the perimeter of the contaminated groundwater plume as further depicted by the “vapor intrusion control area” in Exhibit 1, unless it is demonstrated to EPA that vapor intrusion does not pose a threat to human health and EPA provides prior written approval that no vapor intrusion control system is needed.

2. Within thirty (30) days after any of the following events, Respondent shall submit to EPA written documentation describing the following: noncompliance with the activity and use limitations set forth in Paragraph VII.A.1, above; changes in use of the Facility property; or filing of applications for building permits for the Facility property and any proposals for any work at the Facility property, if such building or proposed work will affect the contamination on the Facility property as depicted in Figure 2 of the Final Decision and Response to Comments (Exhibit 2). In no event shall any such work at the Facility commence without prior written approval from EPA.

3. Corrective Measures Implementation (CMI) Assessment Report

- a. Every year on the anniversary of the Effective Date of this Consent Order, Roxbury shall submit a CMI Assessment Report for EPA approval, except as provided for in Section VIII.A.4.b, immediately below. The CMI Assessment Report shall include documentation stating whether or not the activity and use limitations set forth in Paragraph VII.A.1, above, are being complied with. The CMI Assessment Report shall be signed by a responsible corporate officer or an authorized representative of the Respondent.
- b. EPA recognizes that Atlantic Bulk Carrier Corporation (ABC) is required to submit a CMI Assessment Report for the Facility to EPA pursuant to Administrative Order on Consent, Docket No. RCRA-03-2015-0245AM. EPA will not seek the submission of a CMI Assessment Report under this Consent Order from Respondent unless EPA determines, in its sole discretion not subject to Dispute Resolution, that ABC has failed to submit a CMI Assessment Report. In the event that EPA determines that ABC failed to submit a CMI Assessment Report, EPA shall so notify Respondent. Within fourteen (14) days of receipt of EPA’s notice, Respondent shall submit a CMI

Assessment Report to EPA.

B. SUBMISSIONS/EPA APPROVAL

1. EPA will review the CMI Assessment Reports and all other documents submitted by Respondent pursuant to this Consent Order (Submissions) and, with the exception of progress reports, notify Respondent in writing of EPA's approval or disapproval of each such Submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the Submission. Such disapproval shall not be subject to the Dispute Resolution procedures of Section XV, below.
2. Within thirty (30) calendar days of receipt of EPA's comments on the Submission, Respondent shall submit to EPA for approval a revised Submission, which responds to any comments received and/or corrects any deficiencies identified by EPA. In the event that EPA disapproves of the revised Submission, Respondent may invoke the Dispute Resolution procedures of Section XV, below. In the event EPA disapproves the revised Submission, EPA reserves the right to revise such Submission and seek to recover from Respondent the costs thereof, in accordance with any applicable law. Any Submission approved or revised by EPA under this Consent Order shall be deemed incorporated into and made an enforceable part of this Consent Order.
3. All Submissions required by this Consent Order shall be delivered to the Project Coordinator designated pursuant to Section X (PROJECT COORDINATORS) below in accordance with Section XI (NOTIFICATION).

VIII. ON- SITE AND OFF-SITE ACCESS

1. Commencing on the Effective Date of this Consent Order and continuing thereafter, upon reasonable notice, and at reasonable times, EPA and/or its authorized representatives shall have the authority to enter and freely move about all property at the Facility for the purposes of, inter alia: interviewing Facility personnel and contractors; inspecting records, operating logs, and contracts related to the Facility; reviewing the progress of Respondent in carrying out the terms of this Consent Order; conducting such tests, sampling or monitoring as EPA or its Project Coordinator deem necessary; using a camera, sound recording, or other documentary type equipment; and verifying the reports and data submitted to EPA by Respondent. Respondent shall permit such persons to inspect and copy all records, files, photographs, documents, and other writings, including all sampling and monitoring data that pertain to work undertaken pursuant to this Consent Order.
2. Nothing in this Consent Order limits or otherwise affects EPA's rights of access and entry pursuant to applicable law, including, but not limited to RCRA.

IX. RECORD PRESERVATION

Respondent agrees that it shall preserve, during the pendency of this Consent Order and for a minimum of at least six (6) years after its termination, all data, records and documents in its possession or in the possession of its divisions, officers, directors, employees, agents, contractors, successors, and assigns which relate in any way to this Consent Order. After six (6) years, Respondent shall make such records available to EPA for inspection or shall provide copies of such records to EPA. Respondent shall notify EPA at least thirty (30) calendar days prior to the proposed destruction of any such records, and shall provide EPA with a reasonable opportunity to inspect, copy and/or take possession of any such records. Respondent shall not destroy any record to which EPA has requested access for inspection and/or copying until EPA has obtained such access or withdrawn its request for such access. Nothing in this Section shall in any way limit the authority of EPA under Section 3007 of RCRA, 42 U.S.C. § 6927, or any other access or information-gathering authority.

X. PROJECT COORDINATORS

1. EPA hereby designates Leonard Hotham as the EPA Project Coordinator. Within ten (10) calendar days of the Effective Date of this Consent Order, the Respondent shall notify EPA, in writing, of the Project Coordinator it has selected. Respondent's legal counsel shall not serve as Respondent's Project Coordinator. Each Project Coordinator shall be responsible for overseeing the implementation of the Consent Order. The EPA Project Coordinator will be EPA's primary designated representative at the Facility. To the maximum extent possible, all communications between Respondent and EPA, and all documents, reports, approvals, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Consent Order, shall be directed through the Project Coordinators.
2. Each party agrees to provide at least seven (7) calendar days' written notice to the other party prior to changing Project Coordinators.
3. If EPA determines that conditions or activities at the Facility, whether or not in compliance with this Consent Order, have caused or may cause a release or threatened release of solid wastes, hazardous wastes, hazardous constituents, hazardous substances, pollutants or contaminants, which threaten or may pose a threat to the public health or welfare or to the environment, EPA may direct that Respondent stop further implementation of this Consent Order for such period of time as may be needed to abate any such release or threatened release.
4. The absence of the EPA Project Coordinator from the Facility shall not be cause for the delay or stoppage of work.

XI. NOTIFICATION

1. Unless otherwise specified, reports, correspondence, approvals, disapprovals, notices, or other submissions relating to or required under this Consent Order shall be in writing and shall be sent as follows:

A. One (1) hard copy and one (1) electronic copy shall to be submitted to:

Leonard Hotham
U.S. Environmental Protection Agency
Region III, Mail Code 3LC20
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Telephone # 215-814-5778
E-mail: hotham.leonard@epa.gov

B. One (1) hard copy and one (1) electronic of all documents to be submitted to EPA shall also be sent to:

Brett Fisher, P.G.
Corrective Action Team Leader
Office of Remediation Programs
Virginia Department of Environmental Quality
629 East Main St.
Richmond, Virginia 23219
Phone: (804) 698-4219
Email: brett.fisher@deq.virginia.gov

2. Any notice, report, certification, data presentation, or other document submitted by Respondent pursuant to this Consent Order which discusses, describes, demonstrates, or supports any finding or makes any representation concerning Respondent's compliance or noncompliance with any requirement of this Consent Order shall be certified by a responsible corporate officer or a duly authorized representative of a responsible corporate officer of Respondent. A "responsible corporate officer" means: (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. A person is a "duly authorized representative" only if: (1) the authorization is made in writing by a person described above; (2) the authorization specifies either an individual or position having responsibility for overall operation of the regulated facility or activity (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and (3) the written authorization is submitted to the Project Coordinator designated by EPA in Section X (PROJECT COORDINATORS) of this Consent Order.

3. The certification required by Paragraph XI.2, above, shall be in the following form:

I certify under penalty of law that this [type of submission] and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

Signature : _____

Name : _____

Title : _____

XII. DELAY IN PERFORMANCE/STIPULATED PENALTIES

1. Unless there has been a written modification of a compliance date by EPA, or excusable delay as defined below in Section XVI (FORCE MAJEURE AND EXCUSABLE DELAY), in the event that Respondent fails to comply with any requirement set forth in this Consent Order, Respondent shall pay stipulated penalties, as set forth below, upon receipt of written demand by EPA. Compliance by Respondent shall include commencement or completion, as appropriate, of any activity, plan, study or report required by this Consent Order in an acceptable manner and within the specified time schedules in and approved under this Consent Order. Stipulated penalties shall accrue as follows:

- A. For failure to commence, perform or complete work as prescribed in this Consent Order: \$500 per day for one to seven (7) days or part thereof of noncompliance, and \$1,000 per day for each day of noncompliance, or part thereof, thereafter;
- B. For failure to comply with the provisions of this Consent Order after receipt of notice of noncompliance by EPA: \$500 per day for one to seven (7) days or part thereof of noncompliance, and \$1,000 per day for each day of noncompliance, or part thereof, thereafter; in addition to any stipulated penalties imposed for the underlying noncompliance;

- C. For failure to submit deliverables as required by this Consent Order, or for any failure to comply with this Consent Order not described in subparagraphs A and B above: \$500 per day for one to seven (7) days or part thereof of noncompliance, and \$1,000 per day for each day of noncompliance, or part thereof, thereafter.

2. Whether or not Respondent has received notice of a violation, stipulated penalties shall begin to accrue on the date that complete performance is due or a violation occurs, and shall continue to accrue until and through the correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate stipulated penalties for separate violations of this Consent Order.

3. All penalties owed to EPA under this Section shall be due within thirty (30) calendar days of receipt of a demand for payment unless Respondent invokes the dispute resolution procedures under Section XIII, below. Such demand for payment shall describe the noncompliance and shall indicate the amount of penalties due. Interest shall begin to accrue on the unpaid balance at the end of the thirty (30) calendar day period and shall accrue at the United States Tax and Loan Rate.

4. All penalty payments shall be made by certified or cashier's check payable to the Treasurer of the United States of America and shall be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Office
PO Box 979077
St. Louis, MO 63197-9000

All payments shall reference the name of the Facility, Respondent's name and address, and the EPA Docket Number of this Consent Order. Copies of the transmittal of payment shall be sent simultaneously to the EPA Project Coordinator and the Regional Hearing Clerk (3RC00), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029.

5. Respondent may dispute EPA's demand for payment of stipulated penalties for any alleged violation of this Consent Order by invoking the dispute resolution procedures below under Section XIII (DISPUTE RESOLUTION). Stipulated penalties shall continue to accrue, but need not be paid, for any alleged noncompliance which is the subject of dispute resolution during the period of such dispute resolution. To the extent that Respondent does not prevail upon resolution of the dispute, Respondent shall remit to EPA within seven (7) calendar days of receipt of such resolution any outstanding penalty payment, including any accrued interest, in the manner described above in Paragraph 4 of this Section XII. To the extent Respondent prevails upon resolution of the dispute, no penalties shall be payable for that dispute.

6. Neither the filing of a petition to resolve a dispute nor the payment of penalties shall alter

in any way Respondent's obligation to comply with the requirements of this Consent Order.

7. The stipulated penalties set forth in this Section shall not preclude EPA from pursuing any other remedies or sanctions that may be available to EPA by reason of Respondent's failure to comply with any of the requirements of this Consent Order. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Consent Order.

XIII. DISPUTE RESOLUTION

1. If Respondent disagrees, in whole or in part, with any EPA disapproval, modification or other decision or directive made by the Land and Chemicals Division (LCD) pursuant to this Consent Order, Respondent shall notify the Director of LCD in writing of its objections, and the basis for such objections, within twenty one (21) calendar days of receipt of LCD's disapproval, decision or directive. Such notice shall set forth the specific points of the dispute, the position which Respondent asserts should be adopted as consistent with the requirements of this Consent Order, the basis for Respondent's position, and any matters that Respondent considers necessary for LCD's determination. LCD and Respondent shall have an additional fourteen (14) calendar days from the receipt by LCD of the notification of objection, during which time representatives of LCD and Respondent may confer in person or by telephone to resolve any disagreement. If an agreement is reached, the resolution shall be written and signed by an authorized representative of each party. In the event that resolution is not reached within this fourteen (14) calendar day period, LCD will furnish to Respondent, in writing, its decision on the pending dispute.

2. The invocation of formal dispute resolution procedures under this Section XIII shall not extend, postpone or affect in any way any obligation of Respondent under this Consent Order unless EPA determines otherwise. Stipulated penalties with respect to the disputed matter shall continue to accrue but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Consent Order. In the event that Respondent does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XII (DELAY IN PERFORMANCE/STIPULATED PENALTIES).

3. Notwithstanding any other provisions of this Consent Order, no action or decision by EPA, including, without limitation, decisions of the Director of Land and Chemicals Division, Region III, pursuant to this Consent Order, shall constitute final agency action giving rise to any right to judicial review prior to EPA's initiation of a judicial action to compel Respondent's compliance with this Consent Order.

XIV. FORCE MAJEURE AND EXCUSABLE DELAY

1. Respondent shall perform the requirements of this Consent Order in the manner and within the time limits set forth herein, unless the performance is prevented or delayed by events

that constitute a force majeure. Respondent shall have the burden of proving such a force majeure. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of Respondent, which cannot be overcome by due diligence and which delays or prevents performance in the manner or by a date required by this Consent Order. Such events do not include increased costs of performance, changed economic circumstances, reasonably foreseeable weather conditions or weather conditions which could have been overcome by due diligence, or failure to obtain federal, state, or local permits.

2. Respondent shall notify EPA, in writing, within seven (7) calendar days after they become or should have become aware of any event which Respondent claims constitutes a force majeure. Such notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to prevent or minimize the delay, and an estimated timetable for implementation of these measures. Failure to comply with the notice provision of this Section shall constitute a waiver of Respondent's right to assert a force majeure claim with respect to such event. In addition to the above notification requirements, Respondent shall undertake all reasonable actions to prevent or to minimize any delay in achieving compliance with any requirement of this Consent Order after they become or should have become aware of any event which may delay such compliance.

3. If EPA determines that there is excusable delay because the failure to comply or delay has been or will be caused by a force majeure, the time for performance of that requirement of this Consent Order may be extended, upon EPA approval, for a period equal to the delay resulting from such force majeure. This shall be accomplished through an amendment to this Consent Order pursuant to Section XX (SUBSEQUENT MODIFICATION). Such an extension shall not alter the schedule for performance or completion of any other tasks required by this Consent Order, unless these tasks are also specifically altered by amendment of the Consent Order. In the event that EPA and Respondent cannot agree that any delay or failure has been or will be caused by a force majeure, or if there is no agreement on the length of the extension, Respondent may invoke the dispute resolution procedures set forth in Section XV (DISPUTE RESOLUTION).

XV. EPA'S RESERVATION OF RIGHTS

1. EPA expressly reserves all rights and defenses that it may have, including the right to disapprove of work performed by Respondent pursuant to this Consent Order, to require that Respondent correct and/or perform any work disapproved by EPA, and to request that Respondent perform tasks in addition to those stated in the CMI Assessment Report, or any other provision of this Consent Order.

2. EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including any which may pertain to Respondent's failure to comply with any of the requirements of this Consent Order, including, without limitation, the assessment of penalties under § 3013(e) of RCRA, 42 U.S.C. § 6934(e). This Consent Order shall not be construed as a covenant not to sue, or as a release, waiver or limitation of any rights,

remedies, powers and/or authorities, civil or criminal, which EPA has under RCRA, or any other statutory, regulatory or common law authority.

3. Compliance by Respondent with the terms of this Consent Order shall not relieve Respondent of its obligations to comply with RCRA or any other applicable local, state, or federal laws and regulations.

4. The signing of this Consent Order and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement action pursuant to RCRA, including, but not limited to, Section 3008(a) or (h) of RCRA, 42 U.S.C. § 6928(a) or (h), or any other authority, should EPA determine that such action is warranted.

5. This Consent Order is not intended to be, nor shall it be construed as, a permit. This Consent Order does not relieve Respondent of any obligation to obtain and comply with any local, state, or federal permit or approval.

6. EPA reserves the right to perform any additional site characterization, feasibility study, and response/corrective actions it deems necessary to protect public health or welfare or the environment. EPA may exercise its authority under RCRA or any other authority to undertake or require the performance of response actions at any time. EPA reserves the right to seek reimbursement from Respondent for costs incurred by the United States in connection with any such response actions. Notwithstanding compliance with the terms of this Consent Order, Respondent is not released from liability, if any, for the costs of any response actions taken by EPA.

7. EPA reserves whatever rights it may have under any applicable law, or in equity, to recover from Respondent any costs incurred by EPA in overseeing the implementation of this Consent Order.

XVI. OTHER CLAIMS

Nothing in this Consent Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation, or other entity for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, solid wastes, pollutants, or contaminants found at, taken to, or taken from the Facility.

XVII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations.

Respondent shall obtain or require their authorized representatives to obtain all permits and approvals necessary under such laws and regulations.

XVIII. INDEMNIFICATION OF THE UNITED STATES GOVERNMENT

Respondent agrees to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from or on account of acts or omissions of Respondent or its agents, independent contractors, receivers, trustees, and assigns in carrying out activities required by this Consent Order. This indemnification shall not be construed in any way as affecting or limiting the rights or obligations of Respondent or the United States under their various contracts. The United States shall not be deemed to be a party to any contract entered into by Respondent for the purpose of carrying out any activities required by this Consent Order.

XIX. NOTICE OF NON-LIABILITY OF EPA

EPA shall not be deemed a party to any contract involving Respondent and relating to activities at the Facility and shall not be liable for any claim or cause of action arising from or on account of any act, or the omission of Respondent, its officers, employees, contractors, receivers, trustees, agents or assigns, in carrying out the activities required by this Consent Order.

XX. SUBSEQUENT MODIFICATION

1. Except as provided in Paragraph XII.3, below, this Consent Order may be amended only by mutual agreement of EPA and Respondent. Any such amendment shall be in writing, shall be signed by an authorized representative of each party, shall have as its effective date the date on which it is signed by EPA, and shall be incorporated into this Consent Order.
2. Any reports, plans, specifications, schedules, other submissions and attachments required by this Consent Order are, upon written approval by EPA, incorporated into this Consent Order. Any noncompliance with such EPA-approved reports, plans, specifications, schedules, other submissions, and attachments shall be considered a violation of this Consent Order and shall subject Respondent to the stipulated penalty provisions included in Section XII (DELAY IN PERFORMANCE/STIPULATED PENALTIES).
3. Minor modifications in the studies, techniques, procedures, designs or schedules utilized in carrying out this Consent Order and necessary for the completion of the project may be made by written agreement of the Project Coordinators. Such modifications shall have as an effective date the date on which the agreement is signed by the EPA Project Coordinator.
4. No informal advice, guidance, suggestions, or comments by EPA regarding reports, plans, specifications, schedules, and any other writing submitted by Respondent shall be construed as relieving Respondent of its obligation to obtain written approval, if and when required by this Consent Order.

XXI. SEVERABILITY

If any provision or authority of this Consent Order or the application of this Consent Order to any party or circumstance is held by any judicial or administrative authority to be invalid, the application of such provision to other parties or circumstances and the remainder of this Consent Order shall not be affected thereby and shall remain in full force.

XXII. TERMINATION AND SATISFACTION

Respondent may request that EPA terminate this Consent Order based on a demonstration by Respondent or Atlantic Bulk Carrier Corporation that all of the constituents of concern in groundwater no longer exceed applicable MCLs and vapor intrusion does not pose a threat. The provisions of this Consent Order shall be deemed satisfied upon Respondent's receipt of written notice from EPA that Respondent or Atlantic Bulk Carrier Corporation has demonstrated, to the satisfaction of EPA, that the aforementioned conditions have been met. This notice shall not, however, terminate Respondent's obligation to comply with any continuing obligations hereunder including, but not limited to, Sections IX (RECORD PRESERVATION), XVII (RESERVATION OF RIGHTS), XVI (OTHER CLAIMS), XVII (OTHER APPLICABLE

LAWS), and XVIII (INDEMNIFICATION OF THE UNITED STATES GOVERNMENT).

XXIII. ATTORNEYS' FEES

The Respondent shall bear its own costs and attorneys' fees.

XXIV. EFFECTIVE DATE

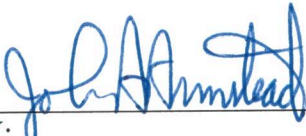
This Consent Order shall be effective on the date that EPA signs this Consent Order.

XXV. CERTIFICATION OF SIGNATURES

The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Order and to bind the Respondent to this document.

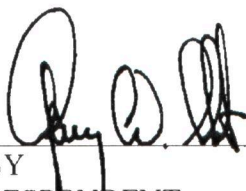
IT IS SO AGREED AND ORDERED:

DATE: 8.22.16



BY:
JOHN A. ARMSTEAD
DIRECTOR, LAND AND CHEMICALS DIVISION
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY
REGION III

DATE 8/3/16



BY _____
RESPONDENT
Gary W. Short
Member
Roxbury Terminal LLC

Exhibit 1 - Map of Facility
Exhibit 2 - Final Decision and Response to Comments dated June 4, 2013

EXHIBIT 1

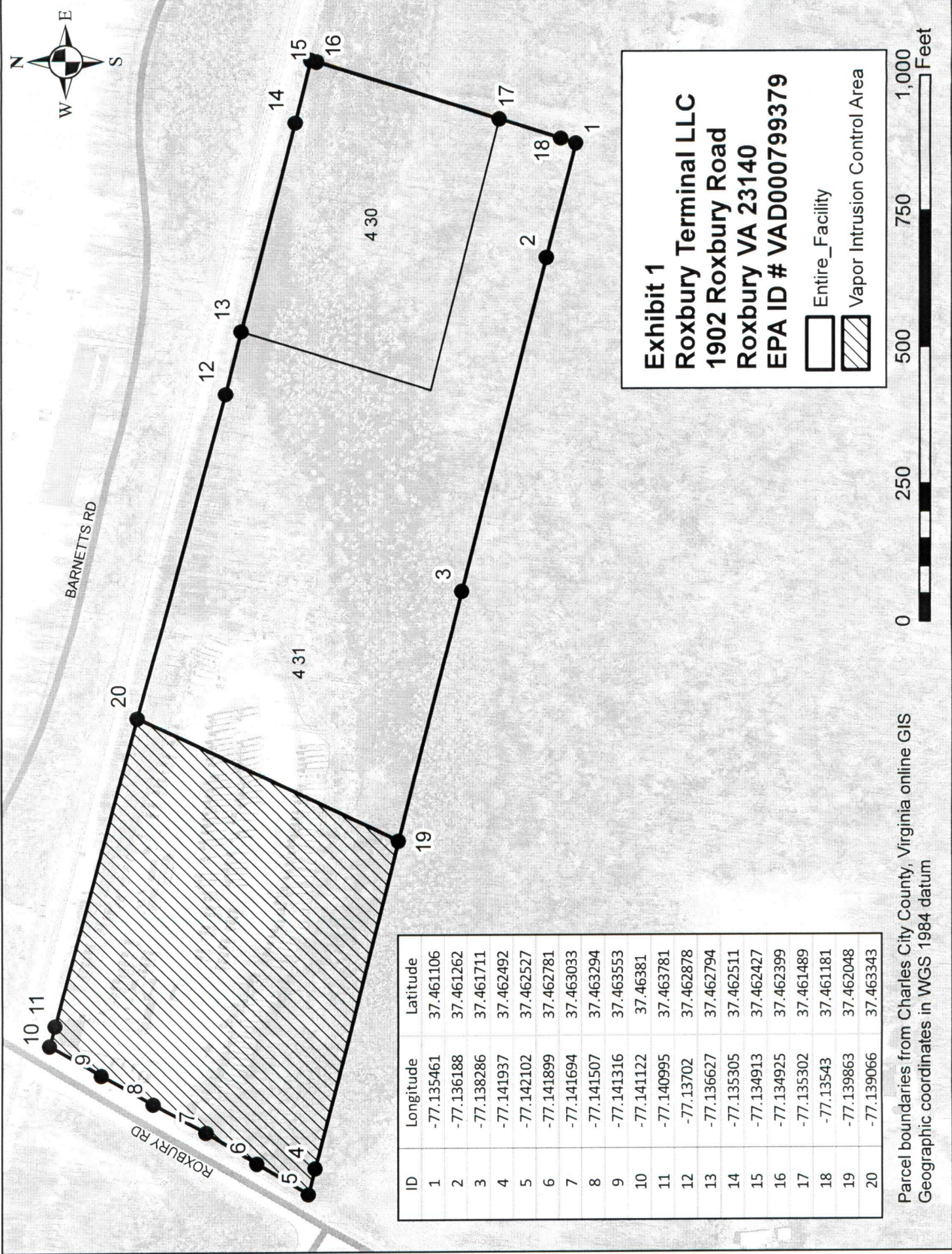


Exhibit 1
Roxbury Terminal LLC
1902 Roxbury Road
Roxbury VA 23140
EPA ID # VAD000799379

Entire_Facility
 Vapor Intrusion Control Area

ID	Longitude	Latitude
1	-77.135461	37.461106
2	-77.136188	37.461262
3	-77.138286	37.461711
4	-77.141937	37.462492
5	-77.142102	37.462527
6	-77.141899	37.462781
7	-77.141694	37.463033
8	-77.141507	37.463294
9	-77.141316	37.463553
10	-77.141122	37.46381
11	-77.140995	37.463781
12	-77.13702	37.462878
13	-77.136627	37.462794
14	-77.135305	37.462511
15	-77.134913	37.462427
16	-77.134925	37.462399
17	-77.135302	37.461489
18	-77.13543	37.461181
19	-77.139863	37.462048
20	-77.139066	37.463343

Parcel boundaries from Charles City County, Virginia online GIS
 Geographic coordinates in WGS 1984 datum

EXHIBIT 2

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

**FINAL DECISION
ATLANTIC BULK CARRIER CORPORATION INC.**

PURPOSE

The United States Environmental Protection Agency (EPA) is issuing this Final Decision and Response to Comments (FDRTC or Final Decision) selecting the Final Remedy for the Atlantic Bulk Carrier Corporation Inc. located at Roxbury, VA (hereinafter referred to as the Facility). The Final Decision is issued pursuant to 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. Sections 6901, et seq.

On April 8, 2013, EPA issued a Statement of Basis (SB) in which it described the information gathered during environmental investigations at the Facility and proposed a Final Remedy for the Facility. The SB is hereby incorporated into this Final Decision by reference and made a part hereof as Attachment A.

This FDRTC selects the remedy that EPA evaluated under the SB. Consistent with the public participation provisions under RCRA, EPA solicited public comment on its proposed Final Remedy. On April 23, 2013, notice of the Statement of Basis was published on the EPA website: [http://www.epa.gov/reg3wcmd/publicnotice_AtlanticBulkCarrier.html] and in the Progress Index newspaper. The thirty (30) day comment period ended on May 23, 2013.

Since EPA did not receive any comments on the SB during the public comment period, EPA has determined it is not necessary to modify the proposed Final Remedy set forth in the SB; thus, the remedy proposed in the SB is the Final Remedy selected by EPA for the Facility.

FINAL DECISION

EPA's Final Remedy for the Facility consists of the following:

- Monitoring of groundwater; and
- Compliance with and maintenance of institutional controls.

DECLARATION

Based on the Administrative Record compiled for the corrective action at the Atlantic Bulk Carrier Corporation Inc. facility, I have determined that the remedy selected in this Final Decision and Response to Comments, which incorporates the April 8, 2013 Statement of Basis, is protective of human health and the environment.

Date: 6.4.13



John Armstead, Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

Attachment A: Statement of Basis (April 8, 2013)

Attachment A



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION III

STATEMENT OF BASIS

**Atlantic Bulk Carrier Corporation
Maintenance Facility**

Roxbury, Virginia

USEPA ID No. VAD000799379

I. Introduction

The United States Environmental Protection Agency (EPA) has prepared this Statement of Basis (SB) to solicit public comment on its proposed remedy for the Atlantic Bulk Carrier Facility located at 1092 Roxbury Road, Roxbury, Virginia (Facility). EPA's proposed remedy consists of requiring the Facility to maintain a groundwater monitoring program and to implement and maintain groundwater use restrictions through Institutional Controls (ICs). This SB highlights key information relied upon by EPA in making its proposed remedy.

The Facility is subject to EPA's Corrective Action Program under 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. §§ 6901 et seq. (Corrective Action Program). The Corrective Action Program is designed to ensure that certain facilities subject to RCRA have investigated and cleaned up any releases of hazardous waste and hazardous constituents that have occurred at their property. For unpermitted facilities, EPA retains primary authority in the Commonwealth of Virginia (Virginia) for the Corrective Action Program. The Facility does not have a RCRA permit.

The Administrative Record (AR) for the Facility contains all documents, including data and quality assurance information, on which EPA's proposed remedy is based. See Section IX, Public Participation, for information on how you may review the AR.

II. Facility Background

Atlantic Bulk Carrier (ABC) is the owner and operator of the Facility. The Facility property consists of approximately 18 acres and lies about 2,000 feet south of the Chickahominy River, which is bordered by a broad, flat, floodplain. The Chickahominy River is a tributary of the James River estuary, and flows from northwest to southeast through the floodplain, which near this location stands about 25-30 feet above mean sea level. Roxbury Road, a two-lane rural highway, borders the Facility to the west. To the north a drainage ditch separates the Facility from a CSX railroad line. The eastern and southern edges are bordered by low-lying hardwood bottomlands and swamps. The area is nearly flat.

Approximately one third of the Facility is currently operated as a truck maintenance shop (shop building), fueling station, tire storage building and tractor trailer storage area that is used for parking bulk tanker trailers. A location map is attached as Figure 1.

The majority of the storage and other operational areas are covered with crushed stone. The shop building itself is a corrugated steel sheathed structure built on a substantial concrete slab. A 10,000 gallon, steel, above-ground diesel tank and dispenser are located 75 feet southeast of the shop building. A small concrete block building is located just north of the fueling station and was formerly used to store drummed waste from tank cleanings that were formerly performed at the Facility. Another block building used for storing tires is located near the southwest corner of the Facility.

III. Summary of Environmental Investigation

ABC entered into a Facility Lead Agreement (FLA) on July 13, 2009. Through ABC's Letter of Commitment dated June 22, 2009, the company agreed to address RCRA Corrective Action requirements associated with several Facility solid waste management units (SWMUs) through an EPA Region 3 FLA. Former waste units had been identified as SWMUs 1 through 10 in the June 6, 2008 report entitled "Final RCRA Site Visit Report," prepared by Tetra Tech EC, Inc. (Tetra Tech), on behalf of the EPA and the Virginia Department of Environmental Quality (VADEQ).

The June 2008 Final RCRA Corrective Action Site Visit Report found no issues related to SWMUs 2, 3, 4 and 6, which were therefore eliminated from further consideration. A November 2009 Site Characterization Report prepared by Phoenix Environmental on behalf of ABC provided the results of an investigation of SWMUs 7 and 9. The report concluded that SWMU 7 required follow-up actions. A SWMU 7 soil sample detected 2,135 milligrams per liter (mg/l) of total petroleum hydrocarbons (TPH). Ground water was found to contain concentrations of cis-1,2 dichloroethene, tetrachloroethene, and trichloroethene above the federal's Maximum Contaminant Limits (MCLs) promulgated pursuant to Section 42 U.S.C. §§ 300f et seq. of the Safe Drinking Water Act and codified at 40 C.F.R. Part 141).

Water concentrations were screened against MCLs or EPA Region III Risk-Based Concentration (RBCs) for tap water (designated as Screening Levels for tap water (SLs)) for chemicals for which there are no applicable MCLs.

At SWMU 9 (above ground diesel fuel tank) soil sampling did not detect TPH. Consequently, after discussions between EPA and ABC, follow-up investigations focused exclusively on hazardous constituents associated with SWMUs 1, 5, 7, 8 and 10.

ABC submitted a Site Characterization Work Plan (SCWP) on March 17, 2010. The SCWP and the associated work plans (Sampling and Analysis Plan, Quality Assurance Project Plan, Site Health and Safety Plan, and Community Relations Plan) augmented the results of prior investigative and corrective measures with additional data collected under quality control levels required by EPA. The work plans were approved by EPA in November of 2010. Under the approved work plans, issues regarding SWMUs 1, 5, 7, 8 and 10 were to be addressed.

During 2011, ABC undertook three successive field investigations to address concerns at SWMUs 1, 5, 7, 8 and 10 including the following:

- a soil and groundwater investigation conducted in January 2011 and reported in the "Follow-up Site Characterization Report – RCRA Facility Lead Program, Atlantic Bulk Carrier Corporation Maintenance Facility" approved with comments by EPA on June 1, 2011;
- a follow-up groundwater investigation conducted in August/September 2011 and reported in the "Interim Summary Report" approved by EPA on November 17, 2011; and
- an additional groundwater investigation conducted in December 2011 and reported in ABC's Annual Report approved by EPA on April 25, 2012.

A. January 2011 Follow-up Site Characterization

The Follow-up Site Characterization included the installation of three (3) additional test boring/wells in the water table aquifer in and around the relevant SWMUs. Soil and groundwater samples from the well borings were collected and analyzed for the Target Analyte List (TAL) including volatile organic compounds (VOCs) and heavy metals, known as RCRA 8 metals. The three (3) new (MWs - 3, -4 and -5) and two (2) existing monitoring wells (MWs 1 and 2) were also gauged and surveyed to determine groundwater flow direction beneath the Facility. Also included for sampling/testing were two (2) shallow monitoring wells installed near SWMUs 7 and 8 during the pre-FLA investigations and the on-Facility water supply well.

Soil concentrations were screened against EPA RBCs for residential soil and industrial soil (designated as soil SLs). EPA also has Soil Screening Levels to protect groundwater (SSLs), and soil concentrations were also screened against these levels. The Follow-up Site Characterization found no VOCs in soil at concentrations in excess of EPA residential or industrial SLs.

Although the metal arsenic was detected in soil above the applicable SL, its occurrence at concentrations comparable to published background levels precluded its inclusion on the list of constituents of concern (CoCs). However, solvent and petroleum-related chemicals and several metals were detected in groundwater sampled from the five (5) Facility monitoring wells, some at levels exceeding MCLs and/or SLs. VOCs detected in excess of applicable MCLs and/or SLs included the solvent-related chemicals trichloroethylene (TCE), tetrachloroethylene (PCE), 1,1-dichloroethane (1,1-DCA) and vinyl chloride (VC). The only semi-volatile organic compounds (SVOCs) detected in Facility groundwater were the phenolic compounds cresol and 2,4-dimethylphenol. However, those SVOCs occurred at levels well below their respective SLs. Metals exceeding MCLs and/or SLs in groundwater included arsenic, cadmium and chromium. Although the detected metals were reported at concentrations in excess of MCLs and/or SLs, these constituents occur at or below regional background levels.

CoCs were detected in three (3) of the five (5) Facility monitoring wells (MWs -2, -3 and -4) installed to the east and southeast of the shop building and fueling station. No CoCs were detected in the wells installed at SWMU 10 located near the eastern edge of the tractor trailer storage lot. Analytical results from the drinking water from the Facility water supply well also detected no CoCs. A groundwater flow map of the water table aquifer beneath the Facility based on wells that existed at the time of the Follow-up Site Characterization indicated flow from east to west.

B. August-September 2011 Site Investigation

A second round of groundwater sampling was undertaken in the late summer of 2011. Six (6) additional wells (MWs -6 through -11), installed as one-inch temporary wells, were screened in the water table aquifer in several locations determined to represent the up-gradient extent of the plume. Half of the wells (MWs 6 through 8) were installed southwest of the presumed source area, near SWMUs 1 and 5. These SWMUs were associated with activities

surrounding the shed east of the shop building (maintenance shed). The new wells extended coverage southwest almost to the edge of the storage lot and close to the Facility water supply well. Laboratory analysis of groundwater from these wells revealed higher levels of VOCs than in the presumed source area, including the chlorinated solvents TCE and PCE, supporting the existence of an alternative source area. A follow-up sampling of the water supply well detected none of these or other constituents.

Three additional wells (MWs-9 through -11) were installed in the water table aquifer east and southeast of the presumed source area. Sampling results from these wells also revealed VOCs including TCE and PCE confirming the existence of an alternate source area.

C. December 2011 Site Investigation

The third and final round of sampling, undertaken in December of 2011, included the installation and sampling of nine (9) additional temporary wells (MWs -12 through -20) in the water table aquifer. The wells were positioned around the perimeter of the alternate source plume as discovered in the August 2011 event and also in the area between the Facility and the nearest domestic supply wells located across Roxbury Road, over 500 feet northwest of the Facility.

Similar to the earlier investigations, the December 2011 well borings encountered a 15-foot thick sequence of sand and gravel grading upwards into fine sand, silty sand and gravel beneath the Facility. It is unclear how much of the soil which becomes progressively fine grained moving towards the surface is anthropogenic fill or natural but in all cases these near-surface (probably Holocene) deposits rest on a dense, dark gray, marly, silty clay associated with the Pliocene Yorktown Formation. Although none of the borings penetrated this horizon more than several inches, the thickness of this unit is in excess of 200 feet in the vicinity of the Facility. The gravel and sand unit lying immediately above the Yorktown clay appears to be the most permeable horizon in the aquifer, which becomes progressively less permeable at shallower depths.

Based on the December 2011 gauging data, groundwater stands at a depth of four (4) to five (5) feet below grade. The groundwater flow net based on these measurements indicates a very low gradient, with recharge generally originating from the swamp area bordering the southern Facility boundary. However, flow beneath the gravel storage lot is also bisected by a north/south oriented recharge divide roughly coincident with the area between the maintenance building and fueling station. Groundwater west of this divide flows west-northwest towards Roxbury Road and the swamp beyond, while groundwater opposite the divide generally flows eastward along a sinuous path that joins the drainage ditch parallel to the railroad corridor bordering the northern edge of the Facility. These flow paths are roughly consistent with observations of surface water drainage made in the vicinity of the Facility. Measurements taken during the January and August events indicated a flow more from the south or southeasterly direction. This shift in flow is probably attributable to changes in recharge due to fluctuating surface water levels in the adjacent swamp.

D. Nature and Distribution of Impacts

Collectively, the field investigations conducted since early 2011 have delineated the distribution of solvent-related impacts beneath the Facility. However, the impacts do not appear related to any of the SWMUs referenced in the FLA. The most significant impacts detected are in the alternate source plume centered east of the shop building near the geographic center of the trailer storage area. The origin of these solvent-related chemicals in groundwater in the alternate source area and the presumed source area to the west are unknown but are likely related to historical spills that occurred in or around a building that occupied the middle of the maintenance/storage yard.

Groundwater impacts appear to be confined to the water table aquifer beneath the Facility maintenance/storage yard. Two (2) successive tests of groundwater from the underlying drinking water aquifer detected no VOCs or other constituents. Metals detected in Facility soils are consistent with regional background.

Groundwater gradients in the water table aquifer beneath the Facility are gentle and appear to shift seasonally depending on the level of recharge supplied by the adjacent swamp. Transient recharge events induce temporarily steeper gradients from the south while periods of hydraulic stability reduce subsurface flow. The current distribution of VOCs in the water table aquifer suggests little ongoing migration or plume expansion has occurred likely due to the relatively low hydraulic conductivities of the impacted materials coupled with low and variable hydraulic gradients. Moreover, it is likely the fine-grained, adsorptive characteristics of the aquifer material further retards the migration of CoCs relative to groundwater. The occurrence of degradation daughter products, including cis-1,2-DCE and VC, indicates the natural biodegradation of solvent constituents is occurring over time.

E. Environmental Indicators (EIs)

EPA has set national goals to measure progress toward meeting the nation's major environmental goals. For Corrective Action, EPA evaluates two key environmental indicators for each Facility: (1) current human exposures under control and (2) migration of contaminated groundwater under control. EPA determined that the Facility met these indicators on September 11, 2012.

F. Corrective Measures Study (CMS)

The Corrective Measures Study (CMS) was submitted to EPA for review on October 23, 2012. The CMS was approved by EPA on February 12, 2013. Consistent with EPA guidance entitled "Corrective Action for Releases From Solid Waste Management Units at Hazardous Waste Management Facilities; Proposed Rule," 61 Fed. Reg. 19431, May 1, 1996, in the CMS, ABC evaluated various possible remedial alternatives against the three threshold criteria and seven balancing criteria.

The CMS is based on investigation results presented in the three phases of investigation conducted at the Facility throughout 2011. Based on the Facility investigation, shallow

groundwater is the only medium of concern. However, the groundwater plume (Figure 2) appears to be stable (not migrating), and concentrations of constituents of potential concern (COPCs) are either stable or declining over time.

Based on the available information, there are currently no unacceptable risks to human health and the environment via the vapor intrusion pathways from groundwater contamination for the present and anticipated industrial use of existing structures on the Facility property.

IV. Corrective Action Objectives

EPA's Corrective Action Objectives for the Facility are the following:

1. Soils

EPA Corrective Action Objective for Facility soils is to achieve EPA Region 3's Screening Levels for Residential Soils for direct contact with soils.

2. Groundwater

EPA's Corrective Action Objectives for Facility groundwater is to restore the groundwater to drinking water standards and until such time as drinking water standards are restored, to control exposure to the hazardous constituents remaining in the groundwater by requiring the continued implementation of the groundwater monitoring program, compliance with and maintenance of groundwater use restrictions at the Facility to prevent migration of contaminants while levels remain above Federal MCLs and SLs to adjacent properties.

V. Proposed Remedy

A. Soils

Based on the available information, there are currently no unacceptable risks to human health and the environment via the soil based on residential or industrial use of Facility property. Therefore, EPA's proposed remedy for Facility soils is no further action.

B. Groundwater - Long-Term Monitoring

The proposed remedy for groundwater consists of continued groundwater monitoring until drinking water standards are met and compliance with and maintenance of groundwater use restrictions at the Facility to prevent migration of contaminants while levels remain above drinking water standards. Based on the RFI, the groundwater plume appears to be stable (not migrating), and concentrations of CoCs are either stable or declining over time. Groundwater is not used on the Facility for drinking water, and no downgradient users of groundwater exist.

C. Institutional Controls

ICs are non-engineered instruments such as administrative and/or legal controls that

minimize the potential for human exposure to contamination and/or protect the integrity of the remedy by limiting land or resource use. Under this proposed remedy, some contaminants remain in the groundwater at the Facility above levels appropriate for residential uses. Because some contaminants remain in the groundwater at the Facility at levels that exceed residential use, EPA's proposed remedy requires the compliance with and maintenance of groundwater use restrictions and controls for vapor intrusion.

The ICs shall include, but not be limited to, the following use restrictions, access, and reporting requirements:

1. Groundwater at the Facility shall not be used for any purpose other than the operation, maintenance, and monitoring activities required by VADEQ and/or EPA, unless it is demonstrated to EPA, in consultation with VADEQ, that such use will not pose a threat to human health or the environment or adversely affect or interfere with the final remedy and EPA, in consultation with VADEQ, provides prior written approval for such use;
2. The Property shall not be used in a way that will adversely affect or interfere with the integrity and protectiveness of the final remedy;
3. No new wells shall be installed on Facility property unless it is demonstrated to EPA, in consultation with VADEQ, that such wells are necessary to implement the final remedy and EPA provides prior written approval to install such wells;
4. A vapor intrusion control system, the design of which shall be approved in advance by EPA, shall be installed in each new structure constructed above the contaminated groundwater plume or within 100-foot around the perimeter of the contaminated groundwater plume, unless it is demonstrated to EPA that vapor intrusion does not pose a threat to human health and EPA provides prior written approval that no vapor intrusion control system is needed;
5. Owner shall provide EPA and VADEQ with a "Certified, True and Correct Copy" of any instrument that conveys any interest in the Facility property or any portion thereof;
6. Owner shall allow the EPA, state, and/or their authorized agents and representatives, access to the Facility property to inspect and evaluate the continued effectiveness of the final remedy and if necessary, to conduct additional remediation to ensure the protection of the public health and safety and the environment based upon the final remedy to be selected by EPA in the Final Decision and Response to Comments (FDRTC);
7. Owner shall comply with the EPA-approved groundwater monitoring program.

D. Implementation

EPA proposes to implement the groundwater use restrictions necessary to prevent human exposure to contaminants at the Facility through an enforceable mechanism such as an order and/or an Environmental Covenant executed pursuant to the Virginia Uniform Environmental Covenants Act, Title 10.1, Chapter 12.2, §§10.1-1238 - 10.1-1250 of the Code of Virginia,

(UECA) and UECA's implementing regulations, 9 VAC 15-90-10 through 60. If an Environmental Covenant is to be the institutional control mechanism, it will be recorded in the chain of title for the Facility property. In addition, EPA acknowledges that the Virginia Department of Health (Health Department) issues drinking water permits for wells and Virginia regulations authorize the Health Department to prohibit the use of contaminated groundwater as a drinking water source. See 12 VACS-630-10 through 480. If EPA determines that additional institutional controls or other corrective actions are necessary to protect human health or the environment, EPA has the authority to require and enforce such additional corrective actions through an enforceable mechanism which may include an order or Environmental Covenant.

VI. Evaluation of EPA's Proposed Remedy

This section provides a description of the criteria EPA used to evaluate the proposed remedy consistent with EPA guidance, "Corrective Action for Releases From Solid Waste Management Units at Hazardous Waste Management Facilities; Proposed Rule," 61 Fed. Reg. 19431, May 1, 1996. The criteria are applied in two phases. In the first phase, EPA evaluates three decision threshold criteria as general goals. In the second phase, for those remedies that meet the threshold criteria, EPA then evaluates seven balancing criteria.

A. Threshold Criteria

1. Protect Human Health and the Environment

With respect to groundwater, while low levels of contaminants remain in the groundwater beneath the Facility, the contaminants are contained in the shallow aquifer and do not migrate beyond the Facility property. For this reason, the area of contaminated groundwater is contained. In addition, groundwater monitoring will continue until groundwater clean-up standards are met. The Health Department issues drinking water permits for wells, and has the authority to prohibit the use of contaminated groundwater as a drinking water source. With respect to future uses, the proposed remedy requires groundwater use restrictions to minimize the potential for human exposure to contamination and protect the integrity of the remedy and vapor intrusion controls for new construction, as necessary.

2. Achieve Media Cleanup Objectives

The Facility has achieved the EPA's residential SLs for soils. The groundwater plume appears to be stable (not migrating); although CoCs are above MCLs, they are either stable or declining over time. In addition, groundwater monitoring will continue until groundwater clean-up standards are met. The Facility meets EPA risk guidelines for human health and the environment. EPA's proposed remedy requires the implementation and maintenance of institutional controls to ensure that groundwater beneath Facility property is not used for any purpose except to conduct the operation, maintenance, and monitoring activities required by VADEQ and EPA and that vapor intrusion does not pose a threat to human health.

3. Remediating the Source of Releases

In all proposed remedies, EPA seeks to eliminate or reduce further releases of hazardous

wastes and hazardous constituents that may pose a threat to human health and the environment. As shown in the CMS Report, the Facility met this objective. There are no remaining large, discrete sources of waste from which constituents would be released to the environment. Shallow groundwater is not used for potable purposes at the Facility or at neighboring facilities. In addition, groundwater monitoring will continue until groundwater clean-up standards are met. The Health Department issues drinking water permits for wells and is authorized by Virginia regulations to prohibit the use of contaminated groundwater as a drinking water source. Therefore, EPA has determined that this criterion has been met.

B. Balancing/Evaluation Criteria

1. Long-Term Effectiveness

The proposed remedy will maintain protection of human health and the environment over time by controlling exposure to the hazardous constituents remaining in groundwater and the vapor intrusion pathway. EPA's proposed remedy requires the compliance with and maintenance of groundwater use restrictions and vapor intrusion controls at the Facility. EPA anticipates the groundwater use restrictions and the vapor intrusion controls will be implemented through an environmental covenant to be recorded in the chain of title for the Facility property or through an order. Such a covenant will run with the land and as such, will be enforceable by EPA and/or other stakeholders against future land owners. In addition, groundwater monitoring will continue until groundwater clean-up standards are met.

2. Reduction of Toxicity, Mobility, or Volume of the Hazardous Constituents

The reduction of toxicity, mobility and volume of hazardous constituents at the Facility has already been achieved, as demonstrated by the data of the groundwater monitoring showing that the plume appears to be stable (not migrating), and concentrations of CoCs are either stable or declining over time. In addition, groundwater monitoring will continue until groundwater clean-up standards are met.

3. Short-Term Effectiveness

EPA's proposed remedy does not involve any activities, such as construction or excavation, that would pose short-term risks to workers, residents, and/or the environment. In addition, EPA anticipates that the groundwater use restrictions will be fully implemented shortly after the issuance of the FDRTC. In addition, groundwater monitoring will continue until groundwater clean-up standards are met.

4. Implementability

EPA's proposed remedy is readily implementable. EPA proposes to implement the institutional controls through an enforceable mechanism such as 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 or order. Environmental Covenants are readily implemented. In the alternative, EPA does not anticipate any regulatory constraints in issuing an order.

5. Cost-Effectiveness

EPA's proposed remedy is cost effective. The costs associated with this proposed remedy and the continuation of groundwater monitoring are minimal. The costs to record an environmental covenant in the chain of title to the Facility property are minimal. Likewise, the costs associated with issuing an order are also minimal.

6. Community Acceptance

EPA will evaluate community acceptance of the proposed remedy during the public comment period, and it will be described in the FDRTC.

7. State/Support Agency Acceptance

VADEQ has reviewed and concurred with the proposed remedy for the Facility. Furthermore, EPA has solicited VADEQ input and involvement throughout the investigation process at the Facility.

VIII. Financial Assurance

EPA has evaluated whether financial assurance for corrective action is necessary to implement EPA's proposed remedy at the Facility. The costs to obtain orders or environmental covenants are minimal. Given that EPA's proposed remedy does not require any further engineering actions to remediate soil, groundwater or indoor air contamination at this time and given that the costs of implementing institutional controls and the continuation of groundwater monitoring at the Facility will be minimal, EPA is proposing that no financial assurance be required.

IX. Public Participation

Before EPA makes a final decision on its proposed remedy for the Facility, the public may participate in the remedy selection process by reviewing this SB and documents contained in the Administrative Record (AR) for the Facility. The AR contains all information considered by EPA in reaching this proposed remedy. It is available for public review during normal business hours at:

U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103
Contact: Leonard E. Hotham
Phone: (215) 814-5778
Fax: (215) 814-3113
Email: Hotham.Leonard@epa.gov

Interested parties are encouraged to review the AR and comment on EPA's proposed remedy. The public comment period will last thirty (30) calendar days from the date that notice

is published in a local newspaper. You may submit comments by mail, fax, or e-mail to Leonard E. Hotham. EPA will hold a public meeting to discuss this proposed remedy upon request. Requests for a public meeting should be made to Leonard E. Hotham.

EPA will respond to all relevant comments received during the comment period. If EPA determines that new information warrant a modification to the proposed remedy, EPA will modify the proposed remedy or select other alternatives based on such new information and/or public comments. EPA will announce its final remedy and explain the rationale for any changes in a document entitled the Final Decision and Response to Comments (FDRTC). All persons who comment on this proposed remedy will receive a copy of the FDRTC. Others may obtain a copy by contacting Leonard E. Hotham at the address listed above.

X. ABC Administrative Record Index

1. EPA Final RCRA Corrective Action Site Visit Report at ABC by Tetra Tech for EPA, June 6, 2008
2. ABC's Letter of Commitment, June 22, 2009
3. Facility Lead Agreement (FLA), July 13, 2009
4. Site Characterization Report prepared by Phoenix Environmental for ABC, November 2009
5. ABC EPA RCRA Facility Lead Program Work Plans, March 2010
6. Approval letter by EPA for Work Plans, November of 2010
7. Certificate of Analysis, Final Report by Air Water and Soil Analysis Labs, Feb 10, 2011
8. Analytical data validation report by Marshall Miller & Assoc on behalf of ABC, March 11, 2011
9. Follow-up Site Characterization Report for ABC, April 26, 2011
10. Letter from Marshall Miller & Assoc on behalf of ABC to EPA Re: Follow-up Site Characterization Report May 18, 2011
11. Letter from EPA to ABC Re: Site Characterization Report, June 1, 2011
12. Letter from Marshall Miller & Assoc on behalf of ABC to EPA Re: Proposal for Additional Groundwater Characterization, June 17, 2011
13. Letter from Marshall Miller & Assoc on behalf of ABC to EPA, Proposal for Additional Groundwater Characterization, August 11, 2011

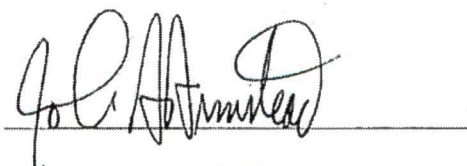
14. Letter from Marshall Miller & Assoc on behalf of ABC to EPA, Interim Summary Report - Atlantic Bulk Carrier Corporation (Former Chemical Carrier Corp. of Virginia), October 27, 2011
15. Email from EPA to ABC, Approval of Interim Summary Report, November 17, 2011
16. Letter from Marshall Miller & Assoc on behalf of ABC to EPA, Annual Report for RCRA Facility Lead Program - Atlantic Bulk Carrier Corporation (Former Chemical Carrier Corp. of Virginia), January 17, 2012
17. Letter from EPA to ABC Re: Annual Report for RCRA facility lead program, April 25, 2012
18. Ground Water Environmental Indicator, September 11, 2012
19. Human Health Environmental Indicator, September 11, 2012
20. RCRA Facility Lead Program Corrective Measures Study For ABC, October 23, 2012

Attachments

Figure 1: Location Map

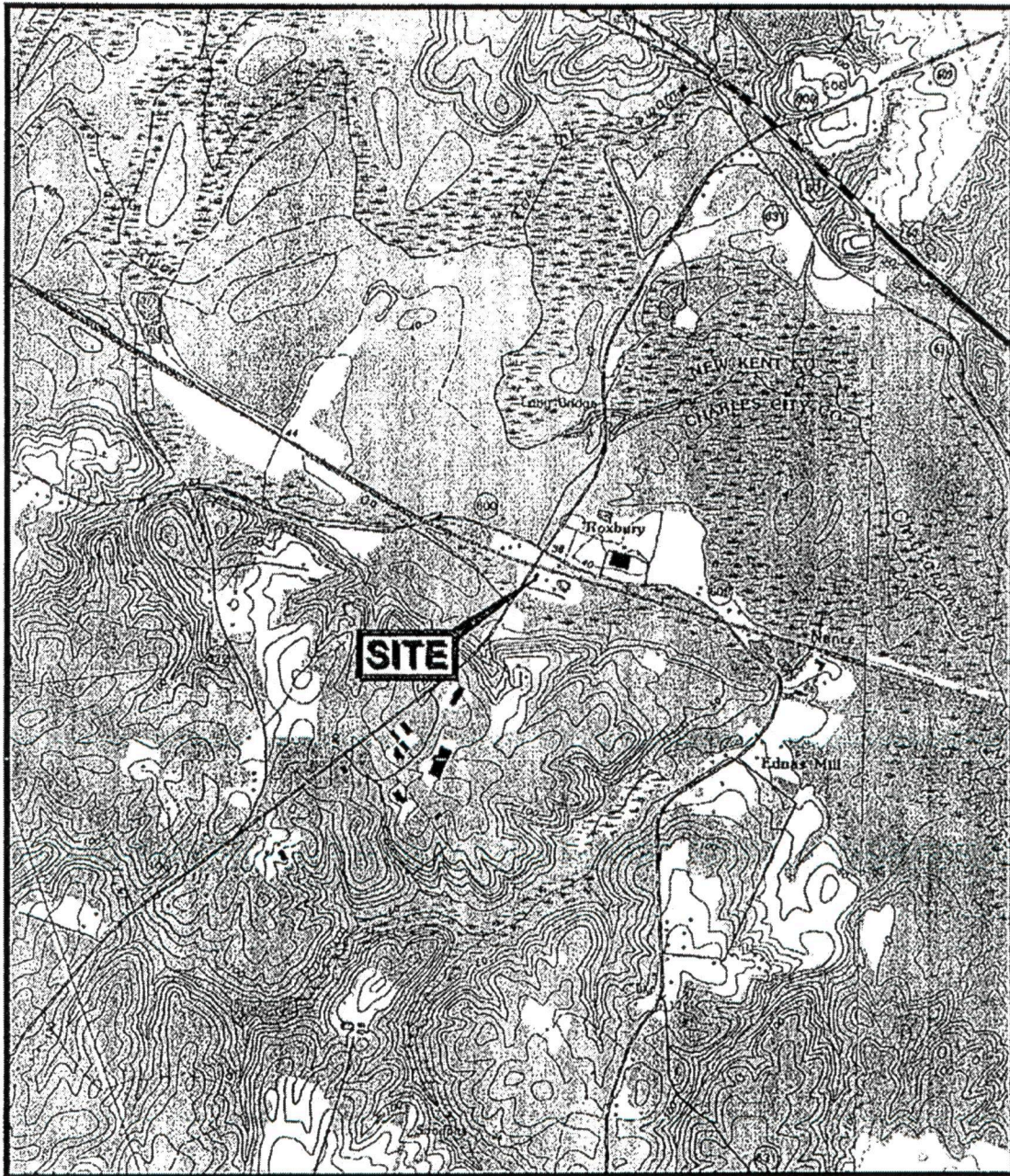
Figure 2: Plume Limits and Monitoring Well map

Date: 04/08/2013

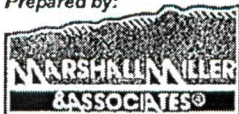


John A. Armstead, Director
Land and Chemicals Division
US EPA, Region III

Figure 1: Location Map



Prepared by:



SP1180

10/22/2012

USGS 7.5' ROXBURY, VA QUADRANGLE - 1994
CONTOUR INTERVAL=10'

Atlantic Bulk Carrier Site
1901 Roxbury Road
Roxbury, Virginia

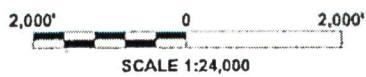


Figure 1 - Vicinity



Figure 2: Plume Limits and Monitoring Well map

