



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

October 29, 2007

REPLY TO THE ATTENTION OF:

SR-6J

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Nelson Olavarria  
Representative--Ripon FF/NN Landfill PRP Group  
McGraw Edison  
600 Travis Street, #5800  
Houston, TX. 77002-2912

R + R - OSH  
RECEIVED

NOV 02 2007

TRACKED   
REVIEWED

Re: Ripon City Landfill Superfund Site, Institutional Control Investigation/Study

Dear Mr. Olavarria:

The U.S. Environmental Protection Agency (U. S. EPA) is undertaking an initiative to evaluate institutional controls at Superfund sites. Institutional controls may be needed to restrict uses of sites where on-site hazardous substances remain above levels that allow for unlimited use and unrestricted exposure. Institutional controls may be necessary to prevent interference with Superfund remedy components and to provide interim protection to the public and environment from potential exposure to contaminants at the Site. A description of U. S. EPA's institutional control initiative may be found in "Strategy to Ensure Institutional Control Implementation at Superfund Sites", OSWER No. 9355.0-106 (2004), <http://www.epa.gov/superfund/action/ic/strategy.htm>.

The Agency is seeking the cooperation of potentially responsible parties as part of this nationwide effort. The purpose of this letter is to seek your assistance in evaluating institutional controls for the Ripon City Landfill Superfund site (Site) (also sometimes called the FF/NN Landfill site) located on South Koro Road in the Town of Ripon, Wisconsin. Specifically, U. S. EPA is requesting that you submit the results of an institutional control investigation/study to U. S. EPA within 45 days of the receipt of this letter. Please provide U. S. EPA with a notice of intent to comply with this request within 10 days of the date of receipt of this letter.

The results of the institutional control investigation/study will be used by U. S. EPA in connection with the five-year review that was reported in September 2006. Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9621, mandates that, no less often than every five years, U. S. EPA must review remedial actions where hazardous substances, pollutants, or contaminants remain in place to assure that human health and the environment are being

protected by the remedial action. The Settling PRPs have implemented a remedial action for the Site pursuant to Section 144.442, Wis. Stats., Contract #SF-92-01, effective August 14, 1992, and are continuing to study the Site to determine what additional measures must be taken to complete the remedy. The Site remedy does not allow unlimited use and unrestricted exposure. The long-term protectiveness, effectiveness and integrity of the remedy will depend on compliance with institutional controls that implement the following land and/or groundwater restrictions:

1. For the parcel of land in the SE Quarter of Section 7, Township 16N, Range 14E, Town of Ripon, Fond du Lac County, Wisconsin, that is known as the Ripon FF/NN Landfill, prohibit the installation of water wells, other than groundwater monitoring wells or leachate extraction wells.
2. For the above described Ripon FF/NN Landfill, prohibit excavation and other intrusive uses of the property.
3. For the above described Ripon FF/NN Landfill, comply with Wis. Adm. Code HR 812 which forbids construction of a public water supply well within 1200 feet of a landfill.

These restrictions are included in the remedy that has been specified in the March 27, 1996 Record of Decision (ROD).

In addition, it is expected that a Proposed Plan will be issued for a ROD Amendment that will propose that restrictions be placed on groundwater use downgradient of the above described Ripon FF/NN Landfill beyond the area covered by Wis. Adm. Code HR 812 due to the discovery of contamination in this groundwater that makes the water unacceptable as a water supply. The Agency is providing requirement number 9, below, to ensure that the groundwater contaminant plume will be properly monitored and to incorporate procedures expeditiously addressing the plume if future sampling data indicates that it has moved.

Part C of Section VI (Modification of Work) of Contract #SF-92-01 states, ". . .any modified or additional work determined by the Settling PRPs or the WDNR to be necessary to accomplish the objective of this contract shall be completed by the Settling PRPs in accordance with the standards, specifications and schedule determined by or approved by the WDNR pursuant to the terms of this contract." The institutional control investigation/study is an appropriate modification of the work required under the contract because institutional controls are necessary to achieve and maintain the performance standards of the remedial action and the effectiveness of the remedy set forth in the ROD.

The goal of the institutional control investigation/study is: a) to evaluate whether institutional controls currently exist that adequately implement the objectives and/or performance standards described above; b) to identify and recommend any corrective measures to existing institutional controls necessary for their effectiveness; and c) to

recommend any new or additional institutional controls necessary to achieve and maintain the objectives and/or performance standards described above.

Within 45 days of receipt of this letter, please submit a draft institutional control investigation/study report to U. S. EPA for review and approval that includes the following minimum requirements:

1. Describe any existing proprietary controls that have been properly recorded and are free and clear of all liens and encumbrances. Such a description shall include: a) a title insurance commitment using ALTA Commitment form 1982 as amended "for information only purposes" by a title company; b) copies of documents referenced in the title commitment; c) copies of the existing proprietary controls showing the recording stamp; d) copies of encumbrances, utility right of ways, leases, and subleases impacting restricted areas; e) map and GIS information that identifies parcel numbers and boundaries of current encumbrances (such as utility easements) that impact restricted areas; and f) copies of subrogation agreements for encumbrances.
2. Demonstrate that any existing proprietary controls were signed by a person or entity that owned the property at the time of signature.
3. Describe any governmental controls that are currently in effect. Provide a current, dated, and official copy of the existing governmental controls that implement the institutional control objectives for the restricted areas described above. Discuss any sunset provisions in the governmental control.
4. Evaluate whether existing controls cover the entire area that needs to be restricted. This evaluation shall include:
  - a. Discussion of what information was used to depict the restricted area(s) covered by the control(s)? Are the restricted area(s) and control(s) based on reliable and up to date information, data, and maps?
  - b. Map(s) and GIS information for restricted area(s) identified above, including the area(s) where groundwater exceeds performance standards, any area remediated to industrial standards, etc., based on current and up to date monitoring data.
  - c. Map(s) and GIS information for the legal description(s) covered by existing restrictive covenant(s) or other proprietary control(s) and/or areas regulated by governmental control(s).
  - d. Map(s) and GIS information that overlay the information of 3.b and 3.c.

All maps and GIS information must identify: site boundaries, streets, property ownership, and assessor's parcel numbers or other plat or survey information. Identify the accuracy of the GIS coordinates (i.e., within 0.01 feet). Format the GIS coordinates into an ESRI polygon-shape file. The shape file shall be projected into the UTM, NAD 83 projection system. Please identify the UTM zone. Provide an attribute name in the shape file for each polygon submitted. For example: "site boundary", "residential use prohibited", "groundwater use prohibited" and "interference with landfill cap prohibited".

5. Assess objectives, restrictions, and performance standards of the institutional controls. Discuss whether all institutional control objectives, performance standards, and restrictions described above are clearly stated in the control(s).
6. Assess monitoring and compliance with institutional controls.
  - a. For proprietary and governmental controls, discuss how, when, and by whom compliance with the controls is monitored. Discuss whether the results of the institutional control monitoring are routinely and promptly shared with U. S. EPA and the State. Discuss whether there are measures in place to ensure that modifications to the restriction require U. S. EPA and State approval. Does U. S. EPA and/or the State have a Memorandum of Understanding with the governmental entity? Discuss whether the property is being used in a manner consistent with the restrictions. Summarize results of site inspection and interviews with owners, lessees, and other holders of property interests. Are owners, lessees, and other holders of property interests aware of and complying with the restrictions?
  - b. Where can information be obtained about any governmental control? How do affected parties such as homeowners, contractors, and resource users obtain information about the governmental control? Are affected parties and resource users aware of and do they understand the restrictions? Have there been breaches of use restrictions. If so, how were they addressed by the governmental agency?
7. Discuss the effectiveness of proprietary and governmental controls. For proprietary controls, discuss whether the proprietary controls "run with the land" (i.e. restrictions are binding on subsequent property owners) under applicable state law. For both types of controls, assess whether the controls are effective in the short-term in maintaining the objectives, restrictions, and performance standards described above. Assess whether the control(s) will be effective in the long term in maintaining the objectives, restrictions, and performances standards described above. Discuss whether existing institutional controls are preventing exposure. Discuss whether land and/or resource use has changed since the execution of the ROD? Is current or expected land use consistent with plans for the area? Does the property owner have any plans to sell or transfer the property? Are there any new developments, either constructed or planned, in the area? Are

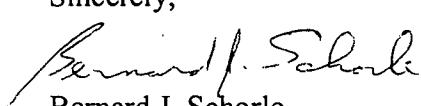
there any new construction permits pending? If so, what are the plans regarding the properties' institutional controls? Discuss how the current land and resource uses relate to exposure assumptions and risk calculations. Discuss whether there are any unintended consequences resulting from the use of a particular restriction.

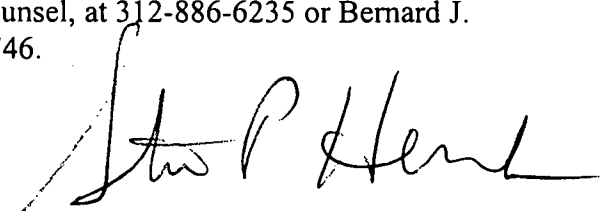
8. Provide recommendations for both proprietary and governmental controls. Propose any corrections to existing institutional controls that are necessary to ensure that the land and groundwater use restrictions are implemented correctly, are maintained, and will be protective in the short-term and the long-term. Propose controls for remaining areas that do not support unlimited use and unrestricted exposure but are not covered by existing controls and include a title commitment for any proposed proprietary control. Propose a subrogation agreement for any encumbrance that impacts a restricted area. Propose monitoring requirements and modifications to the Operation and Maintenance Plan to ensure that institutional controls are maintained and complied with in the short-term and in the long-term. The monitoring plan must include a schedule and an annual certification to U. S. EPA that institutional controls are in place and remain effective.

9. Propose a "buffer" area as an area extending beyond where institutional controls are in place or hazardous substances remain above levels that allow for unlimited use and unrestricted exposure, whichever is furthest from the Site. Propose monitoring within this "buffer" area and, where monitoring demonstrates an exceedance or threat of exceedance of the unlimited use and unrestricted exposure criteria, propose criteria and a schedule for identifying appropriate institutional controls, for implementing the institutional controls into the "buffer" area, and for revising the areal extent of the "buffer".

Please provide U. S. EPA with a notice of intent to comply with this request within 10 days of the date of receipt of this letter. If you have any questions concerning this request, please contact Stuart Hersh, Assistant Regional Counsel, at 312-886-6235 or Bernard J. Schorle, Remedial Project Manager, at 312-886-4746.

Sincerely,

  
Bernard J. Schorle  
Remedial Project Manager  
Superfund Division

  
Stuart Hersh  
Assistant Regional Counsel  
Office of Regional Counsel

cc: Steve Barg, City of Ripon  
Michael R. Noel, GeoTrans, Inc.  
Jennifer Easterly, Wisconsin Department of Natural Resources

## Easterly, Jennifer S - DNR

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**From:** Olavarria, Nelson [Nelson.Olavarria@CooperIndustries.com]  
**Sent:** Thursday, November 01, 2007 2:00 PM  
**To:** Schorle.Bernard@epamail.epa.gov  
**Cc:** Noel, Mike; :sbarg@cityofripon.com; Easterly, Jennifer S - DNR  
**Subject:** RE: FF/NN Landfill Superfund Site Ripon, WI--IC Study

**Attachments:** EPA letter 11-1-07 IC response.doc



EPA letter 11-1-07  
IC response...

Good Afternoon Bernard,

Pursuant to our conversation, attached is a letter in which the PRP Group agrees to perform the IC investigation/Study, however an extension in time beyond 45 days is needed to define the scope of work and to prepare the report.

Thank you,  
Nelson Olavarria  
Director Environmental Assessment/Remediation and PRP Group Committee Chairman

Cooper Industries, LLC  
P. O. Box 4446  
Houston, Texas 77210  
600 Travis, Suite 5800  
Houston, TX 77002-1001  
Phone: (713) 209-8850  
Fax: (713) 209-8990

Via e-mail: [schorle.bernard@epa.gov](mailto:schorle.bernard@epa.gov)



November 1, 2007

Mr. Bernard J. Schorle  
U. S. Environmental Protection Agency Region V  
Remedial Project Manager  
Superfund Division  
Chicago, Illinois

**Re: FF/NN Landfill Superfund Site Ripon, WI  
Institutional Control Investigation/Study**

Dear Mr. Schorle,

The Ripon FF/NN Landfill PRP Group is in receipt of your letter dated October 29, 2007 and received on November 1, 2007, regarding your request for an Institutional Control (IC) Investigation/Study. Let this letter serve as notice of the FF/NN Landfill PRP Group's intent to comply with your request, however, we are requesting an extension beyond the 45 days you are requesting for submittal of the results of the IC investigation/study. Complying with your request will include an extensive amount of information gathering, evaluation, assessment, and discussion regarding ICs for the site. The level of effort needed to comply with your request is substantial and we believe the 45-day window you suggest is insufficient to comply with your request.

It would be most useful if you could provide us with accepted/approved examples of similar IC investigation/study submittals so we can better understand the scope and depth of what you are expecting. We would also find it useful to have a conference call with you and Jennifer Easterly of the WDNR to discuss the specifics of the FF/NN Landfill and determine what more the PRP Group can do to enforce, monitor, correct or add to the existing ICs, to ensure protection of human health and the environment. After reviewing some IC investigation/study examples and conference call discussion on this matter, we would be in a better position to ascertain the time requirements necessary to prepare the IC study.

Please contact me at 713-209-8850 or by email at [nelson.olavarria@cooperindustries.com](mailto:nelson.olavarria@cooperindustries.com) and let me know of some dates that would work for you to have a call and discuss these issues. I realize that you will be working in Las Vegas, NV next week and will not be available. I look forward in hearing from you soon and appreciate your assistance in this project.

Sincerely,

A handwritten signature in black ink that reads "Nelson M. Olavarria". The signature is written in a cursive, flowing style.

Nelson M. Olavarria  
Director Environmental Assessment and Remediation

PRP Committee Chairman for the FF/NN Landfill Superfund Site

ripon/epa response 11/1/07 IC

cc: Jennifer Easterly, Wisconsin Department of Natural Resources  
Steve Barg, City of Ripon  
Michael Noel, GeoTrans, Inc.