

RESPONSE ACTIVITY REVIEW PANEL (RARP) PETITION DISPUTE MEETING

MINUTES

Thursday, April 14, 2022, 1:00 p.m. – 4:00 p.m.

Michigan Department of Environment, Great Lakes, and Energy (EGLE)
Lee Walker Conference Room, Constitution Hall
525 West Allegan Street, Lansing, Michigan 48933

Participants

Response Activity Review Panel Members:

1. Joseph Berlin
2. Michael Hebert
3. Duncan Mein
4. Suzi Rosen
5. Bradley Venman

Petitioner:

- Mike Womack, City of Cedar Springs
- Tim Patterson, Fishbeck (Petitioner Representative)

EGLE Staff:

- Sydney Ruhala, Water Resources Division, EGLE
- Eric Chatterson, Water Resources Division, EGLE

Response Activity Review Panel Staff:

- Kevin Schrems, Response Activity Review Panel Coordinator, Remediation and Redevelopment Division, EGLE

1. Call to Order and Welcome

The meeting was called to order at 1:00 p.m. by Michael Gurnee, Environmental Support Division. He welcomed the participants and explained the meeting protocol regarding in-person and hybrid participation for the public comment period. Michael then introduced Kevin Schrems, Response Activity Review Panel Coordinator with the Remediation and Redevelopment Division. Kevin welcomed everyone to the first Response Activity Review Panel meeting, and also identified a change in the agenda due to a panel member's absence and Michael Hebert moving from alternate to one of the five panel members.

2. Response Activity Review Panel Roll Call

Kevin Schrems, EGLE Response Activity Review Panel Coordinator, called the roll and all five panel members confirmed they were present.

3. Introduction of Response Activity Review Panel

The panel members introduced themselves and provided a brief description of their expertise to attendees of the meeting.

4. Process Overview

Kevin Schrems provided a brief overview of the Response Activity Review Panel and explained the established statutory process for hearing the dispute and noted that he can assist with any procedural questions the Panel may have.

5. Chair Designation

The panel members discussed the selection of the panel chair.

Motion: Suzi Rosen made a motion for Michael Hebert to be the panel chair; Bradley Venman seconded.
The motion was passed by all members present.

6. Approval of Agenda

The panel members discussed the agenda and the process for asking questions. Panel Chair Michael Hebert recommended that the agenda should be followed as established but allow for flexibility in asking questions during the meeting.

Motion: Suzi Rosen made a motion to accept and approve the agenda as it was presented;
Duncan Mein seconded. The motion was passed by all members present.

7. Petitioner Presents Petition and Dispute

Mike Womack, City Manager of Cedar Springs and Tim Patterson, Senior Geologist from Fishbeck, introduced themselves to the Panel. Tim Patterson, on behalf of the City of Cedar Springs, presented an overview of the dispute with a PowerPoint. The dispute consists of the City's disagreement with EGLE's determination that the City has not submitted sufficient information to EGLE to demonstrate delineation of the nature and extent of per- and polyfluoroalkyl substances ("PFAS") under Part 201 in groundwater at and in the vicinity of the Former City Wastewater Lagoon Site.

Fishbeck, on behalf of the City, concluded that:

1. The financial hardships to pursue additional remedial investigative activities present a burden to the City,
2. Multiple lines of evidence suggest that the horizontal and vertical extents of PFAS impacts to the groundwater have been defined, and

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3. On behalf of the City, Fishbeck respectfully requests that EGLE reconsider these data and the recommendation in the Remedial Investigation (RI) Report that delineation has been completed.

Questions after Fishbeck's presentation from the Panel focused on delineation to the north of the Site, who has been collecting groundwater flow data, interpreting well records and local geology, and discussion regarding a residential well downgradient.

8. EGLE Presents Response

Eric Chatterson, Geology Specialist with EGLE Water Resources Division's Groundwater Permits Unit, and Sydney Ruhala, Geologist with EGLE Water Resources Division's Emerging Pollutants Section, introduced themselves to the Panel.

EGLE's PowerPoint presentation highlighted the PFAS criteria, site history, PFAS sampling history, the City of Cedar Springs' petition, and then focused on the technical disputes and EGLE's response. Specifically, EGLE described the statutory requirements under Part 201 regarding determining the nature and extent of contamination. EGLE then described the three deficiencies it identified in the RI Report, including:

1. Reliance on residential drinking water wells in lieu of environmental monitoring wells,
2. Reliance on limited groundwater flow data in lieu of installing or sampling environmental monitoring wells, and
3. Failure to investigate deeper aquifer for either contaminants of concern or hydrogeologic properties.

EGLE staff concluded their presentation by offering a path forward for the City to implement the approved Supplemental RI Work Plan submitted on December 30, 2021 and approved on January 26, 2022.

Questions after EGLE's presentation from the Panel focused on driller well records, noting differences in well records with different drillers, and considering why the conceptual site model is or is not accurate.

9. Public Comment

No public comments were received.

10. Response Activity Review Panel Questions, Deliberation, and Recommendation for EGLE Director

After each party had the opportunity to present, the panel asked scientific and technical questions to both parties related to the dispute. These questions focused on data available in the shallow and deep aquifers, well installation information, the use of data from residential drinking water wells, conceptual site models and its use in investigations and defining the nature and extent of contamination, and the geology and hydrogeology characteristics at and around the Site.

Break: A break was called at 2:54 p.m. The panel reconvened at 3:06 p.m.

After the break, the panel deliberated each point presented in EGLE's November 22, 2021 Disapproval Letter.

Motion: Duncan Mein made a motion for the panel's Recommendation to the EGLE Director to accept and adopt each point presented in EGLE's November 22, 2021 Disapproval Letter with modifications discussed by the panel; Chair Michael Hebert seconded.

Discussion: Suzi Rosen discussed whether the panel should consider incorporating the City to investigate groundwater discharge into Cedar Creek. Mike Womack, City of Cedar Springs, assisted the panel in understanding that to accept the modification proposed by Suzi Rosen, a substitute motion would need to be presented, and the panel still needs to resolve the main motion that has been presented and seconded.

Withdrawal of Motion: Duncan Mein withdrew motion.

Motion: Duncan Mein made a motion for the panel's Recommendation to the EGLE Director to accept and adopt each point presented in EGLE's November 22, 2021 Disapproval Letter with the modification to incorporate ASTM 1689-20 for Conceptual Site Models; Suzi Rosen seconded. The motion was passed by all members present.

Joe Berlin volunteered to write the recommendation of the panel.

11. Adjournment

Motion: Duncan Mein made a motion to adjourn the meeting at 3:55 p.m.; Bradley Venman seconded the motion. The motion was passed by all members present.

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Prepared by:
Kevin Schrems, Response Activity Review Panel Coordinator
EGLE
April 21, 2022

Approved by the Panel on May 4, 2022