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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



PHILLIP D. ROOS
DIRECTOR

September 26, 2024

VIA EMAIL

Steven Willis
BRAC Environmental Coordinator
United States Air Force Civil Engineer Center
2261 Hughes Avenue, Suite 155
JBSA Lackland, Texas 78236

Dear Steven Willis:

SUBJECT: Non-Concurrence for the Interim Remedial Action (IRA) Selected in the Interim Record of Decision (IROD) for the Aircraft Alert Area of the Former Wurtsmith Air Force Base (Site); Oscoda, Iosco County, Michigan

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) received the final IROD for the Site. After review of the information presented in the IROD and relevant supporting documentation, EGLE, on behalf of the State of Michigan, does not concur with the IROD.

While EGLE agrees with the IRA selected by the United States Air Force (USAF) for construction and implementation of a groundwater extraction and treatment system to treat perfluoroalkyl and polyfluoroalkyl substances (PFAS) contaminated groundwater, EGLE does not agree with the final IROD and listed state applicable or relevant and appropriate requirements (ARARs) that were selected by the USAF. This letter describes the basis for EGLE's non-concurrence.

The USAF has identified Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), Michigan Compiled Laws 324.20101 *et seq.*, as providing the discharge limits for this remedy for five of the six PFAS compounds addressed by the IROD. EGLE has expressed to the USAF that compliance with Part 201 cannot be met by using Part 201 cleanup criteria as a discharge limit. Rather, application of Part 201 and its cleanup criteria requires that the relevant media, here groundwater, all meet Part 201 cleanup criteria. Application of the Part 201 cleanup criteria at the effluent discharge of the treatment system, which is not the groundwater, is not an appropriate application of Part 201. Additionally, the IRA is focused on preventing the highest concentration of PFAS from migrating from the Alert Aircraft Area via groundwater into Van Etten Lake. Since the remedial action will be discharging to waters of the state, which in this instance, includes both groundwater and a surface water, the applicable requirement should be from Part 31, Water Resources Protection, of the NREPA.

To clarify, while EGLE maintains and agrees with the USAF that Part 201 may provide applicable, relevant, and appropriate groundwater cleanup standards for the final remedial goals at the Site, it is not correct (and is possibly misleading to the public) to list Part 201 as the ARAR for the discharge limits for this IROD. Instead, consistent with prior identifications, EGLE maintains that Part 31 is the appropriate standard for PFAS in this interim remedy.

EGLE recommended and still recommends that Part 31 provides the appropriate discharge limits for this IROD and the discharge of effluent to waters of the state, including in situations like this one where, for certain contaminants of concern, Part 31 and its rules point to Part 201 standards as the numeric values that may apply as effluent limits.¹ Michigan's Part 31 governs all discharges to waters of the state, which by statute, include both surface water and groundwater. Enclosed is a final copy of EGLE's proposed ARARs for this interim remedy, consistent with the last draft EGLE shared with the USAF on June 28, 2024.

EGLE notes that the ARAR table in the IROD does identify the Part 31 rules for designing, constructing, and abandoning groundwater wells and does identify the treatment technology-based effluent limit for perfluorobutane sulfonic acid (PFBS) that EGLE developed under the authority of Part 31 as the appropriate standard as a To Be Considered. EGLE also agrees, that in some instances, Michigan's groundwater discharge rules do point to the Part 201 standards as the applicable effluent limits under the authority of Part 31.

Additionally, as a point of accuracy, the IROD in the Declaration Section indicates EGLE concurrence was received for the remedy, but in Section 2.10.1.8 clarifies that "EGLE has not concurred on the ARARs or on the ROD itself." EGLE requests the Declaration Section be revised so that the record is clear that EGLE supports the selected remedy but does not "concur" in the IROD or in the identification of state ARARs.

EGLE welcomes additional discussion with the USAF to find some greater understanding on the state ARARs presented and to resolve this issue for future Records of Decision. With additional treatment systems planned, EGLE is committed to resolving the issues faced during this ARARs process so future systems, and their associated RODs, can be completed more efficiently.

For the avoidance of doubt, EGLE is not requesting that construction on the IRA stop. The implementation of this work generally is in the public interest and should continue as planned, so it can be operational by the end of the calendar year.

¹ Mich Admin Code R 323.2204(2)(a) and (f) of the Part 22, Groundwater Quality Rules, promulgated pursuant to Part 31

If you need further information or assistance, please contact Amy Handley, Project Manager, Remediation and Redevelopment Division, at 517-898-3356; HandleyA@Michigan.gov; or EGLE, P.O. Box 30426, Lansing, Michigan 48909-7926.

Sincerely,



Phillip D. Roos
Director
517-284-6712

Enclosure

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