



GRETCHEN WHITMER  
GOVERNOR

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



PHILLIP D. ROOS  
DIRECTOR

October 8, 2024

VIA E-MAIL

Eric Horcick, DSMOA Grants Officer  
U.S. Army Corps of Engineers  
Environmental Munitions Center of Expertise  
Attn: CEHNC-CT-B  
P.O. Box 1600  
Huntsville, AL 35806

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

Dear Eric Horcick and Steven Willis:

SUBJECT: Dispute Resolution – Interim Remedial Action (IRA) for the Alert Aircraft Area (AAA), Former Wurtsmith Air Force Base (WAFB), Iosco County, Michigan; Site ID No. 35000058

Michigan Department of Environment, Great Lakes, and Energy (EGLE) has reviewed the Air Force Civil Engineer Center (Air Force) Interim Record of Decision (IROD) for the AAA IRA and the selected state applicable or relevant and appropriate requirements (ARARs) include with the IROD. While EGLE does agree with the selected IRA and the immediate implementation of the IRA, EGLE disputes the state ARARs that were selected by the Air Force and included within this IROD. EGLE has maintained that the selected state ARARs are not an appropriate application of those statutes and attempts to informally resolve this have not been successful. EGLE is initiating and seeking formal dispute resolution to resolve.

EGLE requests that the Air Force reconsider the use of the selected state ARARs in this IROD. EGLE requests that the Air Force agree to use the proper state statutes for discharge limits on all treatment system moving forward.

The selected state ARARs in this IROD are not being applied correctly for the intended purpose of the statutes, specifically related to 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. The application of Part 201 and its cleanup criteria requires that the relevant media, here groundwater, all meet Part 201 cleanup criteria.

Eric Horcick  
Steven Willis  
Page 2  
October 8, 2024

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. EGLE recommended and still recommends that Part 31, Water Resources Protection, of the NREPA, MCL 324.3101 *et seq.* 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. Michigan's Part 31 governs all discharges to waters of the State, which by statute includes both surface water and groundwater. EGLE and the Air Force were not able to reach an understanding on the proper application of state ARARs, and the Air Force moved the IROD forward without EGLE concurrence prior to finalizing the IROD. EGLE sent a letter of non-concurrence to the Air Force, dated September 26, 2024, that further explains the use of Part 201 and why it is not an appropriate discharge limit to use for treatment systems.

If you need further information, please contact Mike Neller, Division Director, Remediation and Redevelopment Division, at 517-512-5859, [NellerM@Michigan.gov](mailto:NellerM@Michigan.gov) or EGLE, P.O. Box 30426, Lansing, Michigan 48909-7926.

Sincerely,

A handwritten signature in black ink that reads "Mike Neller". The signature is fluid and cursive, with a long horizontal line extending from the end.

Mike Neller  
Remediation and Redevelopment Division  
517-512-5859

cc: Katie Reed, USACE  
Megen Miller, AG  
Kalan Briggs, EGLE  
Courtney Fung, EGLE  
Beth Place, EGLE  
Amy Handley, EGLE