

**Division of Solid and Hazardous Waste
Responses to Public Comments
The Ensign-Bickford Company
Draft Site Management Plan and Draft Environment Covenant**

Comment #1. How can you be sure you have identified all the soil contaminated areas on the site?

RESPONSE: The site operating history, the location of manufacturing activities, discharge locations, and past waste and materials management practices have been well understood through more than 15 years of comprehensive investigative efforts. The site has been thoroughly studied and mapped to ensure understanding of the site, its geology and hydrogeological settings, environmental issues and remediation. Thousands of samples were collected and analyzed to ensure that the nature and extent of contamination was defined at the site, through surface, trenching and soil boring sampling programs. Geophysical methods, such as ground penetrating radar, were also used to identify potentially buried objects and wastes. Approximately 300,000 tons of contaminated soil were excavated and removed from various locations at the site. Confirmation samples were collected to demonstrate the cleanup has achieved the remediation objectives.

The Division closely oversaw all aspects of The Ensign-Bickford Company's (EBCo) efforts to identify areas of suspected contamination and to satisfy the Division's cleanup requirements. While the Division believes that it is unlikely that additional facility-related contamination would be found at the site, the Division will require EBCo to address any contamination that may pose a risk to human health and the environment should it be discovered.

Comment #2. How can you be sure that the land owner or others have not hidden soil contaminated areas from your inspectors?

RESPONSE: The Division closely oversaw EBCo's investigation and remediation from the beginning to the end. Division staff independently reviewed historic aerial photographs and other information to confirm the appropriate areas for investigation, and conducted numerous site visits throughout the process including a comprehensive site walk through with personnel from the United States Environmental Protection Agency (USEPA). Buildings, foundations and subsurface disposal systems were removed and then investigated. Pits, trenches and areas of waste and wastewater management were also investigated. The areas had also been studied using geophysical methods to identify potential buried objects. Areas of demolition debris disposal were investigated as were all former production, waste or wastewater management areas. The nature and extent of contamination have been defined.

The Division has concluded that it is unlikely that someone has hidden contamination that has not been discovered in these investigations.

Comment #6. Is the city or any citizen within the city in anyway liable for any residual soil contamination, whether detected and inadequately remediated or as of yet undetected on the site?

RESPONSE: The Executive Secretary cannot offer an opinion as to whether the City of Mapleton or any of its residents could be "in any way liable for any residual contamination" at the EBCo site. EBCo is responsible for management of contamination at the site. When a final Site Management Plan (SMP) and Environmental Covenant (EC) become effective, EBCo and its successors will be responsible to comply with those documents. The Utah Solid and Hazardous Waste Act, with its implementing rules, deals with the responsibilities of persons with a legal interest in a specific piece of land, and the responsibility of persons who actually cause contamination, to deal with contamination on that property. The Executive Secretary understands that the City of Mapleton is not acquiring a legal interest, such as an ownership interest or leasehold interest, in the EBCo property.

Comment #7. In what way is a new property owner who purchases a lot within the site liable for any residual soil contamination on the acquired property?

RESPONSE: A new property owner is required to abide by the conditions set forth in the ECs. Generally, the kinds of conditions for which a new property owner may have to comply are limitations on use of groundwater, limitations on how property may be used, and requirements for worker safety when certain activities are undertaken at the property.

Comment #8. "Within areas of the Site where there are no imposed Activity and Use Limitation, there are no restrictions and allowable land use..." How can we be sure that those areas do not have soil contamination?

RESPONSE: The Division believes that, based on the extensive investigation and sampling effort to date, that Activity and Use Limitations (AULs) are only necessary in those areas where they have been imposed, as set forth in the SMP. Please also see the Divisions' responses to several other comments above on this issue. In particular, see the response to your Comment #1.

Comment #9. How would you propose city officials coordinate with you to enforce Activity and Use Limitations for the Site?

RESPONSE: The SMP and the ECs describe the AULs, which include obligations imposed on the property owner. To ensure that these AULs are properly implemented, the Division requires periodic reporting and inspections and will provide oversight in the form of periodic inspections. As necessary, the Division will also respond to specific requests for approval to perform activities in controlled areas. While the city is not required to enforce the AULs, the Division welcomes communications from the city to the extent the city becomes aware of conduct inconsistent with the AULs. In addition, during review of development plans of the site, the city could ask the developer to identify any controlled areas that are part of the proposed project and to specifically comment on how the project complies with the AULs. While this is not a required role for the city, it would likely promote compliance with the AULs. The city may request technical assistance from the Division in evaluating proposed uses in controlled areas.

Comment #13. Who is responsible to replace displaced survey monuments that will mark each controlled area on the site? When discovered how timely will the replacement take place? What if someone replaces one in an incorrect spot - how will that be discovered? (partial answer page 43)

RESPONSE: Page 28 of the SMP provides the answers to your questions. The property owner is responsible to replace damaged or displaced survey monuments within 30 days of noticing the damage or, in the case of active construction, within 30 days of completing construction that temporarily displaces a monument. The Executive Secretary will be notified in cases where these monuments are repaired or replaced. Each monument location is based on survey coordinates that are part of the legal description of the area. The original monuments will be installed by a licensed surveyor. Replacements will also be installed by a Utah licensed land surveyor. As such, the original locations and any replacement locations will be properly verified. Certification of replacement monuments by a Utah licensed land surveyor will be required to verify the proper locations of the replacements. EBCo will be required to revise the text in Section 5.9 of the SMP to include the certification requirement.

Comment #14. How can you be sure this boundary (figure 4-1) is correct for ground water use limitations? Isn't the ground water plume known to migrate North out of this area? Does this mean the public or private well could be established out site of this boundary area with no SMP limitations?

RESPONSE: The ground water restriction described in the SMP relates only to the EBCo site. Other than the exceptions currently specified in the SMP, this restriction prohibits the location of a ground water extraction well in this area unless specifically approved by the Executive Secretary. The boundary was established on a conservative basis using information from on-site ground water monitoring wells and knowledge of the hydrogeology of the site. A boundary map of the groundwater use limitations will be included in the EC(s).

Off-site ground water conditions, for which the Executive Secretary has no authority to impose restrictions in the EC(s), are currently being regulated by, among others, the DEQ Division of Water Quality (DWQ). EBCo is currently implementing a Corrective Action Plan approved by DWQ on January 30, 2007. In addition, early in the process of investigation of off-site ground water conditions, the State of Utah Department of Natural Resources, Division of Water Rights (DWR) established a "Restricted Area" (without regard to site boundaries) that incorporates the impacted area of the regional aquifer as described in the Utah/Goshen Valley Ground Water Management Plan (DWR, 1995). According to the management plan, DWR should not grant new change applications which propose to transfer water rights into this area. However, DWR may approve change applications that are filed on water rights that previously existed in this area and that do not transfer additional rights into the "restricted area." An institutional process already exists to monitor water rights activity in the area north of the site and to factor regional aquifer conditions into the decisions made with regard to those water rights. The Corrective Action Plan approved by DWQ requires an annual review of water rights, which is reported in the annual ground water monitoring report. If water rights activities are noted that seem to be inconsistent with regional aquifer conditions, this review provides yet another layer of evaluation on an annual basis.

Comment #19. Are you saying all utility corridors through a controlled area require Executive Secretary approval before construction? What will you be checking for?

RESPONSE: Yes. Any plans for utility construction through a controlled area require an engineering submittal to the Executive Secretary for review and approval. The design and construction of a utility corridor must include proper seals for the required locations in order to minimize the potential for vapor migration along that corridor.

Comment #20. Under what criteria/ circumstance would the Executive Secretary terminate water recovery of recovery well R-1?

RESPONSE: Please refer to the Division's response for your Question No. 10. The decision to terminate water recovery for recovery well R-1 is addressed in that response.