From: Campbell, Peter C (DEC)
To: Gamble, Jade D (DEC)
Subject: RE: [EXTERNAL] RE: PCB Information at Location of 5-30-2021 SRF Spill
Date: Thursday, August 26, 2021 3:38:00 PM
Attachments: image001.png
image002.png

I knew I discussed it with Mike, but didn't remember the e-mail.
Have you seen this one?

From: Hamlin, Tim <Hamlin.Tim@epa.gov>
Sent: Monday, August 23, 2021 8:56 AM
To: Larson, Tiffany M (DEC) <tiffany.larson@alaska.gov>
Subject: Proposed topic for discussion today.

Hi Tiffany,

Today we might have something more substantive to discuss. We met with Hilcorp last week about their Swanson River facility. I think our agencies are in alignment on how to handle small spills at refineries, but let's make discuss how our PCB program may intersect. 2nd issue is the probably the most relevant. Here's the extensive scoop (developed for briefing our acting RA to whom these issues were elevated prematurely in my view):

BACKGROUND/HISTORY

Hilcorp entered Alaska in 2012 with the purchase of Cook Inlet assets. Hilcorp has since purchased the majority of Cook Inlet onshore and offshore assets as well as numerous assets on the North Slope including, most recently, Prudhoe Bay assets from BP. Hilcorp is a privately held company whose business model is to take on existing assets and apply new technologies and processes to extend the life of the operations. This approach was critical in southcentral Alaska given the impending natural gas shortage identified in the early 2000s and is considered essential, in addition to new North Slope developments, to extend the utilization of the Trans-Alaska Pipeline System.

Some of the assets that Hilcorp purchased have known PCB contamination. In the last year and a half either Hilcorp or another environmental regulator brought 3 scenarios to the attention of the R10 PCB Coordinator for technical and compliance assistance. All three scenarios involve new disposal activities taking place in an area where previous cleanup and on-site disposal of PCB contaminated soils took place under a consent order with USFWS. Soils contaminated with PCBs >12ppm were incinerated in an incinerator approved by the EPA for that purpose. Soils with <12ppm were disposed on-site.

During technical and compliance review of the three recent PCB contamination issues brought to the EPA, the R10 PCB Coordinator found that the data generated during the old on-site disposal activity was not reliable for decision making about current disposal activity under current PCB regulations. The PCB Coordinator explained the compliant path forward for management of impacted soils at

each scenario. The Hilcorp environmental staff did not express any disagreement.

KEY ISSUES

1. Three issues raised by Hilcorp General Counsel at the Swanson River field in the Kenai National Wildlife Refuge. There was a PCB release at Swanson River in 1972, followed by an extensive investigation and cleanup between 1985 and 1992. "The issues Hilcorp Alaska would like to discuss relate to whether, and how, to account for that prior cleanup when managing soils with confirmed or potential PCBs. Specifically, there has been disagreement between Hilcorp Alaska and EPA staff as to whether the available information concerning that extensive cleanup can be used to rebut the presumption that PCB concentrations in remediation wastes require high level treatment."
    a. Soils excavated in 2020 to replace a water line at the boiler building
        i. Hilcorp excavated a trench to replace a utility line in an area where PCBs were previously disposed of on-site. The excavation activity is a new PCB bulk remediation waste management activity. Engaging in management of PCB bulk remediation waste either requires prior Notification to EPA, approval from EPA or adherence to specific off-site disposal rules. Hilcorp did not provide Notification to EPA prior to the activity. ADEC brought this issue to EPA R10's attention.
        ii. The PCB Coordinator advised that the data Hilcorp wanted to rely on was not useful for EPA to approve their desired disposal pathway – on-site disposal. Because they had already dug up the PCB remediation waste and did not have reliable in-situ, "as-found" data, the only available option to them within the PCB regulations was off-site disposal in a TSCA Landfill. This may be considered high level treatment.
        iii. Had Hilcorp collected in-situ data to determine the "as-found" concentration, and had Hilcorp Notified EPA or requested approval from EPA, on-site disposal could have been an approvable activity.
    b. Soils contaminated by an oil spill in 2021
        i. A pipeline spilled oil onto soils in an area where PCBs were previously disposed of on-site. Cleanup of the spill requires excavation of the soils, which is a new PCB bulk remediation waste management activity. Engaging in management of PCB bulk remediation waste either requires prior Notification to EPA, approval from EPA or adherence to specific off-site disposal rules. Hilcorp did not provide Notification to EPA prior to the activity. EPA's emergency response program brought this issue to the PCB Coordinator. Hilcorp deemed the soil exempt from PCB regulations under the Exploration and Production (E&P) RCRA exemption and planned to inject the contaminated soil. The PCB Coordinator was unclear whether the PCB rules applied to E&P exempt waste, or if this waste even was E&P exempt.
        ii. The PCB Coordinator has not provided any technical or compliance assistance to Hilcorp on this matter because the issue of E&P exemption and application of PCB regulations has not been clarified to the PCB Program yet.
    c. Future scenarios
        i. High level treatment via disposal in a TSCA landfill is not generally required and contrary to Hilcorp general counsel's email, is not presumed as necessary either by the PCB regulations, or by EPA Region 10. Therefore, there is no presumption to rebut.
        ii. The PCB regulations allow for on-site disposal based on concentration and occupancy of the disposal site. Even if the disposal site does not meet the self-implementing criteria for on-site disposal, the EPA may approve on-site disposal after conducting a qualitative or quantitative risk assessment. Therefore, on-site disposal may be a viable option for future excavation scenarios.
        iii. To avail themselves of any disposal options other than disposal in a TSCA approved incinerator or chemical waste landfill, Hilcorp must notify EPA, seek approval from EPA, and collect data from the soils in-situ prior to

disturbing them. The data collection and analysis must be compliant with today's regulations because any disturbance of the soil is a new disposal activity.

1. All prior remediation activities were conducted using EPA Method 8080 to determine PCB concentration, and Hilcorp has suggested that EPA could rely on the Method 8080 data to establish current concentrations of PCBs in the soil and, thus, determine an appropriate disposal method. Method 8080 is not as accurate as modern Method 8082 and is no longer considered the accepted method. Hilcorp could apply for a risk-based determination that Method 8080 data be used, but based on the RCRA memo stating the poor performance of Method 8080, EPA may not have a basis to determine no unreasonable risk of harm from allowing that method for current disposal decisions.

2. Hilcorp could attempt to validate the old analytical Method 8080 under Subpart Q to allow this method to be used for current disposal decisions. However, EPA has described this method in the RCRA context as "obsolete" and stated that it provides lower resolution, selectivity, and sensitivity than other methods, [1] so it is unlikely the method could be determined as valid as Method 8082.

2. PCB issue not raised by Hilcorp general counsel: Planned excavation 2021
   a. Hilcorp's general counsel did not raise the issue of a newly planned excavation activity, but a Hilcorp environmental professional provided a work plan to the R10 PCB Coordinator on July 6, 2021. The workplan covers sampling and excavating soil while conducting an inspection of an underground gas lift supply pipeline in an area where previous on-site disposal of bulk PCB remediation waste occurred. The work was planned to occur in July or August, 2021.
   b. The workplan contained several inadequacies in the description of the sample collection plan, sampling equipment decontamination, and disposal.
   c. The PCB Coordinator provided comments on July 7, 2021 advising on how to ensure compliance with the PCB regulations for sample collection, decontamination, and disposal. Hilcorp has not responded.

REGULATORY SUMMARY

A cornerstone of the PCB regulations is a provision against dilution for determining the disposal pathway for contaminated materials. This provision is stated in the first paragraph of the regulations – 761.1(b)(5) "No person may avoid any provision specifying a PCB concentration by diluting the PCBs, unless otherwise specifically provided".

Diluting waste is further prohibited by 761.20(c)(2)(iii), which includes processing or blending waste prior to being introduced into a disposal unit.

The Spill Cleanup Policy in Subpart G of the PCB regulations addresses dilution in the definition of PCBs: "…no requirements may be avoided through dilution of the PCB concentration."

Transporter requirements addressed in 761.211(a)(1)(i) state that if "the PCB concentration below 50ppm was the result of dilution…the waste be managed as if it contained PCBs at the concentration prior to dilution."

Of special note- 761.1(b)(5) allows for avoidance of provisions specifying a PCB concentration by dilution where specifically provided.

When dealing with PCB bulk remediation waste such as soil, that provision is granted in 761.61: "Any person cleaning up and disposing of PCBs managed under this section shall do so based on the concentration at which the PCBs are found." Essentially, whatever concentration the PCBs were originally is no longer applicable if you characterize the now diluted concentration in the PCB remediation waste "as-found".

761.61 governs the cleanup, sampling, storage, and disposal of PCB remediation waste of all types. Sub-paragraph (a) is a set of self-implementing regulations for PCB remediation waste. 761.61(a)(3)(i) requires that "At least 30 days prior to the date that the cleanup of a site begins, the person in charge of the cleanup… shall notify… the EPA Regional Administrator…"
761.61(a)(5)(i) governs cleanup of bulk PCB remediation waste, which includes soil. Sub-paragraphs (B)(*2*)(*i*) require sampling and analyzing for disposal according to the procedures set out in 761.283, 761.286, and 761.292. If those procedures are not followed the bulk PCB remediation waste shall be assumed to contain ≥ 50ppm. Sub-paragraphs (B)(*2*)(*iv*) further requires the generator to provide notice of the highest concentration of PCBs using chemical analysis EPA Method 8082 in SW-846, or other methods validated under subpart Q of the PCB regulations.

- 761.283 explains the number of samples to collect and sample collection locations. A minimum of three samples from each waste type using a grid size of 1.5 m x 1.5 m is required.
- 761.286 explains the sample size and procedure for collecting a sample.
- 761.292 requires analytical method 8082 from SW-846, or a method validated under subpart Q of the PCB regulations.
- Subpart Q requires validation on a site-specific basis.

761.61(c) provides a pathway for alternate sample collection and analytical methods to be used, but it requires the person wishing to use methods other than prescribed in 761.61(a) or (b) to apply in writing to the Regional Administrator and receive approval prior to conducting cleanup activities.

761.61(b) allows for off-site disposal of PCB remediation waste (no on-site disposal option) to a TSCA approved incinerator or chemical waste landfill. It allows facilities to do this without Notification to EPA or approval from EPA.

For the first scenario, the excavation that occurred in 2020 at the boiler building, Hilcorp deviates from the regulations in the following ways:

1. Deviation from 761.61(a)(3)(i) – Hilcorp did not provide notification to the EPA prior to excavation.
2. Deviation from 761.292 and 761.61(a)(5)(i)(B)(*2*)(*i*) -Hilcorp's old characterization data of the soils disposed on-site used Method 8080. This method is not currently allowed to determine PCB concentrations to comply with disposal regulations for any current disposal activity, and Hilcorp did not demonstrate validation of method 8080 under Subpart Q.
    a. EPA removed Method 8080 from the list of available test methods for RCRA testing and monitoring activities in 1997, explaining that it is less reliable than other available methods. 62 FR 32452 (June 13,1997).
3. Deviation from 761.283 and 761.61(a)(5)(i)(B)(*2*)(*i*) - Hilcorp collected samples using a 20 foot x 15 foot grid rather than the currently required 1.5 m x 1.5 m (5 foot x 5 foot)

grid. This spatial distribution is inadequate for determining PCB concentrations of soils subject to disposal.

4. Deviation from 761.61(c)(i) – Hilcorp did not apply for or receive approval to use these alternate sample collection and analysis methods for the purpose of determining a disposal pathway for current disposal activities.

Because the boiler building soils were already excavated, they were not available for in-situ sampling to determine the as-found concentration using an appropriate spatial distribution or analytical method. Therefore, 761.61(a)(5)(i)(B)(*2*)(*i*) cannot be followed, therefore the PCB remediation waste shall be assumed to contain ≥ 50ppm. Because Hilcorp did not provide Notification to EPA, the self-implementing disposal options for soils contaminated >50ppm are not available to them. Because Hilcorp did not apply and receive approval for alternate sample collection or analysis for disposal, a risk-based allowance for on-site disposal or off-site disposal in a lower treatment level landfill is not available to them. The only option for the soils excavated at the boiler building is under 761.61(b)(2) at an incinerator or chemical waste landfill authorized under TSCA.

For the second scenario where an oil spill occurred onto PCB contaminated soil, if the soil is still in place, and if it is deemed to require disposal in accordance with the PCB regulations, they have many options, as described under the Future Scenarios paragraph in the prior section. If the soils are already removed, their options become limited. If the soil was not sampled and analyzed prior to removal, they only have the option to send soils off-site to a TSCA approved incinerator or chemical waste landfill.

For the planned excavation to inspect a gas line, Hilcorp presented a pre-excavation sampling plan and post-excavation disposal plan, but it was inadequate. It is not clear to EPA what, if any, changes Hilcorp is planning to make based on EPA comments. If the soils remain in place, Hilcorp has many options available to them as described under the Future Scenarios paragraph in the prior section. If the soils are already removed, their options become limited. If the soil was not sampled and analyzed prior to removal, they only have the option to send soils off-site to a TSCA approved incinerator or chemical waste landfill.

CONCLUSION

Hilcorp has never previously demonstrated disagreement with the technical and compliance assistance the PCB Coordinator has provided. Since they have elevated the issue to the RA, it is likely they will be frustrated to hear that the old data is not viable for current disposal activity decisions.

While not directly stated, Hilcorp seems to indicate a concern that EPA is revisiting the old cleanup decision. That is not how we see it.. EPA is ensuring protection of human health and the environment from any current and future disposal activities, by providing technical and compliance assistance based on the current regulations.

Tim Hamlin
Director, Land, Chemicals and Redevelopment Division
EPA Region 10

(206) 553-1563
(he/him/his)

From: Gamble, Jade D (DEC)
Sent: Thursday, August 26, 2021 3:11 PM
To: Campbell, Peter C (DEC) <peter.campbell@alaska.gov>
Subject: RE: [EXTERNAL] RE: PCB Information at Location of 5-30-2021 SRF Spill

Hi Pete,

I did send an email to you about this on 6/16. We can chat about the site tomorrow if you like.

From: Campbell, Peter C (DEC) <peter.campbell@alaska.gov>
Sent: Thursday, August 26, 2021 2:35 PM
To: Gamble, Jade D (DEC) <jade.gamble@alaska.gov>
Subject: RE: [EXTERNAL] RE: PCB Information at Location of 5-30-2021 SRF Spill

Hi Jade,
Bill O'Connell forwarded this e-mail to me and asked me to comment on the impact to Hilcorp along with the site PCB contamination in Swanson River being regulated under TSCA. I'd like to discuss it with you sometime.
When these decisions come down from EPA, and they have an impact on my sites, I'd appreciate it if you could copy me on the e-mail so I can stay in the loop.
Thanks
Pete

From: Gamble, Jade D (DEC)
Sent: Thursday, June 17, 2021 3:31 PM
To: apeloza <apeloza@hilcorp.com>; Evans, Mike R (DEC) <mike.evans@alaska.gov>; Jacob Nordwall - (C) <Jacob.Nordwall@hilcorp.com>
Cc: Bruce Hershberger <bhershberger@hilcorp.com>; Taylor Wellman <twellman@hilcorp.com>; Taylor Malone <tmalone@hilcorp.com>; Zachary Rohr <zrohr@hilcorp.com>; John Coston <jcoston@hilcorp.com>; lynnda_kahn@fws.gov; Kelley Nixon <knixon@hilcorp.com>; Chuck Wheat <cwheat@hilcorp.com>; Carey, Anna M (DEC) <anna.carey@alaska.gov>; Moore, Sarah C (DEC) <sarah.moore@alaska.gov>; Bob Whittier <whittier.robert@epa.gov>; Torri Huelskoetter <Huelskoetter.Torri@epa.gov>; Gamble, Jade D (DEC) <jade.gamble@alaska.gov>
Subject: RE: [EXTERNAL] RE: PCB Information at Location of 5-30-2021 SRF Spill

Good afternoon Amy,

We reached out to EPA to verify the proposed G&I disposal of the contaminated soil related to this

release. The determination was made by EPA that this material does not qualify as E&P exempt. The contaminated soil that was excavated during this release cannot be disposed of through the G&I. Once you have a new plan for disposal please send a new soil transport form for review.

The following explanation and path forward was provided to the department EPA.

> *Section 4.14.3 of the book discusses how to determine whether a waste is E&P exempt. Subsection 4.14.3.1 states that the waste must be "uniquely associated" with the exploration, development, or production of oil or gas. Subsection 4.14.3.1.2 gives a "rule of thumb" for making a "uniquely associated" determination: 1) the waste must come from "down hole" (i.e., it was brought to the surface during oil, gas, or geothermal energy exploration, development, or production operations); or 2) the waste was otherwise generated by contact with the oil, gas, or geothermal energy production during the removal of produced water or other contaminants from the well or the product (e.g., waste demulsifiers, spent iron sludge, etc.) 58 Fed. Reg. 15285 (March 22, 1993).*
>
> *Here, the PCBs are not "uniquely associated" with oil and gas production- the PCBs came from the explosion of a compressor plant- compressors are used by many industrial processes and are not "unique" to oil and gas operations. The wastes also did not come from "down hole" and they were not generated by contact with oil or gas. As such, the PCB-contaminated soils are not E&P exempt.*
>
> *However, the PCBs may not be RCRA regulated- they might only be regulated under TSCA and the Part 761 cleanup regs. The only way they might be RCRA regulated is if they exhibit a toxicity characteristic- see Section 2.6.4 of the RCRA Unraveled book- basically, EPA created an exemption from RCRA for PCB fluids themselves and the equipment in which they are contained. The exemption is based on compliance with two criteria: 1) the waste must be regulated under TSCA (40 CFR Part 761); and 2) the waste must be hazardous only because it exhibits the toxicity characteristic for D018 through D043. If the waste exhibits any other characteristic or contains a listed waste, it would be regulated under both TSCA and RCRA (see RCRA Online # 13324 and 14014).*
>
> *So, Hilcorp would need to test the oil/PCB contaminated soil combo to determine whether the mixture exhibits a RCRA characteristic other than those found in D018 through D043. If it does, it's regulated under both RCRA and TSCA. If not, its regulated only under TSCA.*
>
> *There is no E&P exemption under TSCA, so no matter what, Hilcorp has to manage the oil/PCB soil mixture properly under TSCA. Part 761 of the TSCA regs governs management of PCB remediation wastes, which this mixture would be. From my quick read of those requirements, Hilcorp would have to either send the wastes off to an approved PCB incinerator, send the wastes off to an approved PCB landfill, or seek approval from EPA for an alternate disposal method. See 40 CFR 761.61. I don't know if EPA would approve disposal into a UIC class II well or not- that's a decision that EPA would make after Hilcorp can show it would be proper using the process set out in Part 761.61*
>
> .

See also EPA's webpage reference for PCB remediation:

https://www.epa.gov/pcbs/managing-remediation-waste-polychlorinated-biphenyls-pcbs-cleanups

Sincerely,

Jade Gamble
Cook Inlet and Kodiak Unit Manager
Prevention, Preparedness and Response Program
Alaska Department of Environmental Conservation
907.262.3422 (office) | 907.398.3938 (cell)

From: Amy Peloza <apeloza@hilcorp.com>
Sent: Monday, June 7, 2021 10:48 AM
To: Evans, Mike R (DEC) <mike.evans@alaska.gov>; Jacob Nordwall - (C) <Jacob.Nordwall@hilcorp.com>
Cc: Bruce Hershberger <bhershberger@hilcorp.com>; Taylor Wellman <twellman@hilcorp.com>; Taylor Malone <tmalone@hilcorp.com>; Zachary Rohr <zrohr@hilcorp.com>; John Coston <jcoston@hilcorp.com>; Gamble, Jade D (DEC) <jade.gamble@alaska.gov>; lynnda_kahn@fws.gov; Kelley Nixon <knixon@hilcorp.com>; Chuck Wheat <cwheat@hilcorp.com>
Subject: RE: [EXTERNAL] RE: PCB Information at Location of 5-30-2021 SRF Spill

Thanks, Mike.

All~
We discussed waste characterization of the spill cleanup material internally. For clarification, the spill cleanup materials maintain the E&P exemption under the mixing rule. See page 17 (the flowchart in the middle of the page) in the Green Book (https://yosemite.epa.gov/oa/eab_web_docket.nsf/Attachments%20By%20ParentFilingId/945EF425FA4A9B4F85257E2800480C65/$FILE/28%20-%20RCRA%20E%26P%20Exemption.pdf).

Therefore, the cleanup material from this event is eligible for KGF G&I disposal without sampling.

Thank you,
Amy Peloza
Regional Environmental Team Manager - Alaska
Hilcorp Alaska, LLC
3800 Centerpoint Drive, Suite 1400
Anchorage, AK 99503
(907) 777-8348 – office
(907) 317-0521 – cell
Email: apeloza@hilcorp.com

From: Evans, Mike R (DEC) <mike.evans@alaska.gov>

Sent: Monday, June 7, 2021 10:10 AM
To: Jacob Nordwall - (C) <Jacob.Nordwall@hilcorp.com>
Cc: Bruce Hershberger <bhershberger@hilcorp.com>; Taylor Wellman <twellman@hilcorp.com>; Taylor Malone <tmalone@hilcorp.com>; Zachary Rohr <zrohr@hilcorp.com>; John Coston <jcoston@hilcorp.com>; Gamble, Jade D (DEC) <jade.gamble@alaska.gov>; lynnda_kahn@fws.gov; Amy Peloza <apeloza@hilcorp.com>
Subject: [EXTERNAL] RE: PCB Information at Location of 5-30-2021 SRF Spill

Hey Jacob,

The department agrees that the spill impact area will not need to be sampled for PCBs, particularly as this was not a contaminate of concern for the recent spill. Hilcorp may need to do testing for PCBs for the excavated soil prior to disposal at the G & I facility. The need for testing should be based on the allowable level for G & I disposal.

Please let me know if you have any questions.

Mike Evans
Environmental Program Specialist
Alaska Department of
Environmental Conservation
SPAR |PPRP 555 Cordova Street Anch, AK 99501
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From: Jacob Nordwall - (C) <Jacob.Nordwall@hilcorp.com>
Sent: Monday, June 7, 2021 7:21 AM
To: Evans, Mike R (DEC) <mike.evans@alaska.gov>; Gamble, Jade D (DEC) <jade.gamble@alaska.gov>
Cc: Bruce Hershberger <bhershberger@hilcorp.com>; Taylor Wellman <twellman@hilcorp.com>; Taylor Malone <tmalone@hilcorp.com>; Zachary Rohr <zrohr@hilcorp.com>; John Coston <jcoston@hilcorp.com>
Subject: PCB Information at Location of 5-30-2021 SRF Spill

Mike/Jade,

A review of archived files revealed PCB information relative to the North Oil Line Leak location. The first attachment titled; "*1987 E&E Rpt excerpt_App C13 and North Oil Line Release"*, was taken from the 1987 Ecology & Environment report detailing that year's PCB remediation effort. What this shows is that PCB analysis and remediation occurred in the direct vicinity of the leak location. Only three of the samples (R-947, R-954, R-1289) in the sample grid (outlined in blue) were detected above 7 parts per million (ppm). These three results were 11, 12, and 20 ppm.

Additional excavation and resampling took place at all three of these locations until these locations returned results below 7 ppm. As a reminder, the 1985 Consent Order allows soil with PCBs at concentrations of 12ppm or lower to remain in place in areas covered under the consent order. This "covered" area encompasses the leak area.

Extensive sampling was also conducted on the road system surrounding the plant as part of the remediation effort. The roads followed the same grid screening and sampling process. Locations with results above 12 ppm were re-excavated and re-sampled until sampling returned results below 12 ppm. The second attachment *"App C1-C4.pdf"*, is a portion of the results reported in 1987 for sections of the road system near the plant, office, and houses that were oiled in the early 80's with PCB-impacted material.

I hope these attachments suffice as generator knowledge indicating that although PCBs may exist in the leak cleanup material, they are at concentrations of 12 ppm or lower. Based on this information we are requesting that no additional sampling for PCBs of the gravel at the recent spill location will be requested by your department.

Thank you,

Jacob Nordwall
Kenai EH&S Specialist
Hilcorp Alaska, LLC
Cell: (907) 748-0753
Office: (907) 777-8418
Jacob.Nordwall@hilcorp.com

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[1] *See* 62 FR 32452, 32454 (June 13, 1997).