

CARD Meeting Minutes
April 4, 2023
[20230404 CARD Monthly Meeting via Zoom](#)

The meeting was called to order by Roger Rayle at 6:07 PM.

The March Minutes were approved.

Jack introduced himself and changed the Agenda order to discuss the new CJ after EPA updates.

EPA Updates-

Congresswoman Dingell's representative, Georgia Frost stated that Debbie will be joining us tonight. Georgia thanked Kathy Griswold who flagged the item in the CJ wondering if it could affect the EPA. Ms Dingell's first priority was to get the more protective standard of 7.2 ppb and that there is so much support for EPA to take over the site and this EPA process has already started and that getting this CJ complete and out of the Courts will help the EPA when they do take over. Similar wording about protecting public health was always in the Consent agreement. She said that the EPA is going through its steps and this will not undermine the process.

2023 Consent Judgement between EGLE and Gelman Discussion-

Jack gave us a brief overview on this new CJ and is not alarmed by the CJ but it 's just further proof that the State is unable to adequately solve this contamination.

Josh Moser said that Georgia was correct about the EPA. And EGLE's goal has been to get the 7.2 ppb for years, and that what Jack just said about inadequate clean up is what they have to work with because of State Law. EGLE still wants the EPA to take this over as well. They wanted to make sure that when they turn over this to EPA that they will have the 7.2 in place and litigation complete. Their objectives are to have "no expansion" and GSI and drinking water standards at state level. Jack asked Josh why they have 500 ppb on certain wells to be able to stop pumping and extracting dioxane? Josh said that there is not a criteria in the law, it is a number they picked for this site.

Vince Caruso asked if CARD should consider a stance on this CJ?

Jeff Hayner mentioned that there is nobody from the City of Ann Arbor at the meeting and wondered if there was not a representation from the City in the meetings, etc. Jack said that as the City is an Intervenor, that they were not involved in this CJ at all. Asst AG Yokum mentioned that the intervenors (under the court of appeals order) were not allowed at the table. The AG did try to get the intervenor concerns passed along during this process.

Mike Moran mentioned that AA Township has always tried to give its concerns and that he is not pleased with the Eastern goal (they were removed) and this is another ad-hoc non-protective agreement. He was concerned about the PZ being the only way to control the dioxane and let the contaminant flow down through the town to the Huron River. In the Western

area the part about drinking water is concerning. We had a bad situation before and this is even worse.

Roger found problems with it that nobody has mentioned yet, and they did some comparisons with former CJ's. This new one completely ignores the marshy area and burn pit where the very highest soil concentrations... about 2 million ppb in the burn pit in 1988, down to about 1 million ppb in 1998 and we do not have any data from the same locations there since. He is concerned that these areas of high levels of dioxane are not being addressed. They removed the heated soil vapor system for the burn pit as well as the phyto-remediation of the marshy area. Previous revisions of the CJ had removed cleanup of the Spray Irrigation Area Not aggressively addressing the dioxane soil contamination could allow 1,4-dioxane to migrate down to usable aquifers. Roger also questioned how one can be asked to approve the new 4th CJ proposal as a solution to the Gelman dioxane problem without having access to the "secret" data sampling that supports the solution since that data is still not public because of the ongoing 2017 confidentiality agreement. He asked if any withheld data about the burn pit and the marshy area can now be released now that they are not specifically addressed in the new CJ.

Rita Loch-Caruso mentioned that she agrees with the shortcomings in the eastern plan and was shocked to see "dilution for the solution" as the remedy for this kind of environmental contamination. She pointed out that she is still very concerned that the 280 ppb in contact with damp basements could be a problem and Gelman actually did a study many years ago on the dioxane reaching the surface, they know this.

Kathy Griswold said that she thinks CARD should do a press release or statement on this CJ. Even though it will be implemented, we need our reasons publicly stated as we move towards the EPA public comment period. Jack stated that when the EPA has public meetings, we will have much of this worked out and all the review to this CJ noted.

Kathy Knol mentioned that the Intervenorers were informed of the new CJ once it was final and they were not involved. Judge Connors will have a status conference on April 13 (but not open in chambers) but on April 20 there is a hearing with Judge Connors about the new CJ, she assumes it is in open court, but procedurally it is not clear what will happen to the Intervenorers, but Judge connors asked them to delay filing complaints. And he asked the polluter to refrain from answering complaints. Everything seems up in the air right now. Mike Moran questioned if the Judge made an order about the complaints? Kathy said not that she knows of. Yokum said that she thought it was to not file complaints before the status conference and then there will be a time to complain and respond to complaints.

James D'Amour asked EGLE that if the burn pit and soil contaminations are out of the CJ, can the data be released to the public. AG Yokum said that she said the data was collected by Gelman and that she isn't sure the State can say this will be released? Roger mentioned that dioxane is a forever chemical and this new CJ is not protective of the water sources. We have to worry and move now on these chemicals.

Vince mentioned that with no shallow groundwater testing mentioned in the Eastern Area or other areas and this is another omission in this new CJ.

Jack mentioned that the 1st Sister Lake/Parklake Well are not in this CJ, and that is great news. But he mentioned that there is wording about possible Little Lake surface water discharge?

Congresswoman Dingell joined the Zoom and commented that the EPA process is moving forward and assured us that the process is going forward. She has worked with AG Nessel on this and has discussed with the EPA and they are working on site in case we need an emergency response. She is staying on top of this. We discussed with her that the data from the soil and burn pit area should make it to EPA and we hope they can see this hidden data that the public cannot see. Josh Moser stated that EPA knows the data that is under the Confidentiality Agreement, they may not see it but they know it's missing. They don't need it for scoring the site or for NPL selection, but they will eventually need it and get it.

EGLE Updates-

Dan showed us the new MW's the polluter has installed and locations that are in the new CJ. Once the CJ is signed there will be a new monitoring plan evaluated for the non expansion area in the Western area and in the eastern area will be modified to identify new sampling times/ frequencies.

Dan showed us a map of the WCHD homeowner well sampling area to be done in 2023.

Allen Creek MS4 will be separated from CJ and WRD at EGLE is working with WCWRC on this. Mike Moran asked about any discharges into the Allen Creek drain system in the CJ4? Dan stated that under Part 31 they will have to eliminate any discharge, even though the CJ says that they could fall under Part 201 (except for and MS4 sewer that will be in part 31 ?). The CJ only states Part 201 and GSI, stating that other local jurisdictions will have their own regulations (part 31 and the MS4). Josh said that they do cross over at times, the Part 201 and Part 31 and on some sites they can work together, but they think that Part 31 will trump the Part 201. Rita Mitchell asked about some additional MW's in the West Park area. Dan said there was discussion on this for downgradient monitoring, and the wells locations have been omitted from this CJ but they will still do monitoring downgradient, which will come after the CJ is signed.?? Vince asked if there is a timeline on the expediting of this?

All GSI work plans will be evaluated and investigations started for all areas when the cj is signed.

No new info on the NPDES permit.

All sampling from EGLE and AAT on 2243 Blueberry Lane were non-detect. EPA tested and we do not know the results. EGLE will now do an evaluation and see what the next steps are.

Old Business/ Action Items-

No update from the Yale Superfund Center, there will be an advisory board meeting in June.

AATownship was non detect and the Township Board has already approved to do wider testing and are getting bids and do some wider testing within the area of Blueberry Lane, using Method 522.

James D'Amour sent the Polluter Pay Resolution to our entire State Legislature Representatives. He heard back from Rep Jason Morgan and he will be presenting/ reintroducing the bill after April 11. Roger has dug back through his comments from the last polluter pay law abolishment in the 90's, and he will pass those along to the same legislature.

Rita Loch-Caruso will chair the ByLaws revision committee so we can update and add two officers. The committee will gather them and let CARD view and make comments. James D'Amour and Roger will be on the committee with her.

Chair Updates-

Roger heard about the new CJ on March 24th and he started going through the differences between the previous 4th CJ and this new CJ, like he had previously with the proposed 4th and the 3rd CJ. Mike Moran did them in a pdf file with markings and highlights, which is beneficial to see eliminations and deficiencies. He summarized it for us, what was missing and lacking. Gelman has taken this opportunity that the Court of Appeals gave them to again "loosen" what they have to do. It's backsliding.

Minutes compiled by Beth Collins, CARD secretary

The meeting was adjourned at 8:00 PM