

**SOUTHWEST JORDAN VALLEY GROUNDWATER CLEANUP PROJECT
STATE OF UTAH NATURAL RESOURCE DAMAGE TRUSTEE**

**COMMENT RESPONSE SUMMARY
AUGUST 31, 2004**

Response to Common Comment No. 1 – Process for Public Involvement

A number of comments questioned whether the public has had an adequate opportunity to be involved in the consideration of the Joint Proposal. As explained below, the Trustee believes ample opportunity for public involvement has been provided. Numerous comments have been considered, and comments have substantively affected the Trustee's final decision. In addition, opportunities for public involvement will continue while the project is being implemented. This response addresses those comments that expressed concern about the time to comment on the Joint Proposal and related agreements as well as those which questioned the level of public involvement on the broader question of groundwater cleanup in the southwestern part of the Jordan Valley.

Public involvement in decisions about groundwater cleanup in the southwestern part of the Jordan Valley predates the submittal and review of the Joint Proposal. In the early 1990's, EPA and DEQ formed the Technical Review Committee (TRC), consisting of representatives of federal, state and local regulatory agencies, academia, private citizens, local government and environmental groups. The TRC has reviewed the information being developed about the groundwater contamination in the Zone A plume (consisting of low pH/heavy metals or acid contamination and sulfate contamination) and Zone B plume, and considered alternatives to address the contamination. The TRC members had the opportunity to review the information being developed and to disseminate this information to those they represent. Meetings were held several times each year as CERCLA-based activities, including the Focused Feasibility Study (FFS), Remedial Investigation (RI) and Feasibility Study (FS), progressed. The TRC continues to meet on a regular basis.

The TRC discussions could be and often were tailored to the interests of each organization in attendance. In general, this strategy worked well. The following table provides an understanding of when the TRC met and, for some of the meetings, the predominant topic(s) discussed. Significant questions or concerns raised by the membership or the public are noted. Involvement by individuals representing environmental interests or the general public interests is also noted. Release of significant documents and the results of public comment are also indicated.

CHRONOLOGY OF SOUTH END GROUND WATER MEETINGS

Date	Meeting	Notes
November 10, 1992	TRC meeting re. Focused Feasibility Study (FFS)	
December 6, 1992	TRC meeting re. FFS	

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December 16, 1992	TRC meeting re. FFS	
January 13, 1993	TRC meeting re. FFS	
March 10-11, 1993	Public Hearing FFS	Earthquakes (seismic) related impacts to the KUCC tailings facility, and impacts to Jordan River are mentioned as concerns. Sierra Club sent in comments.
May 17, 1994	TRC meeting regarding studies	Sierra Club is represented.
June 24, 1994	TRC meeting	Sierra Club is represented.
August 4, 1994	TRC meeting	Ecology of the GSL is discussed. Sierra Club is represented.
September 12, 1994	TRC meeting	Ecology of the GSL is discussed. Sierra Club is represented.
October 13, 1994	TRC meeting	Sierra Club is represented.
December 13, 1994	TRC meeting	Sierra Club is absent.
February 7, 1995	Risk Assessment Task Force	Great Salt Lake studies are discussed (many other RATF meetings took place, but are not listed in this table).
August 17, 1995	TRC meeting	Sierra Club is absent.
October 24, 1995	TRC meeting	Sierra Club is represented.
September 17, 1996	TRC meeting	
March 25, 1997	TRC meeting	
June 24, 1997	TRC meeting	Both possibilities of treatment in the tailings line and direct disposal to the GSL are discussed. Sierra Club is represented.
October 15, 1997	TRC meeting	Sierra Club is represented.
December 8, 1997	FWS letter of invitation	Because of potential involvement of GSL, the U.S. FWS are invited to participate on the TRC.
January 21, 1998	TRC meeting	TRC votes to include review of NRD proposal as part of its duties. Mr. Weber attends in substitution for normal Sierra Club member.
February 13, 1998	TRC meeting	
April, 1998	RI/FS study released	
June 14, 1999	TRC meeting	Mr. Weber was present; representation status was unknown.

Date	Meeting	Notes
January 26, 2000	TRC meeting	TAG group attends, represented by Ms. Bagley and Mr. Dansie.
February 22, 2000	TRC meeting	
March 30, 2000	TRC meeting	Mr. Weber is present. TAG is represented by Ms. Baguley. The membership roster includes both Mr. Weber and Mr. Endicott as Sierra Club members on the TRC.
August 9, 2000	Public Hearing on Zone A plan (CERCLA authority)	There were no comments from environmental representatives. There was also an open house and the comment period received extensive media coverage.
December, 2000	EPA issues ROD	The Technical Issues section in the Responsiveness Summary (typically used to target issues at the time of the 5 year review) mentions issues involving the GSL.
February 20, 2001	TRC meeting	Disposal in the tailings line and impacts on water quality are discussed. Mr. Weber is present.
October 30, 2001	TRC meeting	Selenium in acid waters is brought up. The North End permit is discussed. The stability of metals in the tailings pond is discussed. Ms. Emory joins the TRC representing FOGSL; the TAG is represented by Ms. Baguley.
November 13, 2002	TRC meeting	Data on the acid plume in the tailings line are presented. Ms. Emory and Ms. Baguley are present.
April 17, 2003	TRC meeting	Ms. Emory is present
July 15, 2003	TRC meeting	Chemistry of metals in the tailings line, impacts on river, and coverage of the proposed Jordan Valley UPDES permit are discussed. Ms. Emory and Ms. Baguley are present.
September 10 and 25, 2003	Public Hearings on NRD proposal portion of the project	There were two public hearings with an information session, four open information sessions for water right holders and environmental activists/duck clubs. Project received extensive media coverage both in print and TV.
July 14, 2004	Public Hearing on NRD proposal portion of the project	There was one public hearing with two information sessions to individual well owners in the Affected Area and to environmental interests during July 2004 FOGSL meeting. Project received media coverage both in print and on radio.

During the Remedial Investigation and Feasibility Study (RI/FS), the TRC, EPA and DEQ hosted informal briefings for the communities in the Affected Area. Prior to EPA's selection of the remedial option to address the acid plume in Zone A, there was a 60-day public comment period. During the comment period, two public information sessions and two hearings were held, both receiving significant media coverage, and tours of the impacted area and related facilities were provided to the public and news media. EPA issued a final CERCLA Record of Decision (ROD) embracing the proposed remedial plan for the acid plume on December 13, 2000. The EPA and DEQ memorialized a revision to the selected remedy under the ROD by issuing an Explanation of Significant Difference in April 2003. Instead of pretreatment of acidic waters by nanofiltration, direct extraction of the acidic waters from Zone A and delivery via the tailings pipeline to Kennecott's North Expansion Impoundment was selected as the remedy of choice under CERCLA.

In a related, but separate proceeding, Kennecott and JWCD developed a proposal to be submitted to the Trustee pursuant to the terms of the Consent Decree. The remedial studies, including those reviewed by the TRC and approved by EPA and DEQ, provided a technical basis for the development of the proposal. A Joint Proposal was initially submitted to the Trustee in December 1999. As a result of further negotiations between Kennecott and JWCD and review of the changes by the TRC, the proposal was revised and resubmitted to the Trustee in August 2003. The Trustee sought public review and comment on the Joint Proposal and related documents, including the draft agreement between Kennecott and JWCD implementing the Joint Proposal and a draft three party agreement among the Trustee, Kennecott and JWCD.

A 30-day public comment period from September 2, 2003, to October 1, 2003, was announced by the Trustee in two legal notice advertisements placed in the September 2, 2003, and September 7, 2003, editions of the Salt Lake Tribune and Deseret News newspapers. In addition, this announcement ran as a news release in the Salt Lake Tribune on September 13, 2003 and the Deseret News on September 22, 2003. The Trustee also mailed a fact sheet on Thursday, August 28, 2003 to elected officials, environmental groups and all known interested parties. The DEQ web site (<http://www.deq.utah.gov/issues/nrd/index.htm>) for the NRD project was launched on Friday, August 29, 2003. Also on August 29, documents related to the proposed project were provided to the public for viewing on the web site and at the project repositories located in the City of West Jordan, City Recorder's office and at the DEQ offices. The Trustee hosted two public hearings to assist in bringing project information to the public, providing an opportunity for the public to have their questions answered, and recording comments as part of the official record of public comment. The two public hearings occurred on September 10, 2003, at West Jordan City Hall and the other on September 25, 2003, at the DEQ offices.

Briefings on the proposed project were offered during the week of September 15, 2003, to the cities in the Affected Area: West Jordan, South Jordan, Herriman, and Riverton. A briefing by DEQ, Kennecott and JWCD was provided to the Riverton City Council on September 9, 2003. Briefings to the cities of South Jordan and Herriman were conducted on September 16, 2003, and September 18, 2003, respectively. Briefing offers were made to several environmental groups, including the Friends of the Great Salt Lake, Sierra Club, Nature Conservancy, Utah Rivers Council, and the Audubon Society. Upon request, briefings were also provided to other interested groups, on the project generally and regarding the proposed discharge of Zone B reverse osmosis concentrates to the Jordan River.

In response to numerous requests, the Trustee extended the public comment period to November 1, 2003. The extension notice was advertised in the legal notice section of the September 27, 2003, editions of the Salt Lake Tribune and Deseret News newspapers. In conjunction with the

legal notice, the extension notice ran as a news release on September 24 and 28, and October 16, 2003, in the Deseret News and on October 18, 2003, in the Salt Lake Tribune. During this extension, two information sessions were held to discuss address issues identified by private well owners with water rights in the Affected Area. The two information sessions took place at the DEQ's office on September 30, 2003, and October 22, 2003. The DEQ Division of Water Quality, Kennecott, and JWCD provided a briefing to the FOGSL, various duck clubs, and other interested individuals on October 28, 2003. This information session was publicized by some of the duck club associations and on the Friends of the Great Salt Lake web site. The DEQ provided a briefing to the Jordan Rivers Natural Areas Forum on November 5, 2003.

In response to additional requests, the Trustee extended, the public comment period for a second time, through November 21, 2003. The extension notice was advertised in the legal notice section of the, November 3, 2003, editions of the Salt Lake Tribune and Deseret News newspapers. In conjunction with the legal notices, the notice of extension ran as a news release on October 31, 2003 in the Salt Lake Tribune and the Deseret News. The second extension also ran as a news release on November 1, 2003 in the Deseret News. During the second extension of the comment period, the Trustee provided a briefing to the Utah Legislature's Legislative Management Committee on November 18, 2003.

With the two extensions, the public comment period ran from September 2, 2003 through November 21, 2003. Based on the number and scope of the comments received, the Trustee determined that the comment period provided the public with a full and adequate opportunity to review the documents, learn about the proposal, and provide comments.

To provide an additional avenue for public involvement as work on the groundwater cleanup proceeded, the Trustee established a Stakeholder Forum as a means to communicate with stakeholders in the Affected Area. Members of the forum include environmental organizations, Federal and State regulatory and science agencies, local governments, private well owners, and others stakeholders. Stakeholder representatives have been asked to both help disseminate information to their groups and to bring feedback to forum meetings. Initial meetings of the Stakeholder Forum occurred on March 17, March 31, April 14, May 19, and June 16, 2004. Information on meetings, agendas and summaries are available on the DEQ web site at www.deq.utah.gov/issues/nrd/index.htm. The forum focused initially on JWCD's alternatives regarding reverse osmosis concentrate disposal, in view of the concerns raised over the proposed discharge to the Jordan River.

While the Stakeholder Forum was asked initially to consider issues related to concentrate disposal, the Trustee believes that the Stakeholder Forum can provide a useful tool for public involvement regarding both NRD groundwater cleanup and the CERCLA work. The Stakeholder Forum will continue to meet regularly to receive information from the TRC and discuss specific issues. DEQ will continue to maintain the project web site, update the web site with significant project documentation in the future, and provide project information to interested parties.

In response to the public comments, the Joint Proposal was revised. In June 2004, the Trustee decided to reopen the comment period to allow the public to review and comment on the revisions in the Proposal. The comment period was reopened from June 18, 2004, through August 2, 2004. A public hearing was held on July 14, 2004, to allow for additional public comments. The notice for this public comment period was advertised in the June 18, 2004, editions of the Salt Lake Tribune and Deseret News newspapers. The Trustee, Kennecott, and JWCD also held a meeting with individual well owners and interested individuals on July 6,

2004, and with Friends of the Great Salt Lake and other interested individuals on July 7, 2004, to discuss and answer questions regarding the proposed revisions to the NTD Proposal.

Several commenters indicated that an Environmental Impact Statement (EIS) was required to analyze the potential environmental impacts of the Joint Proposal. The federal National Environmental Policy Act (NEPA) requires a review when a federal agency undertakes a “major federal action” that may have significant environmental impacts. By law, NEPA is not applicable to remedial activities authorized by EPA under CERCLA or by a state Trustee’s decision to take action under CERCLA’s Natural Resource Damage provisions. Thus, an EIS is not required. In addition, the Trustee has considered the technical reviews and evaluated the public involvement opportunities under both EPA’s review and approval of remedial activities and the Trustee’s consideration of the Joint Proposal. The Trustee believes that the technical reviews and opportunities for public review and comment are appropriate and adequate.

The Trustee reviewed all public comments. Those comments and response are provided in this Comment Response Summary. Accordingly, the Trustee has determined that the comment period (totaling more than 120 days), together with the above-described public outreach, including the public hearings, public information sessions, and the activities of the Stakeholder Forum, have provided the public with a full and adequate opportunity to consider the Joint Proposal and to submit comments.