

Former Kaiser Aluminum Site Leaches PCBs Into Deadman's Creek and the Little Spokane River

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The site of the former Kaiser Aluminum & Chemical Company (“Kaiser”) smelter has been abandoned and contaminating groundwater with polychlorinated biphenyls (PCBs).¹ The smelter was originally constructed in 1942 during World War II.² In 1946, Kaiser purchased and operated the smelter until 2000.³ Notably, the property had a hard time selling because buyers were nervous about “the site’s environmental problems related to leftover waste piles and buildings laced with toxic chemicals.”⁴ Currently, Spokane Recycling Company owns the plant and Kaiser owns the Superfund site.⁵

At the site, “PCB levels in the ponds tested by state officials in 2018 showed concentration levels nearly 34,000 times the health standard for PCBs originally adopted by the EPA for the Spokane River.”⁶ There are “asbestos and PCB coated galvanized steel walls”, “thousands of square feet of buildings covered in lead paint”, “dredging settling ponds”, “asbestos laden pipes and siding” and “piles of waste material.”⁷

The PCBs found at the former smelter site have been contaminating retention ponds and groundwater have followed a “migration pathway of hazardous substances from the facility buildings through the catch basins and settling ponds to the outfall at Deadman Creek.”⁸ The Creek is “a tributary of the Little Spokane River, which in turn feeds into the Spokane River.”⁹ One of the main concerns is “protect[ing] fish, people who eat fish, and other important elements of the watershed ecosystem.”¹⁰ The Spokane

¹ Molly Quinn, *EPA says it will start asbestos, PCB cleanup of former Kaiser smelter in Mead this week.*, The Spokesman Rev. (July 29, 2020).

² Env'tl. Protection Agency, *Request for Approval and Funding for a Time-Critical Removal Action at Former Kaiser Smelter, Mead, Spokane County, Washington, Action Memorandum, 2*, [Microsoft Word - Former Kaiser Smelter Action Memo Final for RA review.docx\(epa.gov\)](#) (May 28, 2020) (“Action Memo I”).

³ *Id.*

⁴ Tom Sowa, *The next phase: Kaiser’s Mead smelting plant undergoes demolition*, The Spokesman Rev. (Oct. 6, 2013).

⁵ *Id.*

⁶ Molly Quinn, *EPA says it will start asbestos, PCB cleanup of former Kaiser smelter in Mead this week.*, The Spokesman Rev. (July 29, 2020).

⁷ Molly Quinn, *EPA says it will start asbestos, PCB cleanup of former Kaiser smelter in Mead this week.*, The Spokesman Rev. (July 29, 2020); Kip Hill, *EPA, Kaiser cleanup of former smelter in Mead shows evolution in environmental understanding* (Oct. 16, 2020).

⁸ Action Memo I, 4

⁹ Molly Quinn, *EPA says it will start asbestos, PCB cleanup of former Kaiser smelter in Mead this week*, The Spokesman Rev. (July 29, 2020)

¹⁰ Env'tl. Protection Agency, *EPA to begin time-critical removal work at Kaiser site in Mead, Washington: Asbestos, PCBs at former aluminum smelter pose risks to people*, [EPA to begin time-critical removal work at Kaiser site in Mead, Washington | U.S. EPA News Releases | US EPA](#).

River is already on the Clean Water Act's Section 303(d) impaired waters list for PCB pollution.¹¹ The discovery of PCBs trickling indirectly through the creeks and tributaries to the Spokane River appears problematic for getting the river off of the impaired waters list.

The clean-up projects at the Superfund sites are considered Time-Critical Removal Actions ("TCRA") under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") and the National Contingency Plan in 40 C.F.R. § 300.415.¹² This act imposes liability upon parties who were responsible for the contamination of land by hazardous substances.¹³ First, a site assessment process puts a site on the Superfund site list.¹⁴ Superfund sites are prioritized using a National Priorities List (NPL), where EPA "determine[s] which sites warrant further investigation."¹⁵ Removal responses are a common way of addressing the contamination under the act when "the contamination poses an immediate threat to human health and the environment" and is "classified as either emergency, time-critical, or non-time critical depending on the extent and type of contamination."¹⁶ EPA can determine that the clean-up is complete once the site meets Applicable or Relevant and Appropriate Requirements ("ARARs") which are outlined in several federal and state statutes and treaties.¹⁷ The clean-up actions must also satisfy best management practices ("BMPs").¹⁸

During March of 2019, Ecology and the Spokane Regional Clean Air Agency ("SRCAA") sent a "formal written request for assistance" with cleaning up the site to EPA.¹⁹ Currently, EPA is focused on cleaning up buildings with PCB coated siding, piping insulated with asbestos, and solid waste, while Kaiser is removing "3,400 tons of sediment contaminated with PCBs."²⁰ The project is currently estimated to cost a total of about \$11 million dollars.²¹ This resulted in EPA having to seek an emergency exception to the normal statutory limit of \$2 million dollars.²² EPA finished the planned clean-up in December 2020.²³

¹¹ Action Memo I, 16.

¹² Email from Brooks Stanfield, Site Clean-up Coordinator, EPA (Nov. 23, 2020, 05:28 PST)(correspondence with author).

¹³ Env'tl. Protection Agency, *What is Superfund?*, [What is Superfund? | Superfund | US EPA](#).

¹⁴ Env'tl. Protection Agency, *Superfund Site Assessment Process*, [Superfund Site Assessment Process | Superfund | US EPA](#).

¹⁵ Env'tl. Protection Agency, *Superfund: National Priorities List (NPL)*, [Superfund: National Priorities List \(NPL\) | Superfund | US EPA](#).

¹⁶ Env'tl. Protection Agency, *Non-Time-Critical Removal Actions*, [Non-Time-Critical Removal Actions | Superfund | US EPA](#).

¹⁷ Action Memo I, 27.

¹⁸ *Id.*, 28.

¹⁹ *Id.*, 3.

²⁰ Email from Brooks Stanfield.

²¹ Env'tl. Protection Agency, *Action Memorandum Amendment - Request for Approval for a Ceiling INcrease for the Time-Critical Removal Action at Former Kaiser Smelter, Mead, Spokane County*, amended, 6, https://response.epa.gov/sites/14546/files/Former%20Kaiser%20Smelter%20Action%20Memo_Amendment_FINAL.pdf (Aug. 24, 2020)("Action Memo I, amended").

²² *Action Memo I*, 19.

²³ Env'tl. Protection Agency, *Major Cleanup Wraps Up at Former Kaiser Smelter Site*, https://response.epa.gov/sites/14546/files/Kaiser_February_%202021_FS_Rel_0_.pdf, (Feb. 2021).

During the clean-up, 12,000 tons of highly contaminated material and 8,200 pounds of PCBs were cleaned up from the site.²⁴ Recently, EPA discovered basketball sized holes in the liners of the dredging settling ponds.²⁵ To address this issue, officials merely added some sand and inserted another liner into the pond.”²⁶ Before construction commences by the new owner, Mead Works, Ecology still plans to create “an alternative method for capturing the stormwater runoff from the smelter site so it . . . no longer settles in the ponds and no longer enters Deadman Creek.”²⁷ The development is planned to include “some 1,450 residences as well as about 1.2 million square feet of commercial space.”²⁸

Links to relevant sites:

[Superfund | US EPA](#)

[Microsoft Word - Former Kaiser Smelter Action Memo Final for RA review.docx \(epa.gov\)](#)

[Used by WordPerfect to build automated templates \(epa.gov\)](#)

[Used by WordPerfect to build automated templates \(epa.gov\)](#)

²⁴ *Id.*

²⁵ Ted McDermott, *400-acre Kaiser property in Mead, near former smelter site, slated for 1,400 residence mixed-use development.*, The Spokesman Rev. (Feb. 4, 2021).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*