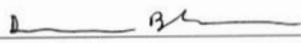




NMED Public Participation Policy Policy 07-13

Public Involvement Plan for Notice of a Remediation Plan

A Market Place
1536 East River Road
Belen, New Mexico

Approved: 
Dana Bahar
Chief, Petroleum Storage Tank Bureau

Date: 9/6/2018

Petroleum Storage Tank Bureau
August 24, 2018

1. Public Involvement Plan (PIP) Overview

The New Mexico Environment Department (“NMED” or “Department”), Petroleum Storage Tank Bureau (“PSTB”) developed this Public Involvement Plan (“PIP”) to provide public participation opportunities and information needed to facilitate public participation in the Remediation Plan review for the A Market Place site located at 1536 East River Road, Belen, New Mexico.

The PSTB has developed this PIP to provide public participation opportunities and information to facilitate the public’s participation in the remediation planning process related to this site.

This PIP integrates information about the community and identifies resources needed by the PSTB to successfully incorporate community participation activities into the decision-making process for the planning process. The PIP identifies the PSTB staff and resources needed to accomplish these activities.

The remediation planning process requires public participation throughout different stages. The PSTB will meet the public participation requirements for the planning process by following this PIP, which includes all applicable policy, regulatory and statutory public notice and participation requirements.

In developing this PIP, community participation needs at the site were assessed to ensure appropriate promotion of public outreach is conducted by identifying whether there is a combination of environmental and demographic factors (i.e., low income community, minority community, limited English proficiency individuals, Linguistically Isolated Households, etc.) that may affect public participation (refer to Element 4 of this PIP). This assessment identifies community outreach needs and provides for public access opportunities above and beyond statutorily mandated requirements and underscores the provision of adequate public access to information about the planning process.

As much as possible, public participation and informational activities related to the planning process will be held within the timelines outlined in the table below. This timeline is tentative and subject to change; activities subject to statutory or regulatory deadlines are noted.

In the timeline for this remediation planning process, public comments may be submitted to the PSTB prior to the PSTB’s determination that the Remediation Plan is acceptable. Upon a determination that the Remediation Plan is acceptable, the PSTB will implement the Remediation Plan.

The A Market Place site is in Belen in an area which has a relatively large community of Spanish speakers. Therefore, the PSTB will provide informational notices in both English and Spanish.

As deemed necessary based on knowledge of the surrounding community, arrangements may be made for translation services. At any time during the planning process, the Remediation Plan and relevant documents may be reviewed at either of the repositories listed.

More detailed information about planned PSTB outreach is available in this PIP.

Activity	Dates
Posting of PIP (PSTB website and office)	November 15, 2018
Public Comment Period for PIP	Ongoing
PIP Revision	January 7, 2019
Posting of Revised PIP	Within 21 days of receipt of substantial comment
Public Notice of Planned Submission of Draft Remediation Plan	January 3, 2019
Submittal of Draft Remediation Plan	January 10, 2019
Posting of Notice of Draft Remediation Plan (Release Site)	January 8, 2019
Second Public Notice of Submission of Draft Remediation Plan	January 17, 2019
Public Comment Period for Draft Remediation Plan	February 7, 2019
Incorporation of Comments and Preparation of Final Remediation Plan	February 14, 2019

The Chief of the PSTB provides final approval of the PIP and amendments. This PIP is a “living” document that may be amended after considering public comments and feedback.

2. Contacts

If you have questions about the remediation planning process, site, or this PIP, please contact:

Corey Jarrett
Geoscientist
NMED Petroleum Storage Tank Bureau
121 Tijeras Avenue NE, Suite 1000
Albuquerque, New Mexico 87102
Tel (505) 372-8335
E-mail: corey.jarrett@state.nm.us

Non-English Language Speaker Assistance and Accommodations

Non-English speakers or readers may call the PSTB contact listed in this PIP and request language assistance services, such as an interpreter, so they can learn more about the planning process. Services may be arranged for translation of documents, for interpreters, and for obtaining services for persons with disabilities. A phone-based interpretation service may be available for languages other than English.

Persons requiring non-English Language Speaker Assistance, assistance for an interpreter or auxiliary aid (e.g., accommodations for persons who are disabled) to participate in the planning process should be directed to contact the PSTB, allowing at least 14 days prior to the end of the comment review period.

TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

Department Websites

Public notices will include links to the following websites:

New Mexico Environment Department - <https://www.env.nm.gov/>

Petroleum Storage Tank Bureau - https://www.env.nm.gov/petroleum_storage_tank/

3. Regulatory Framework for Public Participation

There are existing federal and state laws governing the management of petroleum hydrocarbon releases. The United States Congress enacted the Resource Conservation and Recovery Act (RCRA), an amendment to the Solid Waste Disposal Act (SWDA), in 1976 to ensure safe management and disposal of household, municipal and industrial waste generated nationwide. 42 U.S.C. § 6901 *et. seq.*, 42 U.S.C. § 6921 *et. seq.*

In 1984, Congress added Subtitle I to the SWDA, which required the U.S. Environmental Protection Agency (“EPA”) to develop a comprehensive regulatory program for Underground Storage Tank (“UST”) systems storing petroleum or certain hazardous substances to protect the environment and human health from UST releases. 42 U.S.C. §6991 *et. seq.* In 1988, the EPA promulgated the UST regulations (40 CFR Part 280) and the regulations for state program approval (40 CFR Part 281). State program approval (SPA) delegates the primary responsibility of implementing the federal UST program to individual states in lieu of the EPA. NMED PSTB currently has SPA from EPA.

New Mexico’s Petroleum Storage Tank regulations, 20.5 NMAC, are promulgated pursuant to the provisions of the Hazardous Waste Act, Sections 74-4-1 through 74-4-14 NMSA 1978; the Ground Water Protection Act, Sections 74-6B-1 through 74-6B-14 NMSA 1978; and the general provisions of the Environmental Improvement Act, Sections 74-1-1 through 74-1-17 NMSA 1978.

Owners and operators of petroleum storage tanks where a release has occurred, which requires a Final Remediation Plan, shall develop a Final Remediation Plan which includes public notice that meets the requirements of paragraph (10) of subsection D of 20.5.119.1923 NMAC, and paragraph B of 20.5.119.1928 NMAC.

The Department may provide for public participation in the review process as the Department deems appropriate or when there is significant public interest as provided for in subsection D of 20.5.119.1924 NMAC. In the event that an informal public meeting, public hearing or other form of public participation is conducted, the Department may postpone its decision on the Final Remediation Plan until after a public hearing or meeting is held and a determination is made. Any public hearing or meeting that is held due to significant public interest shall be held within 60 days of determining that there is significant public interest.

Facility Background

The A Market Place site at 1536 East River Road, Belen currently houses an auto repair/tire shop. Petroleum fuel related contamination was originally found in 1995 during NMDOT road construction. No remedial activities have occurred at the site to date. The responsible party is unknown. A Market Place has been designated as a State Lead site. The NMED PSTB has contracted AECOM to provide remedial activities at the site.

As of the April 2018 groundwater monitoring event, depth to water at this site ranged from 4.30 feet to 5.10 feet below ground surface. Groundwater elevations declined by an average of 0.08 foot since February 2018 and groundwater flowed at an approximate gradient of 0.0006 ft/ft to the

southeast, consistent with historic conditions.

Groundwater monitoring has been on-going since 1996. The last monitoring event at the site was performed in April 2018. Dissolved benzene found in groundwater samples collected at monitor wells MW-3 and MW-4 continues to be the primary contaminant of concern at the site. Dissolved volatile organic compound contaminants have not been detected in groundwater samples collected at monitor wells MW-2, MW-6, or MW-7 since at least September 2010.

The planned remediation strategy consists of installation of borings to inject BOS 200®. The BOS 200® injections are intended to remove the recalcitrant benzene using an activated carbon injectate enhanced with nutrients to encourage volatile organic compound degrading microbial activity in the subsurface.

4. Affected Communities and Stakeholders

To provide for adequate public participation opportunities and meaningful involvement of persons in the planning process and to address potential or existing environmental justice areas, the affected communities must first be identified, informed about proposed environmental actions affecting the community, and invited to share their comments and concerns. The EJSCREEN tool developed by the U.S. Environmental Protection Agency (EPA) helps identify communities that are low income and minority populations that may benefit from a variety of approaches for notification and outreach communication. This information is used to help encourage the community's involvement in the public process for environmental activities or actions. In this case, the activity is consideration of a Remediation Plan for a petroleum storage tank site.

The EJSCREEN ACS Summary Report (Attachment 1) indicates, there are 448 households within a 1-mile radius (i.e., affected community) from the site; the minority percentage for the affected community is 58%, with the Hispanic population accounting for 53%, Black accounting for 1%, American Indian accounting for 3% and a mix of two or more races accounting for 1% each of the minority population. 12% of the population reports as some other race. The percentage of persons that communicate in a language other than English (non-English) at home is 29%. The percentage of linguistically isolated households is 4.2%. The per capita income for the affected community is \$23,741 as compared to the national per capita income of \$28,930. These results indicate that for the affected community, the percentage of Spanish language communication (2.9%) is not greater than the state or national percentage.

To help incorporate the language and communication needs of this community when conducting public outreach and participation activities (see Attachment 2), the PSTB will provide the same information in Spanish and English in public comment notices and other announcements (brochures, signs, mailings, etc.) and strive to make public participation efforts as inclusive as possible within PSTB budget and time limitations.

For example, as much as possible, mass communication methods will be used in addition to public notices in appropriate newspapers or mailings, as many residents in the affected community may not have regular access to newspapers or daily postal service and may rely on publicly posted notices. Informational flyers shall be posted at the site that also describe public information repositories.

It is important for the PSTB to consider the linguistic and communication needs of the affected community when providing notice of submission of Remediation Plans. Based on the EJSCREEN results, the PSTB will provide information in Spanish and English when providing such notices for the A Market Place site.

5. Detailed Public Participation and Outreach Activities

The PSTB evaluates all public comments, places the comments in the administrative files for the remedial action, and incorporates public input into the PSTB's comments on Remediation Plans as appropriate.

The PSTB's plans for facilitating public participation in the remediation planning for the A Market Place site include the following:

- Newspaper publication in the Valencia County News-Bulletin. *Note: There are no Spanish language newspapers of general circulation in Valencia County.*
- Distribute by certified mail a copy of the legal notice to adjacent property owners
- Post a notice at the release site
- Post the notice on the PSTB's portion of NMED's website

Public Notice Requirements per Applicable Laws

The Petroleum Storage Tank Regulations, 20.5.119.1923.D (10) NMAC, as detailed below, address notices to be provided by the owner or operator (*for this state-lead site, the PSTB*) to the public regarding the submission of a Remediation Plan for public comment. Notice is provided prior to the submission of the Remediation Plan and informs the public that the PSTB will be reviewing the Plan. All notices of submission of a Remediation Plan will be provided in both English and Spanish. The PSTB will provide notice of the submission of a Remediation Plan in English and Spanish. Spanish-language notices will be translated from English into Spanish by a translator certified by the American Translators Association.

The **bolded information in brackets** is responsive to the regulatory requirements *in italics* below.

The owner/operator [the PSTB] is required to provide notice in the following manner:

(a) owners and operators [the PSTB] shall publish [in English and Spanish] a legal notice of the submission or planned submission of the final remediation plan at least twice in a paper of general circulation [Legal Section of the Classified Ads of the Valencia County News-Bulletin] in the county in which soil or water has been contaminated by the release; the first notice shall appear within one week of, but not later than, the day of submission of the final remediation plan to the Department; the second publication of this notice shall occur no later than seven days after the date the remediation plan is submitted to the Department, and owners and operators shall submit two certified affidavits of publication from the newspaper to the Department within 21 days after the date the final remediation plan is submitted;

(b) the notice shall contain the information specified in this section including the following:

(i) a statement that a remediation plan has been submitted to the Department proposing actions to remediate a release of petroleum products;

(ii) *the name and physical address of the site at which the release occurred and the names and physical addresses of properties where any part of the remediation system will be located, using adequate identification of the properties, including street addresses if applicable [1536 East River Road, Belen, New Mexico];*

(iii) *a statement that a copy of the remediation plan and all data and modeling related to the remediation plan, if applicable, can be viewed at the Department's [PSTB's] main office [located at 2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505] and at the Department's field office for the area in which the release occurred [District 1 Albuquerque office located at 121 Tijeras Avenue, NE, Suite 1000, Albuquerque, New Mexico 87102]; and*

(iv) *a statement that public comments on the plan must be delivered, within 21 days of the publication of the second notice, to the owner or operator's assigned project manager at the petroleum storage tank bureau, New Mexico environment Department, or a district office [District 1 Albuquerque office located at 121 Tijeras Avenue, NE, Suite 1000, Albuquerque, New Mexico 87102] if approved by the Department, and to the secretary of the Environment Department;*

(c) *within seven days of the date a remediation plan is submitted to the Department, [the PSTB] shall also mail by certified mail a copy of the legal notice to adjacent property owners; and*

(d) *owners and operators [the PSTB] shall post a notice [in English and Spanish] of the submission of the remediation plan at the release site within seven days of the submission of the remediation plan; the notice shall contain the information specified in this subsection and shall be at least 8.5 inches by 11 inches in size and prominently displayed in a location where it is likely to be seen by members of the public for a continuous period until the remediation plan is approved and implemented; public comments must be received by the Department within 21 days of the date of the second publication of the public notice;*

Proposed Public Participation and Outreach Activities for the A Market Place Site

The PSTB will perform the following public participation and outreach activities during the review phase of the planning process for the A Market Place site remediation:

1. **Information Repository:** A copy of the Remediation Plan and the PIP will be made available for public review at the PSTB's main office at **2905 Rodeo Park Drive East, Building 1, Santa Fe, New Mexico 87505** and at the NMED District 1 Albuquerque office located at **121 Tijeras Avenue NE, Suite 1000, Albuquerque, New Mexico 87102**. In addition, the Remediation Plan, PIP, and relevant documents may be viewed at the following website:

<https://cloud.env.nm.gov/waste/pages/search.php?search=%21collection1919&k=54e98e5c06>

2. **Electronic Posting of Public Notice:** The PSTB will post the notice and PIP on the PSTB's portion of NMED's website (https://www.env.nm.gov/petroleum_storage_tank/). Electronically-posted notices will be provided in English and Spanish.

3. **Language Assistance Services:** Non-English speakers or readers will be directed in notices to call the PSTB contact listed in this PIP and request language assistance services, such as an interpreter, so they can learn more about the planning process. Services may be arranged by the PSTB for translation of documents, for interpreters, and for obtaining services for persons with disabilities. A phone-based interpretation service is available to PSTB for speakers of languages other than English.

Attachment 1: Preliminary Screening (EJSCREEN)

Attachment 2: Limited English Proficiency Assessment