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Sent: Friday, March 30, 2018 5:19 PM
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Cc: 'MONTALVO, HECTOR E'; ENRIQUEZ, PAUL; Jim Barr (barrjnb@hotmail.com); Matt Barr 5 (matt.barr@barrtrust.com); 'df17@barrtrust.com'
Subject: Public Comment - Proposed Remediation Action - CBP Firing Range - Nogales, Az

Mr. David Clark
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Mr. Clark,

I would like to offer the following comments on the Remedial Action Plan for the Former U.S. Customs and Border Protection Firing Range, Nogales, Arizona.

1) Comment Period

The 30 day public comment period started prematurely on March 1st. Prior to the meeting itself on the evening of March 6th, there was no information available to the public on the proposed plan. The comment period should be extended a minimum of 7 days to allow an actual 30 day comment period.

2) Lateral Extent

The process described in the presentation involved removing contaminated material, moving deeper (downward) until measurements show that the extent of contamination has been reached. It is imperative that the same process be incorporated laterally, to measure and expand until the extent of contamination is reached. To do anything less does not resolve the urgent risks to public health. And it will likely result in re-contamination of the "cleaned" area. I will repeat my request at the public meeting that the final report include testing of the perimeter around the mitigated area to verify that the extent of contamination has been reached. I recommend testing a 50' grid outside the entire perimeter of the mitigated site.

In the soil sampling results on pg 6 of the presentation it shows that the highest concentrations of contaminants in the entire survey are in grid 78, at the southwestern most corner of the project. This makes two facts apparent:

- 1) This survey has not even found the peak of contamination levels much less identify the full lateral extent.
- 2) The highest concentrations of contaminants are very likely outside the leased range, on private property

These facts must be recognized and addressed in any remediation plan.

3) False or Misleading Claims

The presentation claims that the proposed action will:

- *Remove the potential for receptors to come in direct contact with small arms remains and COC's (pg 7)*
- *Will ensure the protection of human health and the environment (pg 7)*
- *The remedy will include excavation and off-site disposal of soils containing COCs greater than their PALs (pg 8)*
- *Include soil excavation ... beginning in the Southwest corner (where the highest levels of soil contamination are expected) (Pg 9)*

It has been established that those contracting for this work know that the extent of work contains neither the full extent of contamination nor the highest levels of contamination. As such I believe these statements are, at the very least, deliberately misleading. If a private corporation had sponsored this report, criminal prosecution would most certainly follow.

4) Risk to Aquifer

At the public meeting Mr. Arbo noted that when his well (ADEQ No 55636229) was put in, they drilled through a shallow aquifer. I believe the term is a perched water table. There is a huge risk to our community, and those downstream, from contamination leaching into this shallow water table. Some of the highest priorities should be to:

- Immediately remove highly contaminated soils placed in and along the drainage. Some of the highest levels of lead are in drainage diversion berms. (again, had this been done by a private corporation, criminal prosecution would follow)
- Immediately retain potentially contaminated stormwater where it cannot percolate into the water supply and/or pipe stormwater past the contaminated areas.
- Establish monitoring wells to determine if/when/how much contaminants migrate into the upper and lower aquifers.
- Include the drainage channel through and beyond the contaminated area as a specific focus in the remediation process.

5) CBP Responsibility For Its Actions

It was disappointing that US Customs and Border Protection (CBP) was not represented at this meeting to answer questions from the public. A number of the Public's questions still need to be answered by CBP. It would be appropriate for CBP to have a forum with the stake holders, government officials and the public where they can address these unanswered questions.

One significant concern is: At the public meeting it was stated by both the USACOE and the contractor that CBP had not provided information that the contamination extended laterally beyond the area to be cleaned. This failure to disclose such information, critical to the safety of the public not to mention the safety of the contractor, was negligent.

The extent of contamination, specifically the fact that it goes far beyond the leased property, has been known to CBP for more than 8 years. The sealed 12/11/2009 "Phase II Environmental Site Assessment" reports by Allwyn Environmental were delivered to Elizabeth Briones, USBP Assistant Chief Patrol Agent, Tucson Sector, on December 31, 2009.

So, at the end of 2009 CBP had firm documentation that CBP had 'Taken' several acres of private property well beyond the extent of their lease. This Taking devalued 217 acres

(the impacted assessor parcels) held by three neighboring property owners. In 2009 CBP should have (and still has a responsibility to) compensate those innocent private property owners for the Taking of their private lands and for the huge liability imposed by contaminating those properties.

In 2009 CBP blatantly refused to stop using the adjacent properties as their backstop after being provided a recorded map of survey and written requests to stop. In 2010 I asked CBP to lease the property they were utilizing and include a commitment to clean up the contamination. I have continued to make this request through 2017 but CBP does not respond to or address these requests, leaving the innocent property owners to suffer the consequences of CBP's actions.

In 2017 these injured property owners with 217 Taken acres contracted, at their own expense, to have the Phase II Environmental report extended to find the horizontal extent of CBP's contamination. This is something that CBP ethically should have done in 2010. CBP should compensate the private land owners for their Taking and all resulting costs.

6) Questions to be Answered

- a) Please confirm receipt of these comments
- b) What will be done to address contamination on the adjacent (un-leased) properties?
- c) How will the adjacent property owners be compensated for the Taking, Their risks and costs?
- d) what immediate steps will be taken to protect the aquifer?

Thank you,
Joe Barr
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