



SYLVESTER TURNER
MAYOR

OFFICE OF THE MAYOR
CITY OF HOUSTON
TEXAS

June 25, 2021

Via Email: Regan.Michael@epa.gov

Michael S. Regan, Administrator
U.S. Environmental Protection Agency
Office of the Administrator, Mail Code 1101A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Union Pacific Railroad Company, Houston Wood Preserving Works
4910 Liberty Road, Houston, Texas 77026

Dear Administrator Regan:

Thank you for joining me on June 23 to discuss the concerns of the City of Houston, Texas (the "City") about the health and well-being of its citizens who live in proximity to the above-referenced Union Pacific Railroad ("UPRR") site, particularly the residents of the City's Greater Fifth Ward, Denver Harbor, Trinity Gardens, and Kashmere Gardens communities. Historical operations at the UPRR site have resulted in documented soil and groundwater contamination. In October 2019, a City contractor tested underground storm sewer locations near the UPRR site. The test results showed volatile and semi-volatile organic compounds in the storm sewer, and indications of dense non-aqueous phase liquids. In November 2019, the City's Health Department learned that an analysis conducted by the Texas Department of State Health Services ("DSHS") found elevated counts of cancers known to be associated with the kinds of chemicals of concern found at the UPRR site.

For over two years now, the City has engaged with public and private stakeholders – the affected residents, DSHS, and the Texas Commission on Environmental Quality ("TCEQ") – to investigate and address community concerns regarding the human health and environmental implications of the contamination. While the City appreciates the ongoing cooperative efforts and commitment of its state agency partners, we need EPA's help. To help mitigate environmental risks to this overburdened community and advance environmental justice, the City requests that EPA deploy statutory and regulatory mechanisms at its disposal. We believe that EPA has the ability to use its investigative and enforcement tools, as well as its ability to participate in and influence ongoing state permitting actions, to drive more robust, thorough, and lasting environmental solutions.

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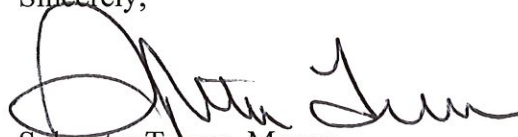
First, a thorough assessment of community impacts requires a thorough understanding of the facts; we cannot fully remedy the situation unless we know the full scope of the contamination. We need transparency, and transparency starts with facts. Accordingly, I write today to request that EPA exercise its investigatory and information-gathering authorities under Section 3007 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927, and Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604, to obtain information regarding the waste management practices, the source, nature, and extent of any releases or threatened releases of hazardous substances, pollutants, or contaminants, and hazardous wastes, and the remedial options that should be considered at the UPRR site. Enclosed is a list of information that the City believes is essential to develop the factual record regarding the UPRR site. We respectfully request that EPA use its authority under RCRA and CERCLA to obtain this information from UPRR and make it available to the City and its residents.

Along with and following from those information requests, the City requests that EPA deploy its administrative enforcement authorities under Sections 3008 and 7003 of RCRA to seek penalties, injunctive relief, mitigation, and restitution in connection with both the ongoing unauthorized off-site waste disposal and the endangerment of health and the environment originating at the UPRR facility, and to use the agency's broad settlement authorities to secure truly meaningful relief for the community, including relocation for impacted residents.

The City also asks EPA to engage directly with UPRR and TCEQ in UPRR's pending RCRA permit renewal and amendment proceeding to ensure that permit terms and binding corrective action commitments adopted in that permit are sufficient to resolve the disproportionate environmental burdens the community has suffered in connection with the UPRR site. EPA's oversight role with respect to TCEQ's issuance of RCRA permits offers a once-in-a-decade opportunity to ensure that UPRR's hazardous waste permit provides transparency and an assurance of protection to the community.

This matter is of utmost importance to the City and deserving of any and all resources that EPA can devote to it. On behalf of the City, I thank you for your time and attention to these pressing concerns. Please do not hesitate to contact me with any questions or requests for assistance.

Sincerely,



Sylvester Turner, Mayor
City of Houston

Enclosure

PROPOSED ISSUES FOR INFORMATION REQUEST

Union Pacific Railroad Company
Houston Wood Preserving Works
4910 Liberty Road, Houston, Texas 77026

Corporate Information

1. When did UPRR commence operations at the Houston Wood Preserving Works facility (formerly known as the Houston Tie Plant)?
2. Describe how UPRR acquired the Houston Wood Preserving Works site.
3. Identify all current and former owners and operators of the Houston Wood Preserving Works site, and describe their nature of business operations, including, but not limited to, years of ownership or operation, products developed, manufactured, or sold, and chemicals or hazardous materials used.
4. Describe how decisions are made/approved with respect to environmental protection, management, and remediation at the Houston Wood Preserving Works site.
5. Describe whether UPRR has a reserve fund for expenditures at the Houston Wood Preserving Works site.
6. Provide a copy of all corporate minutes of UPRR which contain discussions on or regarding the Houston Wood Preserving Works site.
7. Identify all corporate officers, directors, and managers of UPRR, including their names and titles, for the past ten (10) years.
8. Identify all individuals/positions who exercise or have exercised authority with respect to environmental remediation decisions and environmental remediation expenditures at the Houston Wood Preserving Works site for the past ten (10) years.
9. Identify all individuals who currently have, or who previously had, responsibility for environmental matters at the Houston Wood Preserving Works site, including the management of hazardous materials, hazardous constituents, and hazardous waste.

Facility Operations

10. Describe all manufacturing/production operations at the Houston Wood Preserving Works site during its years of operation, including the following information:
 - a. Dates of production processes;
 - b. Description of production processes;
 - c. Products produced and their associated uses;

- d. Chemicals/constituents/raw materials (including, but not limited to, creosote) used in each manufacturing process; and
 - e. Byproducts and wastes produced from each manufacturing process, including the chemical composition of such wastes and the form of such wastes (e.g., sludges, liquids, etc.).
11. Describe in detail all product or raw material storage areas, including all tanks and containers, and the locations of all such areas.
 12. Describe in detail the location, depth, and construction of any underground piping used for transporting product or raw materials to and from production and storage areas.
 13. Describe in detail the management of all waste streams and byproducts generated at the Houston Wood Preserving Works site, including all sample analysis results and documentation addressing the management or disposal of such materials.
 14. Describe all past and present solid waste management units at the Houston Wood Preserving Works site, including, but not limited to, tanks, sumps, pits, waste piles, landfills, surface impoundments, container storage areas, and satellite accumulation areas. For each such solid waste management unit, provide the following information:
 - a. A map showing each unit's boundaries, drawn to scale and showing the location and size of all past and present units;
 - b. The type and dimensions of each unit;
 - c. The dates that each unit was in use;
 - d. The purpose and past usage of each unit;
 - e. The construction (materials, composition), maximum design capacity, and condition of each unit;
 - f. The closure of each unit, including the method of closure and what actions were taken to prevent or address potential or actual releases from the unit.

Environmental Conditions

15. When did UPRR discover or otherwise become aware of contamination originating from the Houston Wood Preserving Works site?
16. When was the on-site surface soil (0-2 feet) contamination discovered at the Houston Wood Preserving Works site?
17. When was the on-site surface DNAPL contamination discovered at the site?
18. When was the off-site surface soil (0-2 feet) contamination discovered?

19. Describe in detail all testing, monitoring, response actions, remedial actions, and other efforts to assess and address contamination originating from the Houston Wood Preserving Works site.
20. Describe in detail any and all leaks, spills, releases, or discharges into the environment of any hazardous wastes, hazardous constituents, or hazardous materials, including, but not limited to, products, feedstock, and byproducts, that have occurred at the Houston Wood Preserving Works site, including the following information:
 - a. When and where each such leak, spill, release, or discharge occurred;
 - b. How each such leak, spill, release, or discharge occurred;
 - c. The known or estimated duration of each such leak, spill, release, or discharge;
 - d. The known or estimated quantity, amount, or volume of each such leak, spill, release, or discharge;
 - e. Any and all actions undertaken in response to each such leak, spill, release, or discharge, including, but not limited to, notification to any governmental agencies or entities;
 - f. Any and all investigations of the circumstances, nature, extent or location of each such leak, spill, release, or discharge, including, but not limited to, the results of any soil, surface water, groundwater, sediment, or air testing.
21. Produce any and all reports of environmental investigations, environmental site assessments, or environmental due diligence regarding the Houston Wood Preserving Works site. Identify all UPRR personnel or consultants assigned, retained or consulted in performing any such investigation.
22. Produce any and all groundwater monitoring reports and associated data regarding the Houston Wood Preserving Works site.
23. Produce any and all documents regarding groundwater contamination at, under, or originating from the Houston Wood Preserving Works site, including, but not limited to, any and all documents delineating any plume of groundwater contamination at, under, or originating from the Houston Wood Preserving Works site.
24. Produce any and all potentiometric surface maps and figures and documentation of the direction and rate of groundwater flow at the Houston Wood Preserving Works site.
25. Produce any and all documents regarding soil contamination at the Houston Wood Preserving Works site.
26. Produce any and all documents regarding the migration of contamination off-site of the Houston Wood Preserving Works site.

27. Produce any and all documents regarding actual or potential vapor intrusion at the Houston Wood Preserving Works site and off-site of the Houston Wood Preserving Works site.
28. Produce any and all documents regarding the assessment of risks and health and environmental impacts associated with contamination originating from or otherwise attributable to the Houston Wood Preserving Works site.
29. Produce any and all documents regarding on-site worker and off-site receptor exposures or potential exposures to contamination originating from or otherwise attributable to the Houston Wood Preserving Works site.
30. When was access to on-site surface soil contamination limited to receptors and how? How long was the on-site surface contamination accessible to workers at the Houston Wood Preserving Works site? How long was the contamination accessible to on-site visitors/trespassers?
31. When was access to on-site surface DNAPL limited to receptors and how? How long was the on-site surface DNAPL contamination accessible to workers? To on-site visitors/trespassers?
32. When was off-site surface soil contamination fully delineated?
33. When was access to off-site surface soil contamination limited to receptors and how? How long was the off-site surface soil contamination accessible to receptors?
34. When and what types of emission controls were used in connection with the removal of off-site contaminated soils?
35. When was confirmation that off-site soil contamination had attained applicable cleanup standards? What cleanup standards were used in making that determination and what methods were used to demonstrate confirmation?

Health Impacts

36. Is UPRR aware of any current or former employees, contractors, or other workers at the Houston Wood Preserving Works facility with adverse health effects believed or alleged to have resulted from exposure at the facility? Please provide details of the claimed health effects and dates.
37. Is UPRR aware of any individual with adverse health effects believed or alleged to have resulted from exposure to contamination originating at the facility? Please provide details of the claimed health effects and dates.

Public Utilities

38. What steps has UPRR taken to evaluate the potential risk for its contamination plume(s) to enter and adversely impact the City of Houston underground drinking water infrastructure located within the plume area?

a. Drinking Water

- i. Has UPRR evaluated whether the drinking water infrastructure is above or below the depth of contaminated groundwater from the site?
- ii. Has UPRR evaluated whether the drinking water infrastructure construction materials are compatible with the type of groundwater contaminated from the site?
- iii. Has UPRR sampled drinking water from the public subsurface drinking water infrastructure to evaluate whether it has been adversely impacted by the contamination from the site? If so, provide the sampling documents.
- iv. Has UPRR assessed the integrity of the drinking water infrastructure in the vicinity of the contaminated groundwater to evaluate potential impacts to drinking water?

b. Wastewater

- i. Has UPRR evaluated whether the public wastewater infrastructure is above or below the depth of contaminated groundwater from the site?
- ii. Has UPRR evaluated whether the public wastewater infrastructure construction materials are compatible with the type of groundwater contaminated from the site?
- iii. Has UPRR sampled wastewater from the public subsurface wastewater infrastructure to evaluate whether it has been adversely impacted by the contamination from the site? If so, provide the sampling documents.

c. Stormwater

- i. Has UPRR evaluated whether the stormwater infrastructure is above or below the depth of contaminated groundwater from the site?
- ii. Has UPRR evaluated whether the stormwater infrastructure construction materials are compatible with the type of groundwater contaminated from the site?
- iii. Has UPRR sampled stormwater from the public subsurface storm water infrastructure to evaluate whether it has been adversely impacted by the contamination from the site? If so, provide the sampling documents.

- iv. Houston has collected water samples from the public stormwater infrastructure located within the plume area and has confirmed the presence of creosote contaminants. UPRR has collected sediment samples from its private stormwater system at the site, which discharges to the City of Houston stormwater system, and has confirmed the presence of contaminants.
 1. Has UPRR evaluated the condition of the public stormwater system to determine whether there is infiltration of groundwater and/or groundwater contaminants into the stormwater system?
 2. What steps has UPRR taken to prevent the (ongoing) discharge of contaminants through its own stormwater system into the City of Houston stormwater system from the site? Has the condition of the private stormwater system been evaluated to determine whether infiltration is occurring?
 3. Why is the stormwater pathway, which provides a conduit for UPRR's contaminants into surface water, not addressed as part of the Response/Remedial Action Plan proposed for the site?

Source Material

39. What is the current vertical and horizontal extent of all known contaminated/source material at the site?
40. Has the known contaminated/source material been collected in one location on-site, or is it located at various locations around the site?
41. Is the area(s) of contaminated/source material fully delineated at the site?
42. Have all contaminated/source material locations for the site have been identified?
43. For each existing or potential source of groundwater or stormwater contamination remaining on-site that has been identified, why has that source of contamination not been excavated or removed?

Non-Aqueous Phase Liquid Contamination Plume(s)

44. What is the current vertical and horizontal extent of all known NAPL (DNAPL and LNAPL) plumes?
45. Are each of the known NAPL plumes fully delineated?
46. Are each of the known NAPL plumes documented to be stable and not migrating?
47. Have all NAPL plumes been identified?

48. If the NAPL plume(s) were stable and not migrating, would there be any need for a slurry wall containment system?

Dissolved Groundwater Contamination Plume(s)

49. What is the current vertical and horizontal extent of all known groundwater contamination plumes from the site?

50. Are each of the known groundwater contamination plumes fully delineated?

51. Are each of the known groundwater contamination plumes documented to be stable and not migrating?

52. Have all groundwater contamination plumes been identified?

Proposed Response/Remedial Action Plan(s)

53. Would a slurry wall be more effective at minimizing the migration the contamination plumes if all of the source material and NAPL were located behind the slurry wall?

54. How can an adequate remedial method be designed and implemented if not all source material has been identified?

55. How can an adequate remedial method be designed and implemented if a significant portion of the NAPL plume has already migrated outside of the slurry wall?

56. During hot summer days creosote is known to ooze up through the parking lot on the UPRR property that is supposed to act as a cap over the contamination. If creosote can migrate up through this "cap," is it not also possible for stormwater to migrate down through the cap, thereby further mobilizing the contaminants under the cap?

57. Are you planning on using monitored natural attenuation to reduce the contaminants in the groundwater? What is the monitoring plan?

58. Provide copies of any description or assessment of remedial options other than the remedy proposed in the final draft permit for the UPRR site that has been developed by UPRR or its consultants including any information regarding the cost of such remedial options.

59. Disclose and describe any other experience UPRR has had with assessing and/or remediating creosote or similar contamination at other facilities owned, operated or under the control of UPRR or any other person, entity, or organization affiliated now or in the past with UPRR including a discussion of remediation options selected at such facilities.

Community Engagement/Outreach to Local and Environmental Justice Communities

60. Describe any community engagement or outreach that UPRR has conducted with respect to contamination originating from the Houston Wood Preserving Works site.

61. Produce any and all comments or feedback received from the community. Describe any and all action items UPRR has taken in response to community feedback.
62. Describe any efforts that UPRR has made to educate the public regarding contamination originating from the Houston Wood Preserving Works site.
63. Describe any efforts that UPRR has made to monitor or otherwise assess the health of the residents and communities in proximity to the Houston Wood Preserving Works site.