

**TECHNICAL REVIEW PANEL**  
**Decision Document**  
**Site Remediation and Waste Management**

Date: March 15, 2005

Panelist: Tom Cozzi, Director Division of Remediation Management and Response  
Barry Frasco, Assistant Director of Hazardous Site Science Element  
Tom Sherman, Assistant Director of Permitting and Technical Programs  
Wayne Howitz, Assistant Director of Responsible Party Remediation Element  
Ed Putnam, Assistant Director of Remedial Response Element

Remediating Party Requesting Review: H. Scott Laird, Project Manager, URS Corporation  
(on behalf of Bayer CropScience)

Date of Request: 7/16/2004

Date Granting TRP: 8/12/2004

Meeting Date: 9/29/2004

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DEP Case Name: Rhône-Poulenc / Bayer CropScience

DEP Case Number: NJDEP PI No.: G000004483

**Disputed Technical Issue(s) Per Technical Review Request:**

The construction worker scenario in NJDEP's site-specific risk evaluation of June 28, 2004 is unrealistic and over estimates the actual long-term risk.

**Relevant Regulations:**

"The Technical Requirements for Site Remediation" N.J.A.C. 7:26E, and;

"Department Oversight of the Remediation of Contaminated Sites" N.J.A.C. 7:26C

**Pertinent Information Considered:**

The Technical Review Panel (TRP) considered the petition of September 29, 2004 from Bayer CropScience titled, "Issue: Soil Removal Action Lowlands Peripheral Properties". The TRP also considered the NJDEP's Bureau of Environmental Evaluation and Risk Assessment (BEERA) memo of April 28, 2004 which examined potential acute toxicity risks from a direct contact exposure pathway and developed corresponding acute toxicity criteria for a worker exposure scenario.

**Decision of TRP:**

The Technical Review Panel, after consultation with the Department case team, has decided that the "Enhanced Capping System" (Figure 3 of the Petition, September 29, 2004) is suitable to prevent a worker exposure scenario.

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**Decision rationale:**

The TRP considered the extent of engineering controls presented in the petition. Those controls were weighed against the likelihood of the “Enhanced Capping System” being breached.

**Modifications to Department-imposed deadlines or schedules impacted by Technical Issue(s) Review:**

No modifications to schedules were requested.

**Other Comments or Pertinent Information:**

- Prior to the September 29 meeting a 24-inch soil cap with a geomembrane liner was the design determined by the case team to be inadequate in protecting against a direct contact exposure scenario. The rejection of the proposed 24-inch soil cap was the basis of July 16, 2004 TRP request. Bayer CropScience later withdrew the 24-inch soil cap from consideration and asked the TRP to evaluate the “Enhanced Capping System” (Figure 3). The TRP notes that the “enhanced engineering controls” design should have been presented to the case team first; and if rejected, proceeded to the Bureau Chief and then the TRP if needed.
- The “Enhanced Capping System” is conditionally approved for use at the Factory Lane Site to prevent accidental worker exposures. The “Enhanced Capping System” must be part of an overall remedy that is protective of human health, the environment, and the ground water. The “Enhanced Capping System” can only be approved as a final capping remedy after a ground water remedy for the perched and bedrock ground water is proposed to and accepted by the Department. This will assure that the final overall remedy for all media of the site is protective of human health and the environment.
- After the Department has approved the ground water remedy as stated above, Bayer CropScience shall submit a remedial action workplan (in accordance with N.J.A.C. 7:26E-6.2) to the case team, that includes all pertinent engineering designs and submissions necessary to evaluate the proposed “Enhanced Capping System.” The submission shall also identify the following:
  1. How the “enhanced capping design” will impact flooding of the area.
  2. How stormwater and other surface runoff will be controlled, including the need for additional retention basins.
- Until all required information is submitted and deemed acceptable, the Department will not approve construction of the “Enhanced Capping Design”. If any of the information indicates that the proposed cap will not be protective of human health and of the environment (i.e., flooding will occur that cannot be mitigated, continued or additional discharges to the Raritan River, etc.), then the Department shall require Bayer CropScience to propose another remedy for the site.