Intergovernmental Partners Negotiate Fox River Interim Agreement August 2001

Introduction

The Fox River Intergovernmental Partners (partners) have signed a proposed agreement with Appleton Papers Inc. (API) and NCR Corporation (NCR). The agreement (called a consent decree) would provide funding for interim cleanup and natural resource restoration projects on the Fox River and Green Bay while comprehensive cleanup and restoration plans are being developed as part of a Remedial Investigation/Feasibility Study (RI/FS) and Natural Resources Damage Assessment (NRDA). This agreement would not resolve the overall liability of API or NCR, nor does it include other paper companies involved with the Fox River Site.

Benefits of the Agreement

Several benefits are associated with this agreement. The companies' cooperative approach enables the partners to get an early start on some facets of the cleanup. Without this agreement, cleanup may not begin for many months after a Record of Decision (ROD) is finalized. The ROD is the document that outlines the final cleanup plan. Since cleanup projects can take months to negotiate and plan, this agreement may help lay the groundwork so future projects can be brought on line more rapidly.

Another advantage is that restoration work can begin immediately after the agreement is signed. This will allow some injured resources to begin recovery before overall liability is resolved. In addition, information obtained from projects funded through this agreement may be helpful in designing and implementing the final plan to clean up and restore the river.

Payments

Under the agreement, API and NCR will make:

- payments totaling up to $40 million over the next four years, based on estimates provided by the partners, to fund cleanup and restoration projects as they are identified.
- four payments of $375,000 over the next four years, for a total of $1.5 million, to go to DOI to help pay back expenses it has incurred in putting together the NRDA.

Project Selection

According to the agreement's provisions, the partners will select the projects. The funds provided by API and NCR will be divided between cleanup and restoration projects. EPA and DNR will jointly select cleanup projects and the natural resource trustees will jointly select restoration projects. The restoration projects must be designed to restore or protect natural resources around the Fox River, or natural resources equivalent to those resources injured at the Fox River Site.

Consultations

The partners and API and NCR will share information and coordinate the projects. The discussions will include project design and implementation, status on active projects, major changes in the scope, objectives, costs, etc.

API and NCR will be allowed to take samples to enable them to continue to learn about the Fox River. If API and NCR are taking samples, EPA and DNR may take duplicate

Opportunities for Public Comment

The Intergovernmental Partners welcome the public's input on the agreement. Comments may be directed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611 Washington, D.C. 20044-7611. Refer to United States and the State of Wisconsin v. Appleton Papers Inc. and NCR Corporation (E.D. Wis.), Reference Numbers 90-11-2-1045 and 90-11-2-1045Z.

The agreement will be released to the public after it is lodged in federal court. The Department of Justice will begin a public comment period by posting an announcement in the Federal Register (www.epa.gov/fedrgstr). The agreement will be posted on EPA's web site: www.epa.gov/region5/foxriver and DNR's web site: www.dnr.state.wi.us/org/water/wm/lowerfox.

Intergovernmental Partners

- U.S. Environmental Protection Agency (EPA)
- Wisconsin Department of Natural Resources (DNR)

Natural Resource Trustees

- U.S. Department of the Interior (DOI) as represented by the U.S. Fish and Wildlife Service (FWS)
- U.S. Department of Commerce as represented by the National Oceanic and Atmospheric Administration (NOAA)
- Wisconsin Department of Natural Resources (DNR)
- Menominee Indian Tribe of Wisconsin
- Oneida Tribe of Indians of Wisconsin

samples, and whenever the partners are sampling, API and NCR may take duplicate samples. API and NCR and the partners will exchange information on project results. EPA quality assurance procedures will be followed by all parties. All parties will be given advance notice to observe and monitor each others' activities.

Liability Negotiations

During the four years of the agreement, API and NCR will continue to negotiate their possible connection to the Fox River Site under the Superfund law. Additional companies, referred to as potentially responsible parties (PRPs), including other members of the Fox River Group – Georgia Pacific, P.H. Glatfelter, Riverside Paper Corporation, U.S. Paper Mills Corporation, and Wisconsin Tissue Mills Corporation may join these negotiations.

Agreement Not to Sue

During the four-year term of this agreement, the partners agree not to sue API and NCR with respect to polychlorinated biphenyl (PCB) contamination at the Fox River Site, and API and NCR agree not to sue the partners. This provision terminates at the end of the agreement's four-year period.

Termination of the Agreement

This agreement can be terminated under two circumstances. The partners may terminate it if any payment is not made by API and NCR after 10 days of written notice of the intent to terminate by the partners. This agreement may be terminated by API and NCR if the partners enter into subsequent agreements with other companies over their objection and those agreements cut off API's and NCR's legal ability to seek money from those companies.

For More Information

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** The Fox River Intergovernmental Partners expect to release the proposed cleanup plan in the near future. Because of this, the July/August and September/October 2001 Fox River Currents will not be issued.*

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