

Woodbrook Road Site Background

- TRC is one of the top national environmental consulting firms (4000+ employees) with a major specialty in environmental remediation (650+ employees devoted to it). TRC has become a leader in the field of “fixed-price remediation” where TRC cleans up the site for a fee and with environmental insurance backstopping the transaction.
- TRC’s client at the Woodbrook Road Superfund site (Woodbrook Road site) in New Jersey is, Texas Eastern Terminal Company (TETCO), an Enbridge affiliate. Because TRC has entered into a fixed-price agreement for the site, TRC’s interests are on the line. EPA Region 2 is the project lead at this site (as opposed to the State of New Jersey).
- TRC with its depth of experience in this field has never before had to reach out to EPA management to discuss the process of a Superfund remediation until now. We are here because of the Administrator’s prioritizing the clean-up of these sites in a more effective, efficient and expeditious manner. The Woodbrook Road site, discussed below, is a poster child for what the Task Force report proposes to change and streamline.
- TETCO acquired the site, which still remains vacant land today in 1971/72 and had no knowledge of pollution at the time of purchase, never utilized or conducted business at the site and did not contribute in any way to the contamination on the property.
- In spite of having no responsibility for the contamination at the site, once the PCB contamination was identified in 2000, TETCO/TRC acted in good faith and voluntarily stepped up in 2003 and agreed to and bore the entire cost of over \$7.2 million (excluding significant legal/transaction costs) to conduct PCB capacitor removal actions and fund the RI/FS under a Consent Order with EPA, which was completed 10 years later in 2013.
- The party that manufactured the PCB capacitors found on the Woodbrook Road site in South Plainfield was Cornell Dubilier Electronics Corporation (CDE). CDE manufactured capacitors containing PCB’s at a related Superfund site in South Plainfield, less than a mile away. CDE is an existing, solvent company with substantial assets and possibly insurance coverage that would apply to Woodbrook Road.
- Since the completion of Consent Order requirements, EPA Region 2 issued a ROD selecting a remedy (Alternative 6), which is greater than five times more costly of the two remedies under consideration with the greatest level of disturbance, is inconsistent with other precedent in the Region and nationally, and has the longest lead time. The Region, bowing to pressure from a local NGO, selected a remedy calling for complete removal of the contamination despite the fact there is no surface or groundwater contamination after 70 years and that the less costly capping remedy (Alternative 4) was found by EPA to be protective of human health and the environment. In addition, the Region ignored the Borough of South Plainfield’s request for the selection of the Alternative 4 capping remedy even though capping containment remedies have been used by EPA countless times for low threat PCB wastes. As TRC has previously demonstrated, the capping remedy is consistent with all of the Superfund remedy selection criteria.

- EPA suggested that one of the reasons it selected the Alternative 6 removal remedy was that it believed that the cost would go down following its design of the remedy. However, EPA recently completed its design and has advised TRC that the cost has nearly doubled since the agency now intends to build a rail spur to transport excavated material. This will cause impact to additional wetlands. Instead of revisiting the more cost-effective Alternative 4 remedy, the Region appears intent on moving forward with Alternative 6. This refusal to revisit the ROD is itself inconsistent with the Task Force Report.
- Region 2's treatment of TETCO/TRC at this site sets a terrible precedent and sends a chilling message to other potentially responsible parties considering voluntarily assuming cleanup responsibilities. By stepping up and assuming responsibility when it could have denied any liability, TETCO/TRC has paid dearly for being a good corporate citizen. It has paid over \$7.2 million dollars to date (excluding legal/transaction costs) and is being threatened with additional liabilities of tens of millions more for a remedy that is not needed to meet the environmental goals for the site.
- EPA could/should have included the Woodbrook Road site as part of the main CDE site or more vigorously pursued CDE which has remained recalcitrant. As a landowner with no responsibility for the contamination on the site, companies are typically assessed a 5 or 10% share of liability. In fact, at the related CDE site less than one mile from the Woodbrook Road site, the owner was assessed less than a 5% share of the overall liability. TETCO/TRC has already paid far in excess of a 10% share even if the most costly remedy is eventually implemented.
- EPA/DOJ and TRC were engaged in meaningful settlement discussions until negotiations stalled in March 2015 while EPA completed its design of the remedy. The time has come to recognize that TETCO/TRC has acted as a good corporate citizen and has paid far in excess of its fair share at this site. EPA should complete the negotiation of a final cash-out settlement that recognizes TETCO/TRC's contributions to date and fully resolves its liability at the site.