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Community Relations Plan

for

Melton Kelly Site

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COMMUNITY RELATIONS PLAN

for the

Melton Kelly Property Proposed State Superfund Site
Northeast Navarro County, Texas

October 2001

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Public notice of the public meeting regarding the proposal of the Melton Kelly property to the state Superfund Registry and the land use designation, published in the July 27, 2001, *Texas Register* and *Corsicana Daily Sun*

COMMUNITY RELATIONS PLAN
for
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Northeast Navarro County, Texas

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Overview of Community Relations Plan

This community relations plan (CRP) identifies issues of community concern regarding the Melton Kelly Property Proposed state Superfund site (Kelly property) located in northeast Navarro County, Texas. This CRP also outlines the anticipated community relations activities to be conducted during each phase of the cleanup at the Kelly property site.

The Kelly property community relations plan has been prepared to aid the Texas Natural Resource Conservation Commission (TNRCC) in developing a community relations program tailored to the needs of the community affected by the Kelly property site. The TNRCC will conduct community relations activities to ensure that the local public has input to decisions and access to information about Superfund activities at the Kelly property site.

The TNRCC has the responsibility for managing the cleanup of this site, and the TNRCC Remediation Division will oversee all community relations activities at the site.

Site Profile

Location:

32° 17' 13" North Latitude, 96° 22' 12" West Longitude

The Kelly property site is located on NE County Road 3250, approximately 1.5 miles south of FM 85, approximately four miles northeast of the unincorporated community of Chatfield in northeast Navarro County, Texas.

Description:

The site is located on a 46 acre tract of pastureland in a rural agricultural area. The only structure located on the site is a metal-sided wooden shed that was attached to a residence which burned down on or before February 1, 1994. The site is bordered to the north by another residence and native pastureland, to the east by CR 3250 and undeveloped land, to the south by undeveloped property, a gravel road, former school house, church and a cemetery, and to the west by undeveloped wooded wetlands. The nearest occupied residence is located approximately 1,400' (0.26 mi) northeast of the site along CR 3250.

The site consists of three identifiable burn areas that were used for metal salvage operations. On or before February 1, 1994, salvage material (i.e. insulated copper wire, tubing, electrical parts, switches and circuit cards) was transported to the site, placed in piles and burned using automobile tires to ignite the debris. Recoverable metals were removed from the ash piles and presumably sold for salvage value. Remaining scrap and ash-like wastes were left in place.

Background and Operating History:

The site was identified to TNRCC on February 1, 1994 by an anonymous citizens complaint forwarded through Congressman Martin Frost's office. The complaint alleged uncontrolled burning at the site.

TNRCC's Arlington Regional Office investigators inspected the property on February 11, 1994. They discovered eight piles of ash at the site and collected soil and water samples from the ash piles and surrounding areas. The sampling results showed elevated levels of metals in the surface soils.

On July 16, 1994, the Navarro County Sheriff's Office and the Chatfield Volunteer Fire Department responded to a report of a large fire at the site. The Sheriff's Office incident report documented the occurrence of a large fire in the back pasture of the site, where several piles of copper wire had been burning along the creek bank. No persons were located on-site at the time of the fire.

During the week of April 12 through 15, 1999, the TNRCC conducted a sampling event at the site. The primary objective of this event was to document the release(s) or potential release(s) of hazardous substances from the site to the shallow ground water in the area and surface waters flowing from the site. During the sampling, five composite

soil/sediment samples were collected from the three burn areas to assess remaining soil contamination.

Ground water samples were collected from five private ground water wells in the surrounding area to assess the groundwater. Four of the five wells are used for drinking water, however, none of the analytes in these wells exceeded EPA primary drinking water standard Maximum Contaminant Levels (MCLs). The fifth well did exceed drinking water standards, but currently is used for non-potable purposes only.

On January 19, 2000, at the request of TNRCC, the Texas Department of Health (TDH) completed a Health Consultation on the site ground water well sampling data. TDH concluded, based on available data, that no adverse health effects would be expected with the exception of the fifth well. TDH recommended that this well not be used for potable purposes unless appropriate treatment technologies are implemented. Sample result letters with the TNRCC and the TDH findings were mailed to the private well owners.

Sediment samples were collected from the closest perennial surface water body downstream from the site to assess the surface water migration pathway. These samples were collected from fish ponds used as both a commercial and private fishery. The analytical results from these samples revealed that nickel was detected, but not at levels that would pose a health threat and the fish may be consumed.

Releases of hazardous substances to the ground water pathway are the major concern for this site. Hazardous substances have been documented in the surface soils and shallow ground water beneath the site.

Melton E. Kelly, as owner, was the last known person to actively live on and use the property. Mr. Kelly died on November 14, 1993. It is unknown if any of the ash piles were created before Mr. Kelly's death or if Mr. Kelly participated in creating any of the ash piles later found on the site. The fire reported on February 1, 1994 may have involved only Mr. Kelly's then abandoned house, however, the fire reported on July 16, 1994 is believed to have involved wire burning. The person(s) responsible for the wire burning activities have not been identified at this time. The enforcement actions for this site were focused on the perceived owner(s) of the property.

On October 6, 1994 a Notice of Violation (NOV) was issued addressed to the estate of Melton Kelly. On November 7, 1994, notice of the Executives Director's Preliminary Report and Petition (EDPRP) was sent to Melton Kelly's brother, ex-wife, daughter and son as contact persons for the owner of the property which was then believed to be Mr. Kelly's estate. The EDPRP was seeking penalties and technical enforcement remedies

including remediation of the property. On September 25, 1996, the Commission issued its Default Order against the Estate of Melton Kelly assessing \$18,000 in penalties and requiring site remediation.

The Attorney General was requested to enforce the Commission's Order on March 10, 1998. The matter was rejected by the Attorney General on November 19, 1998. The rejection was based on the fact that Melton Kelly's estate was not in existence on or before the date the Commission's Order was issued. Under Texas law, property passes immediately upon the owners death. To whom it passes cannot be determined with certainty until a valid will is produced, a probate court determines that the deceased did not leave a will or that the will is invalid, or four years after the death at which time all title passes by intestate succession since time to probate a will has expired. Ownership of the property relates back to the time of death.

Melton Kelly's will was probated on January 2, 1997. The will conveyed the referenced property to Mr. Kelly's children. Since their only known connection to the waste is as heirs, the children are not potentially responsible persons and have no personal liability for the waste under Tex. Health & Safety Code § 361.275(e)2(D).

On October 16, 2000, the TNRCC Litigation and Enforcement Division referred the site to the Remediation Division, Superfund Program, for appropriate action. Litigation and Enforcement Division staff evaluated this site and determined that enforcement was no longer an effective option for addressing the contamination which exists at the site.

A document repository for the Melton Kelly was established at the Corsicana Public Library in early July 2001.

A public notice announcing the August 30, 2001, public meeting regarding the proposal of the Melton Kelly site to the state Superfund Registry was published in the July 27, 2001, edition of the *Corsicana Daily Sun* and *Texas Register*. A display ad announcing the public meeting was published in the August 16, 2001, edition of the *Daily Sun*.

Approximately sixty area residents attended the August 2001 public meeting.

Community Profile

Navarro County, located in north-central Texas, has an economy supported by oilfield operations, manufacturing, agriculture and distribution.

According to U.S. Census Bureau statistics for 2000 Navarro County had a population of 45,124, a 13% increase from the 1990 U.S. Census estimate. The 2000 ethnicity statistics for Navarro County, according to the U.S. Census Bureau, were: white, 70.8%; black, 16.8%; Hispanic, 15.8%; American Indian, 0.5%; Asian, 0.5%.

Community Involvement and Concerns

The TNRCC conducted a public meeting regarding the proposed listing of the property to the state Registry of Superfund sites and the proposed land use for the site – commercial/industrial use only – the Chatfield Community Center on August 30, 2001.

Approximately sixty area residents attended the August 2001 public meeting. Concerns and questions raised by residents at the public meeting included:

- Health effects to people and livestock;
- Soil and groundwater sampling procedures;
- Groundwater migration patterns;
- Safety of application of groundwater for crops and grazing land;
- Process regarding the state's lien on a remediated property and what happens after the property is cleaned up;
- Cost of and start date of cleanup;
- Health effects to volunteer fire fighters who worked the fires at the site;
- Process to get Potentially Responsible Parties (PRP's) to pay for cleanup.

Specific Objectives of the Community Relations Program

- A. Maintain open communications between the TNRCC, Navarro County and state officials and concerned citizens.
- B. Continue to expand the mailing list to include additional agencies, organizations, and residents that are interested in the project.
- C. Provide a community relations contact from whom interested parties can receive information on site activities, project status, and study results.
- D. Provide all information, especially technical findings, in a language that is understandable to the general public and in a form useful to interested citizens and elected officials through the preparation of fact sheets and news releases, when major findings become available during project phases.
- E. Monitor community concerns and information requirements as the project progresses.
- F. Modify the Community Relations Plan to address changes in community needs and to maintain accuracy during different project phases.
- G. Provide for and attend public meetings.
- H. Respond to telephone inquiries and written correspondence in a timely, accurate manner.

Community Relations Techniques

A. Project status briefings for community groups and concerned citizens, may include public meetings, if needed: To periodically inform the community of significant project developments and findings; to respond to inquiries accordingly and incorporate local concerns into the decision-making process as appropriate.

B. Project Mailing List: To provide the means through which press releases, project status reports and other significant communications can be distributed to concerned groups and individuals.

C. Public Consultations: To conduct informal meetings (if needed) with residents. To provide an opportunity for affected residents to express any concerns and to make inquiries to insure effective two-way communication.

D. Program Document Repository: To maintain easily accessible repository through which the public may review project outputs.

E. TNRCC State Superfund Internet Homepage: Provide current, timely information on state Superfund activities on the World Wide Web at the following web address:
www.tnrcc.state.tx.us/permitting/remed/superfund/index.html

F. CRP: To reflect changes in site activities or local concerns. After the Proposed Remedial Action Document (PRAD) has been issued, the CRP will be revised to address implementation of the selected remedial action.

Area Elected Officials

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County

The Honorable Alan Bristol
Navarro County Judge
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The Honorable Kit Herrington
Navarro County Commissioner, Pct. 1
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Fax: 903/874-6053

Area News Media

Corsicana Daily Sun
Attention: City Editor
P.O. Box 622
Corsicana, Texas 75151
Telephone: 903/872-3931
Fax: 903/872-6878

KAND-AM
Attention: News Director
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Project Document Repositories

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