



MEMO

To: Spring Valley RAB
From: Peter L. deFur, Ph.D. TAPP advisor
Date: May 4, 2015
Re: RAB questions about the RI report

At the last RAB meeting, RAB members asked about several elements of the Site-Wide RI Report, notably what will be done with properties that were, or are paved, but the paving is being removed (or will be removed). Another question had to do with property values on a FUDS and the Army stance on property values, compensation, reimbursements, etc. A third question concerned redress for damages when a remediation is conducted.

The issue of sampling had to do with a specific property where paving is being removed. The area in question where a parking lot will be removed is between the Crate and Barrel and the bank is on the southern border of Mass Ave. in the FUDS border.

I. Sampling The RI examines the questions of additional investigative work on the basis of unsampled areas and on known but uncertain locations where specific causal activities took place. The RI includes consideration of unsampled areas beneath streets.

The RI is silent on actions to sample in the future if properties that were not accessible become accessible, and two scenarios might cause that change in accessibility of a piece of property. First, as is the case here, a property that was covered with hardscape might be cleared. Second, an owner who had denied access previously may change their decision and allow access, or the ownership might change and the new owner may request sampling.

Neither situation regarding accessibility of property is directly addressed in the RI report as a risk or as recommendation for FS or other action.

II. Property Values As to the matter of compensation for decreased property values, the Corps web site indicates that such topics are outside the authorization of the Corps of Engineers (<http://www.usace.army.mil/Missions/Environmental/FormerlyUsedDefenseSites/FrequentlyAskedQuestions.aspx>). Our research found no examples of or cases in which the Army or other FUDS site involved such compensation.

III. Actions concerning remediation. ESC does not have legal expertise nor is a lawyer employed at ESC. However, we have been informed repeatedly over many years by agency and private counsel that challenges to the adequacy of a remedial action are considered only following the completion of remedial work, and not until completion.