

By Fax, Email and FedEx to:

U.S. Department of Housing and Urban Development
Indiana Office of Public Housing
Monton Capehart Federal Building
575 North Pennsylvania Avenue, Room 655
Indianapolis, IN 46204-1555

Attention: Ms. Patricia S. Tyus, Public Housing Director

As current and former residents of Operable Unit 1 of the U.S. Smelter and Lead Refinery Inc. Superfund Site in East Chicago, Indiana and other members of the East Chicago community, and advisors to the community, we write in response to Environmental Assessment for the demolition of the West Calumet Housing Complex (HEROS number 900000010023524). In this letter, we request that (i) the Department of Housing and Urban Development (HUD) hold a public hearing about the Finding of No Significant Impact (FONSI) and (ii) HUD extend the deadline for comments on the FONSI for an additional 30 days to July 13, 2017.

First, a public hearing on the FONSI is both justified—due to the magnitude and duration of the impact this Superfund site has had on the surrounding community—and supported by the National Environmental Policy Act (NEPA) regulations at 40 C.F.R. § 1506.6 (2017). The West Calumet Housing Complex was built in 1973 on a site that had been contaminated significantly by lead, arsenic and other pollutants during the prior decades. Last year, the East Chicago Housing Authority deemed that this contamination justified the evacuation of the more than 1000 residents of the facility. Even acknowledging that the specific project at issue concerns only demolition and not future remediation of the contaminated site, adjacent and nearby residents have concerns that warrant a public hearing. For example,

- The project will remove paved asphalt surfaces on the premises. (West Calumet Remedial Action Plan pg. 8, 4/12/17). The asphalt has covered contaminated soils at the site. By removing the pavement, the contaminated soils will become exposed to the surface, and therefore individuals may be directly exposed or wind may transport contaminated dust into neighboring areas.
- The project will remove underground utilities. (West Calumet Remedial Action Plan pg. 9, 4/12/17). Soil will be moved to remove the facilities. Some of this soil will be contaminated. While the contaminated soil may be moved back into the ground eventually, it will, in the meantime, be at the surface, where individuals may come into direct contact with it or the wind may transport contaminated dust into neighboring areas.
- Demolition will require the removal of regulated asbestos containing building materials and there are concerns about dust and debris from that effort as well. (West Calumet Remedial Action Plan pg. 6, 4/12/17).
- With regard to the groundwater, citizens have concerns about how the work will impact the flow of contamination, how the groundwater will be treated on site, and whether the project should use treated groundwater. The Remedial Action Plan states that the “groundwater at the [s]ite is contaminated by organic and RCRA metals at levels exceeding the IDEM RCG Residential Tap Screening Levels” and that “it is

anticipated that groundwater seepage will be significant during the demolition of the utilities at the Site.” (West Calumet Remedial Action Plan pg. 16, 4/12/17)

- Any immediate adverse effects of this project would fall squarely on primarily a low-income, minority population. Of the 13,600 residents living within a one mile radius of the project, the population is 96% minority (compared to 19% statewide), 60% low income (compared to 35% statewide) and 26% with less than a high school degree (compared to 12% statewide) (EJScreen Report (Version 2016) pg. 3, 2/08/17). The possibility of adverse effects on this population merit additional scrutiny.
- There are additional concerns regarding worker safety, the specificity of the fugitive dust plan, lack of alternatives, and lack of incorporation of all of the recommendations of the consultants.

Thus, given the number of lives affected by the relocation, the remaining concerns of the surrounding community, and the attention this project has received more broadly, a public hearing is the most prudent way to proceed. Such a meeting would give an opportunity for the public to learn more and to communicate their concerns.

The NEPA regulations promulgated by the Council on Environmental Quality support the holding of a public meeting. The relevant language from 40 C.F.R. § 1506.6 states, “Agencies shall . . . (c) Hold or sponsor public hearings or public meetings whenever appropriate or in accordance with statutory requirements applicable to the agency. Criteria shall include whether there is: (1) Substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.” (40 C.F.R. § 1506.6 (2017)) The provision indicates a clear preference for public hearings when substantial interest in the project exists. In the present case, given the high level of interest in the project described above, HUD would be well justified in holding a public hearing. The case for a public hearing is strengthened when considering Executive Order 12898, which directs HUD to “identify[] and address[], disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” In connection with this project, the EPA commissioned a report on the surrounding demographics. As mentioned previously, of the 13,600 residents living within a one mile radius of the project, the population is 96% minority (compared to 19% statewide), 60% low income (compared to 35% statewide) and 26% with less than a high school degree (compared to 12% statewide) (EJScreen Report (Version 2016) pg. 3, 2/08/17). These statistics paint a clear picture of a low-income community composed almost entirely of minority residents. A public hearing is a method well suited for aiding HUD in assessing the impact this project will have on the community.

Second, an extension of the timetable for comments on the Environmental Assessment and FONSI is warranted given the insufficient notice given to community members and the substantially technical documentation, which requires time to digest and understand. This position is supported by 24 C.F.R. § 58.43(a). When making a finding of no significant impact, the responsible entity must prepare a FONSI notice and “must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to appropriate tribal, local, State and Federal agencies...” (24 C.F.R. § 58.43(a) (2017)). In the present case, the relevant community organizations and members were not made aware of the Environmental Assessment and FONSI and therefore were hindered in their opportunity to

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/s/Samuel Henderson

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