

Responsiveness Summary
Engineering Evaluation and Cost Analysis (EE/CA) Addendum 1
Non-Time Critical Removal Action
Caneel Bay Resort Site, Virgin Islands National Park

The Caneel Bay Resort (the Site or Resort) is located within the Virgin Islands National Park (VIIS) on St. John, U.S. Virgin Islands (USVI). VIIS is owned by the United States and is under the jurisdiction of the National Park Service (NPS). Continuously operated by various private businesses since at least 1956, the Resort did not reopen to overnight guests after Hurricanes Irma and Maria severely damaged many of its buildings in 2017. EHI Acquisitions, LLC (EHI) and CBI Acquisitions, LLC (CBIA) currently operate the Resort property pursuant to a Retained Use Estate (RUE), which will expire on September 30, 2023. While planning for the RUE expiration, NPS identified possible contamination related to the Resort operation. NPS conducted a Removal Site Evaluation (RSE) in 2017 pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The RSE report recommended beginning a non-time-critical removal action to assess possible soil and groundwater contamination related to three general areas that included Area 1 - a storage area at the wastewater treatment plant; Area 2 - engineering, maintenance, fueling, and landscaping operations; and Area 3 - an unpermitted landfill.

NPS prepared an Engineering Evaluation and Cost Analysis (EE/CA) Report¹ that summarizes the EE/CA investigation findings, compares cleanup alternatives, and identifies NPS's recommended cleanup action. For the EE/CA, NPS investigated Areas 1, 2, and 3 by collecting and analyzing soil samples. NPS used the sampling and analysis results to assess risks posed to human health and the environment. The risk assessment findings are presented in the EE/CA report. NPS determined that the risks posed by contamination in Areas 2 and 3 require a soil cleanup action.

NPS identified data gaps in the EE/CA Report and a few additional concerns were raised during the June 10 to July 9, 2021, public comment period. To address those concerns and the data gaps, NPS determined that an EE/CA Addendum investigation was required. NPS conducted EE/CA Addendum investigation activities in November 2021 and January 2022. The EE/CA Addendum investigation findings and additional recommended removal actions are summarized in the EE/CA Report Addendum 1.

NPS released Draft Final EE/CA Report Addendum 1 and invited the public to comment between September 13 and October 12, 2022. This responsiveness summary documents how NPS considered the public comments and how they influenced the decision-making process.

¹ The EE/CA report was written in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Section 300.415(b)(4)(i), the U.S. Environmental Protection Agency (EPA) *Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA*, and the U.S. Department of the Interior (USDOI) *Central Hazardous Materials Fund (CHF) CERCLA Process for CHF Projects* Environmental Compliance Memorandum 10-1.

A. OVERVIEW

Overall, public comments on the EE/CA Report Addendum reflected curiosity about the CERCLA removal action process and expressed a consensus that the cleanup action should remove all identified contamination from the Site. Several commenters urged NPS to hold parties responsible for the contamination accountable for cleanup. Some comments about waste handling were similar to comments received about the original EE/CA Report and were addressed previously.

B. COMMUNITY INVOLVEMENT OVERVIEW

NPS prepared a Community Involvement Plan in early 2021, which included information from six interviews with representatives of community, neighborhood, and environmental groups on St. John. In general, interviewees believed hazardous materials were released at Caneel Bay Resort and that, although several studies had been completed, no action had been taken to clean up those materials. Interviewees expressed concern that former site workers, wildlife, and ocean water quality may have been impacted by the hazardous materials releases.

NPS hosted a Community Learning Session to review the findings and recommendations of the EE/CA Addendum on September 14, 2022 and a Listening Session to accept public comments on September 27, 2022. Both sessions were held in-person in Cruz Bay, St. John with an option to attend virtually. Seventeen comments were received during the public comment period expressing interest in the Resort and/or environmental issues at VIIS.

C. SUMMARY OF PUBLIC COMMENTS RECEIVED DURING PUBLIC COMMENT PERIOD AND NPS RESPONSES

The following summary provides the primary themes expressed by the public and NPS's responses; example questions are included for each theme.

EE/CA and CERCLA Scope

Some of the commenters questioned the scope of the investigation and cleanup actions; they expressed concern that contaminants will remain on-site if not removed by NPS through this removal action. For example, some of the comments included:

- *"Why is the asbestos on the buildings not being removed through this contract?"*
- *"Based on the spread of contaminants by Hurricanes Irma/Maria and subsequent weather events, an Emergency Removal Action under DOI/NPS's CERCLA authority is critically needed as soon as possible."*
- *"The decision to remove ONLY a few of the sites containing asbestos needs to be revisited. All of the buildings have massive hurricane damage and will need to be removed at some time. The study has shown that they contain hazardous material and can at any moment, be further degraded to release the toxics into the air. It makes no sense to have this massive clean up process begin and yet leave large amounts of debris untouched. The current process to deal with the asbestos has taken 5 years since the storm and realistically the clean will not begin until after the RUA expires in September 2023 – that will make it 6 years of hazardous exposure. If any of the many other structures becomes compromised this process will have to begin again and we will again have hazardous conditions for additional years."*
- *"Was sampling of soils or groundwater conducted for gasoline constituents, such as Benzene, Toluene, Ethyl Benzene, Xylenes, Methyl Tertiary Butyl Ether or Tertiary Butyl Alcohol? Was sampling of ground water or soils conducted for other volatile organic compounds that would be found in a maintenance area?"*

As discussed in the EE/CA Report and EE/CA Report Addendum 1, NPS will remove contaminants that are regulated under CERCLA which pose unacceptable risks to human health and the environment and where there are no other appropriate federal or State response mechanisms besides CERCLA to respond to the release or threat of release of certain types of asbestos-containing material (ACM) at the Site.

To the extent hazardous substances are released from building materials and the release only results in exposure within a building, such releases cannot be addressed under CERCLA. See 42 U.S.C. 9604(a)(3)(B). Asbestos within buildings, however, is subject to Clean Air Act National Emission Standard for Asbestos (NESHAP) regulations, which are separate from the CERCLA regulations. The NESHAP requirements are intended to protect the public from airborne contaminants that are known to be hazardous to human health, including asbestos, and apply to "facilities" (i.e., buildings, structures, and installations, including piping) undergoing "demolition" or "renovation." Much of the ACM identified at the Site is part of a "facility" and is subject to

NESHAP in the event demolition or renovation occurs. This includes ACM attached to Site buildings that were damaged by the 2017 hurricanes and ACM associated with the piping system at the Site. Renovation and demolition represent the most likely means by which ACM associated with these facilities may be disturbed, and the asbestos NESHAP imposes specific requirements to ensure that ACM is treated appropriately in order to limit the risk of a release of asbestos fibers during such activities.

CERCLA applies to hazardous substances, including asbestos, that have been released to the environment. NPS concluded that the asbestos-containing building debris that has been scattered around the resort grounds constitutes a release or threatened release to the environment and should therefore be cleaned up as part of the CERCLA non-time-critical removal action. Notably, there are no other appropriate federal or State response mechanisms to address this asbestos-containing debris, and, therefore, NPS concluded that it should be addressed under CERCLA. As noted in the EE/CA Addendum Report, if the buildings are not renovated to contain or remove asbestos-containing material, monitoring would be conducted annually at the end of hurricane season, and additional asbestos-containing debris would be removed and disposed of off-Site. Note that although asbestos is present in some of the building materials, "friable" asbestos was not identified. Friable asbestos can be crushed by hand and release asbestos fibers. However, NPS concluded that debris such as asbestos containing building materials (e.g., roofing paper) could become friable over time through exposure to the sun and rain or by being crushed and should therefore be removed as part of the CERCLA response action.

NPS sampled groundwater immediately downgradient from the former gasoline underground storage (UST) in the maintenance area for volatile organic compounds (VOCs), including the noted gasoline constituents and other compounds potentially associated with the maintenance area. Additionally, NPS sampled soil and groundwater in the vicinity of on-site diesel and gasoline aboveground storage tanks (ASTs) and groundwater further downgradient from the ASTs, the former UST, and the maintenance area for VOCs. Low levels of petroleum-related VOCs were identified in soil in groundwater at concentrations below screening values. NPS concluded that these constituents are not posing an unacceptable risk to human health or the environment and are not impacting park resources. Therefore, no additional cleanup of these releases was recommended. It is noted that natural microbial processes are expected to break down the residual petroleum over time.

Responsible Party Accountability

Several commenters stated that the parties responsible for cleanup should be identified and held accountable.

- *"CBIA needs to pay for cleanup actions."*
- *"Potential Responsible Parties need to be identified and engaged in the Removal Action, but that should be a parallel process to conducting that actual removal action."*

- *"From all appearances the current stewards of the Caneel Bay property are very poor stewards of the land. They should be responsible for any cleanup that is needed to the property and any contamination of the soil, etc."*
- *"I object to the concept of the current RUA holder being the responsible party for notifying the community and the NP [National Park] if additional contamination has occurred... Regular inspections need to be made by qualified people to visually inspect the remaining toxic structures both before and after the RUA expires."*

NPS is conducting the EE/CA pursuant to its authority under CERCLA. Pursuant to CERCLA, potentially responsible parties (PRPs) may be liable for all costs of CERCLA removal or remedial actions "not inconsistent with the national contingency plan." 42 U.S.C. § 9607(a)(4)(A). In accordance with NPS policy, NPS will seek to recover response costs incurred, and to be incurred, from potentially responsible parties (PRPs). See NPS Management Policies 2006, § 9.1.6.2 (noting that NPS "will take affirmative and aggressive action to ensure that all NPS costs and damages associated with the release of contaminants are borne by those responsible for contamination of NPS property"). Subject to potential defenses to liability, PRPs under CERCLA include, among others, current owners and operators of the facility at issue as well as owners and operators at the time of hazardous substance disposal.

Waste Transportation and Disposal

Some commenters asked about waste transportation and disposal.

- *"Have the logistics of moving waste through the community been explored? Minimizing movement through Cruz Bay should be evaluated and using the marine facilities at Caneel Bay should be the priority."*
- *"All materials need to be removed from the site via the Caneel Dock rather than being trucked through town."*
- *"The 210 tons of 'materials - Disposal Hazardous' for the first part of this process – where is that going?"*
- *"Has the Bovoni Landfill; agreed to take on the total amount of waste for all portions of this cleanup?"*

Details regarding the removal of contaminated material from the Site are being considered as part of the removal design effort. These comments will be taken into consideration as the design and implementation details are worked out. If barge transportation from the NPS dock or the Caneel dock is feasible and can be arranged, movement of soil and wastes to a barge could be conducted almost entirely within the Virgin Islands National Park and would not require trucking through the community.

The disposal location(s) for wastes generated as part of the response action have not been finalized. Neither ACM waste nor other hazardous waste would be disposed of in the US Virgin Islands; such waste would require transportation to and disposal in the continental US at an appropriately licensed facility.

NPS Lead Agency Role

NPS received one comment regarding its capacity as lead agency to conduct a removal action.

- *My understanding from the 9/14/2022 meeting is your goal is to be shovel ready by the summer of 2023, that does not give you a lot of time to establish a funding source, gain site access and procure a contractor. Does NPS have a contract(s) available to conduct Removal Actions under CERCLA, as the USEPA does? If not can NPS use USEPA's contracts?"*

NPS is currently performing cleanup response actions at contaminated Sites in numerous NPS units and has contracting mechanisms in place to carry out this work. NPS expects to be in a position to retain a contractor to initiate the removal action as early as the summer of 2023 in the event no PRP agrees to do so.