

# Meeting Minutes

# Broadway-Pantano (BP) Water Quality Assurance Revolving Fund (WQARF) Site Community Advisory Board (CAB) Meeting

#### **MINUTES**

Tuesday, May 19, 2015 6 p.m. - 8 p.m. Eastside City Hall 7575 E. Speedway Blvd. Tucson, Arizona

<u>CAB Members present</u>: Bill Petroutson (Co-Chair), Janet Marcus (Co-Chair), Michael Smith, Jean Sabo, Mark Brusseau, Wanda Rickman (Inactive)

<u>CAB Members absent</u>: Mike Mahan, Dolores Fife, Jackie Olson, Aubrey McMullen, Cheri Bludau

<u>ADEQ Staff in attendance</u>: Gretchen Wagenseller (Project Manager), Caroline Oppleman Community Involvement Coordinator (CIC), Scott Green (WQARF Program Manager)

Members of the public present: Lori Ehman (City of Tucson [COT] Environmental Services), Leanna Garcia (Gallagher & Kennedy), Molly Collins (COT Water)], Michael McNulty (Pima County), Jim Faas (Pima County), Jim Murphy (Tucson Airport), Danny Samorano (Citizen), Mike Block (Citizen)

The meeting began at 6:05 p.m.

#### 1. Call to order/introductions

Mr. Bill Petroutson opened the meeting and introduced the CAB members, ADEQ staff, and public attendees.

#### 2. Acceptance and/or changes to December 11, 2014 minutes

Ms. Janet Marcus moved to accept the minutes, it was seconded by Ms. Jean Sabo; motion passed.

#### 3. CAB membership/charter update

Ms. Caroline Oppleman stated that after reviewing CAB Membership and the charter, a motion is needed to remove Mr. Mike Mahan and Ms. Dolores Fife from the CAB due to lack of attendance. Ms. Marcus moved and Ms. Sabo second; motion passed.

Ms. Oppleman requested signatures on the charter. Ms. Sabo moved to accept the charter; Ms. Marcus seconds; motion passed. Follow-up materials will be distributed via postal mail or e-mail.

#### 4. Potentially responsible party (PRP) search (See attached presentation)

Ms. Wagenseller presented information on the WQARF process, PRP searches and stated Broadway-Pantano is currently in the Feasibility Study (FS) phase. ADEQ is hopeful that the PRP Search will be completed in 2016 when the Proposed Remedial Action Plan (PRAP) should be issued for public comment.

#### 5. CAB letter to Broadway North Landfill owners and City of Tucson (COT)

Ms. Oppelman explained the revisions to the CAB letter throughout previous meetings and there is confusion amongst CAB members as to why the letter has not been issued. It was commented that Mr. Petroutson made changes to the letter outside of the meeting. CAB members were in favor of sending out the revised letter (dated 8 January 2015) as soon as possible.

#### 6. Update on City of Tucson Ward 2 outreach

Ms. Oppelman informed the group that the agenda and notice of CAB meetings discussed prior were sent to Wards 2 and 6 to be included in newsletters; project milestones are now being published in the Daily Star in lieu of the Daily Territorial.

#### 7. Arizona Daily Wildcat Outreach – Michael Smith

Mr. Michael Smith and Dr. Mark Brusseau (professor at U of A) discussed the University's Superfund Research Training Corps program. He stated he could propose to the Director of Training Corps that an article for the university paper could be one of the projects for the program. Several members agree that U of A students should be included in outreach plans.

#### 8. Feasibility study and site budget status (See attached presentations)

Ms. Wagenseller stated the Landfill Operable Unit Remedial Investigation Report and FS Work Plan have been finalized. AMEC has been filling data gaps and updating the groundwater model as needed for the FS. Ms. Wagenseller informed the CAB that the finalized groundwater modelcould be presented at the next meeting.

Sampling was performed in February and March 2015. COT has been performing Enhanced Groundwater Monitoring of select wells every quarter because the Western Containment System (WCS) is shut down. Mr. Smith asks for quarterly results to be presented. Ms. Wagenseller informed the CAB that the past results are available to the public online on the City's website. Many CAB members asked for the results to be sent to them.

She also explained the 2016 WQARF budget will be tight and managers are currently working to determine priorities based on risk and other factors.

#### 9. Site groundwater sampling results (See attached presentation)

Ms. Wagenseller presented sampling results stating water levels have increased from 0.45 feet per year (ft/yr) in early 2000's to 2.8 ft/year over the past eight years. This is consistent across the site. The portion of the plume that was not captured by the WCS is gradually moving out of the site to the northwest. This may impact Catalina Village.

There are three chemicals of concern at the site, tetrachloroethene (PCE), trichloroethene (TCE), and vinyl chloride (VC). No VC results are above the Aquifer Water Quality Standard (AWQS). PCE concentrations between Jan 2000 and the present at monitoring well WR-274A showed concentrations are increasing over time. PCE concentrations over time at Broadway South Landfill indicate that monitoring well WR-367A has been contaminated since installation. There is a slow increasing trend in PCE soil gas concentrations in the vadose zone at Broadway South Landfill. However, at Broadway North Landfill there has been no rebound of PCE in the soil gas.

The WCS was shut off in October 2012 due to non-detect PCE concentrations. WR-178A historically has been non-detect but since turning the WCS off, very low concentrations of PCE are being detected in this well. PCE concentrations at SJ-002 (upgradient of WCS) are also slowly increasing.

## 10. What is a declaration of environmental use restriction or DEUR? (see attached presentation)

Mr. Green explained a DEUR. The current owner is getting a Prospective Purchaser Agreement (PPA) for each parcel at the site. The owner must indicate plans for the property and there must be a substantial beneficial re-use of the property to issue PPA.

#### 11. CAB duties and call to action (see attached presentation)

Mr. Green reviewed ADEQ implementation of LEAN (a process improvement initiative to improve government services). Current efforts are to reduce the total time to implement a remedy. Remedial Investigations (RIs) are to be completed in under 2 years and the FS/PRAP/Record of decision (ROD) process should be complete in under 3 years. As of fiscal year 2014, ADEQ has completed a record number of RI's and moved many sites ahead in the process.

Mr. Green urges CAB members to send group and individual letters to legislators to reiterate the importance of full funding of the WQARF program so that the improvement made can continue and ADEQ can continue doing environment good.

#### 12. Call to the public

Mr. Block is concerned that some information is not available to the public prior to the meeting. He notes that CAB members have materials that are not available to the public. Mr. Block requested that all materials that will be presented at the meeting be made available to the general public prior to the meeting. Ms. Oppelman explained why some materials are available to the CAB members (and not the general public) before the meeting. There was a discussion on specific materials that each community member would like to receive.

#### 13. Future meeting/agenda

Mr. Smith referred to a mailing he received from Tucson Water (TW) indicating that TW is using Advanced Oxidation on the west side of town. Mr. Smith would like a presentation on this and how it might impact this site. Ms. Collins indicated that TW could present on this.

Ms. Wagenseller indicated that ADEQ can present on any FS data that is ready by the time of the next CAB meeting.

Mr. Green says that depending on funding, there may be nothing for ADEQ to report for a while. The next meeting will be scheduled when there is something to discuss.

additional documents mentioned in these minutes, contact ADEQ.	

14. Adjournment

# Brief Overview of Declaration of Environmental Use Restriction (DEUR)



# What is a DEUR



- DUER described in §49-151 through §49-159
- A restrictive covenant designed to document the use of institutional and/or engineering controls to allow closure of a site with contamination above the applicable levels to ensure appropriate site use
- Ensures current and future property owners are aware of the contamination on the site
- Reduce risk to public health and the environment
- An restriction on property usage that a property owner can utilize to obtain environmental site closure

# A DEUR....



- Runs with and burdens the property, binds the owner and the owner's heirs, successors and assigns and insures to the benefit of the department and the state
- Is attached to the property deed and recorded in each County where the property resides
- Is an institutional control-not a remediation technology

# A DEUR May Not....



- Be extinguished through any of the following:
  - Issuance of tax deed
  - Foreclosure of a tax lien
  - Foreclosure of any mortgage
  - Adverse possession
  - Exercise of eminent domain
  - Application of doctrine of abandonment, doctrine of waiver or any other common law doctrine

# DEUR Fee Rule



- DEUR fees are calculated pursuant to A.A.C. R18-7-601 through 606
- All fees are non-refundable
- The fee is due at the time the final DEUR is submitted for department review and approval
- A DEUR Fee Calculation Spreadsheet can be found at:
  - http;//www.azdeq.gov/environ/waste/cleanup/deur.html

# Types of DEURs



## Institutional Control

 Is a legal or administrative tool or action taken to reduce the potential for exposure to contaminants

# Engineering Control

 Is a remediation method such as a fence, berm, or cap that prevents or minimizes exposure to contaminants

# Institutional Control Requirements



- An institutional control will include:
  - A statement documenting a description and any maintenance of the institutional control
  - A statement that the control must remain in place to protect public health and the environment
  - A statement that modification or cancellation requires prior written department approval
  - A statement allowing the department access to verify the control is being maintained

# **Engineering Control Requirements**



# Engineering control requirements:

- An engineering control plan containing:
  - A detailed description of the engineering control plan prepared by a professional engineer licensed by the state
  - The maintenance plan for the control, and description of how the engineering control will prevent/minimize exposure to contaminants, the control's specifications and it's expected operational life
  - A contingency plan in the event the control fails and must be restored or does not meet the intended level of protection or mitigation
  - A cost analysis for construction, maintenance, and implementation
  - A statement on behalf of the owner that owner is financially capable of meeting these requirements

# Financial Assurance



- Financial assurance is required for engineering control DEURs
- Owner shall submit proposed form of financial assurance based on cost analysis of the control to ensure
  - The engineering control will be maintained and there is sufficient funds to restore the control if it fails or if it fails to meet performance expectations
- Owner shall pay a fee established by rule with each request for approval, amendment or substitution of a financial assurance mechanism

# **DEUR Reporting Requirements**



- Institutional Control DEURs:
  - Property owners are required to submit a written status report once each calendar year
  - ADEQ will provide a site-specific annual report form to the property owner of record
- Engineering Control DEURs:
  - Owners shall maintain the engineering control in accordance with the Engineering Control Plan (ECP)
  - All engineering controls shall be inspected at least once each calendar year
  - An inspection report shall be submitted within 30 days following the inspection
  - Owners are required to maintain the amount of financial assurance as calculated in the ECP
- ADEQ conducts annual site visits to ensure the DEUR provisions are being maintained

# **ADEQ Contacts**



- For more information contact ADEQ:
  - Gwenn Ziegler
     Voluntary Remediation Specialist
     (602) 771-4177

ADEQ DUER website:

https://www.azdeq.gov/environ/waste/cleanup/deur.html



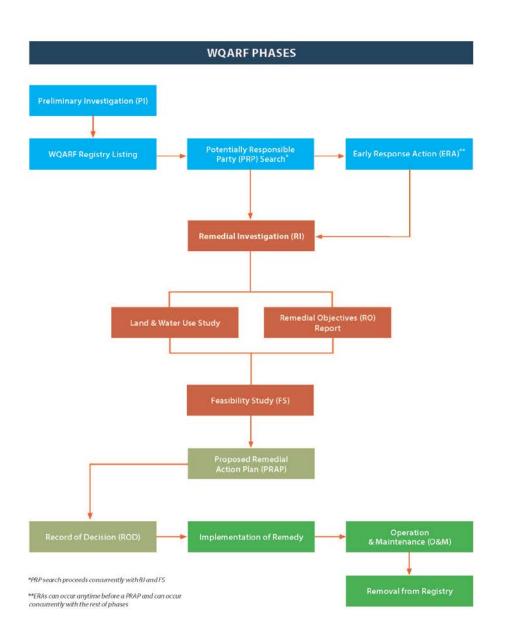
# Broadway Pantano WQARF Site Community Advisory Board Meeting May 19, 2015

Potentially Responsible Party Search Status



## **WQARF** Process Overview







- Broadway North Landfill operated in 1960s.
- Broadway South Landfill operated in 1950s (added as "source" to Broadway Pantano Site in approx 2005).
- PRP search includes generators, transporters, arrangers, property owners (during landfilling), landfill operators



### PRP Search Status



At same time Proposed Remedial Action Plan (PRAP) is issued for public comment, each PRP on the preliminary list of PRPs will receive the following:

- PRAP;
- the preliminary list of PRPs with a summary of the basis for each party's liability;
- a description of the method of allocation; and
- due dates to provide comment to ADEQ regarding the PRAP, the method of allocation, other PRPs.



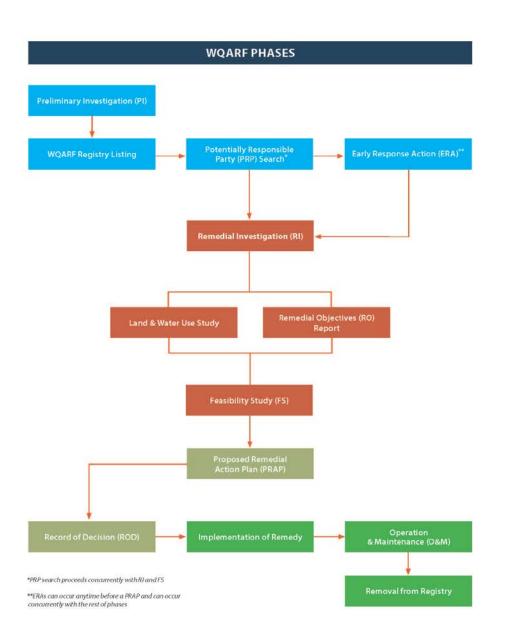
# Broadway Pantano WQARF Site Community Advisory Board Meeting May 19, 2015

Feasibility Study Progress and Site Budget Status



## **WQARF** Process Overview







- Landfill Remedial Investigation (RI) Report finalized on February 27, 2015.
- Feasibility Study (FS) Work Plan finalized April 30, 2015.
- Public notices of availability issued for both (and transmitted to CAB and site mail/email list); both documents on ADEQ website.



- ADEQ is working on the FS—filling data gaps (field work) and updating the site groundwater model for FS use to evaluate remedial alternatives.
- ADEQ met with the City of Tucson
   Environmental Services and Tucson Water regarding the groundwater model update and FS.

# **Budget Status**



- ADEQ receiving the same WQARF budget as last year, but we're going to have less "carryover" in FY2016 than FY2015. (Scott Green will be talking about the WQARF budget later during this meeting.)
- WQARF management evaluating sites to determine priority for FY2016 funds; however, existing Early Response Actions to receive highest priority—particularly drinking water treatment systems.



# Broadway Pantano WQARF Site Community Advisory Board Meeting May 19, 2015

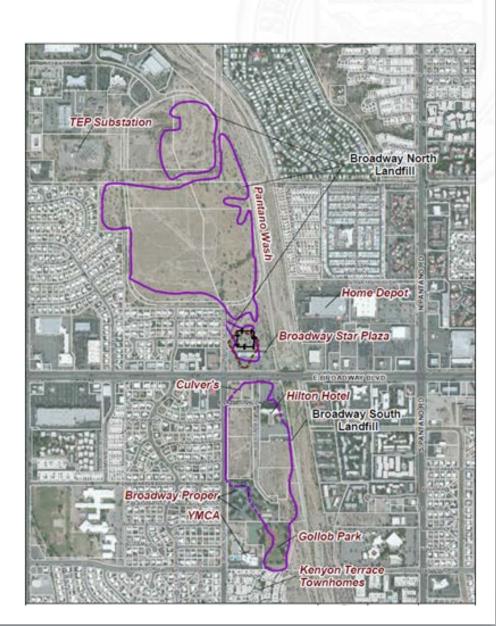
Updated Site Characterization GOU and LOU





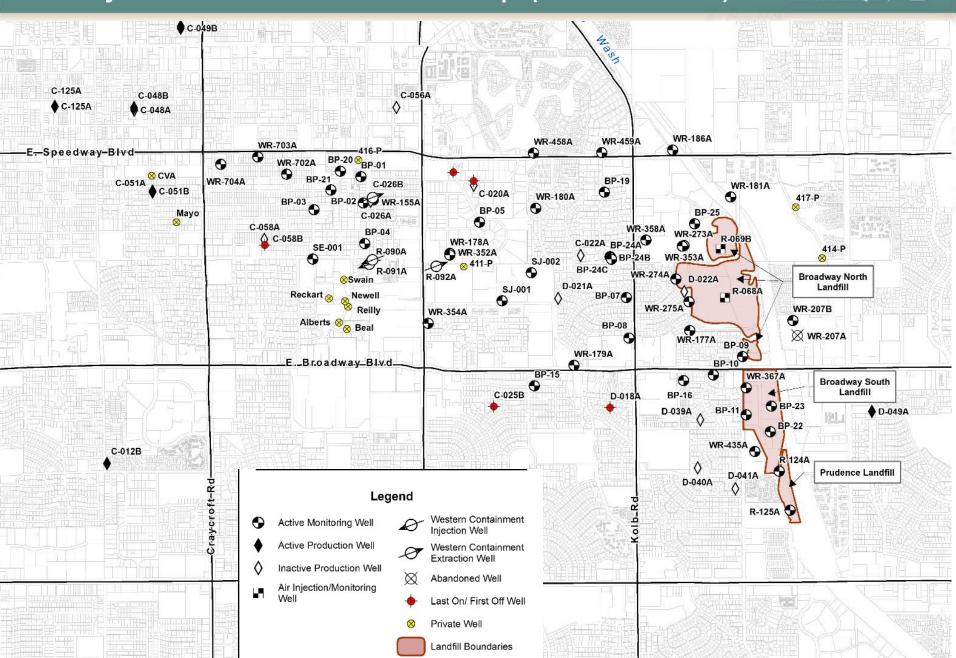
#### Feasibility Study (FS) Data Gaps

- Performed site-wide groundwater sampling in Feb./March 2015
- Resampled shallow soil gas at BSL
- Resampled deep nested soil gas probes at BSL
- Inspected soil cover at BSL and BNL



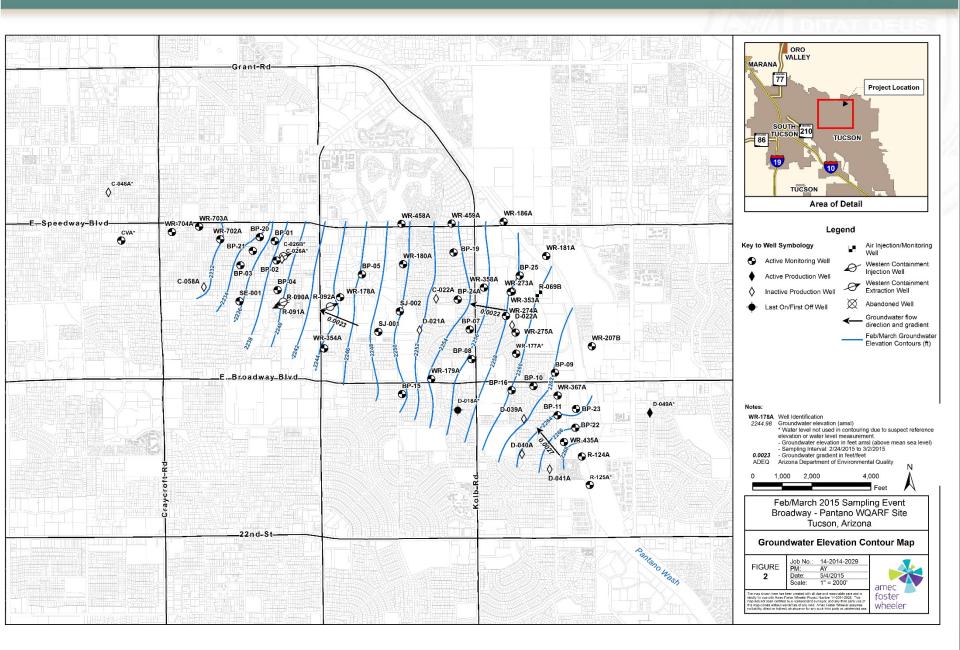
## Project and Well Location Map (March 2015)





# Groundwater Elevation Contour Map (2015)



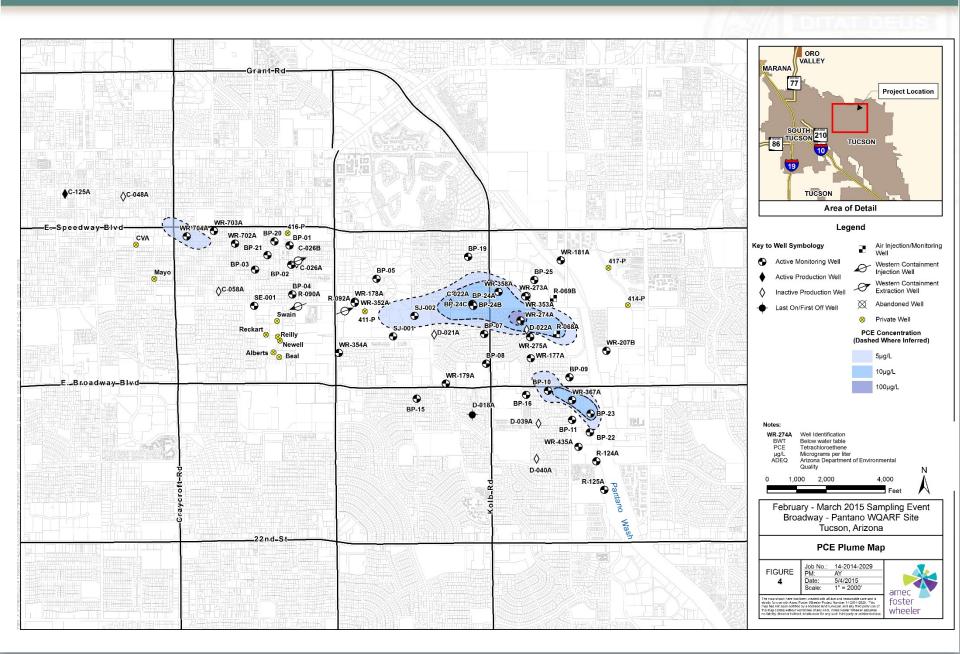




- Groundwater Elevations
  - Rising water levels since 2002
    - Increased to Approximately 0.45 ft/year (2002-2007)
    - Increased to Approximately 2.8 ft/year (2007-2015)
  - Consistent water level rise across the site

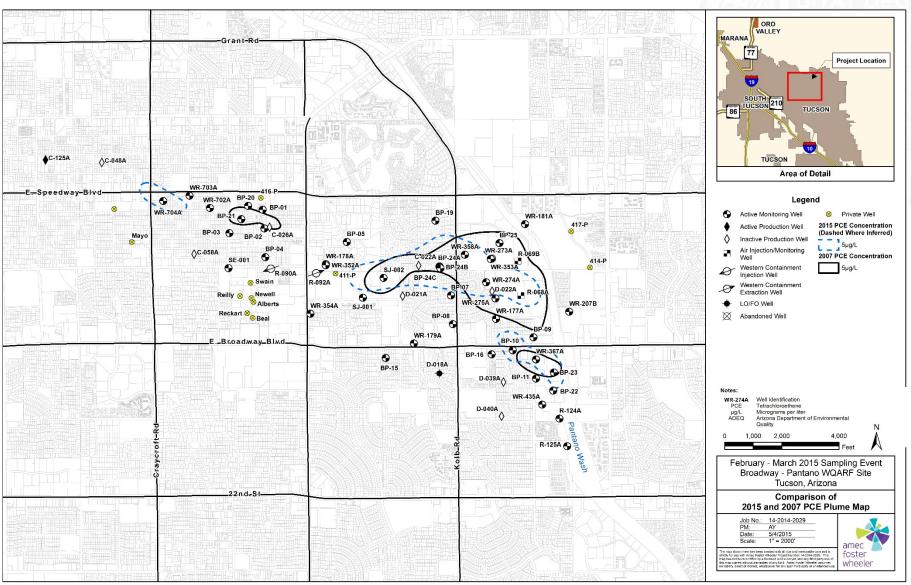
## PCE Plume Map (March 2015)





## Comparison of 2007 and 2015 PCE Plumes

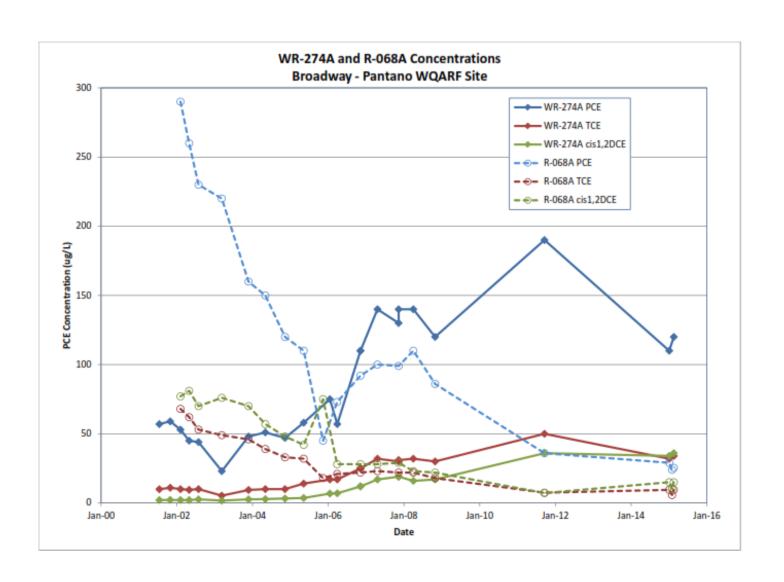




Note: WR-702A, WR-703A and WR-704A not installed until late 2008/early 2009

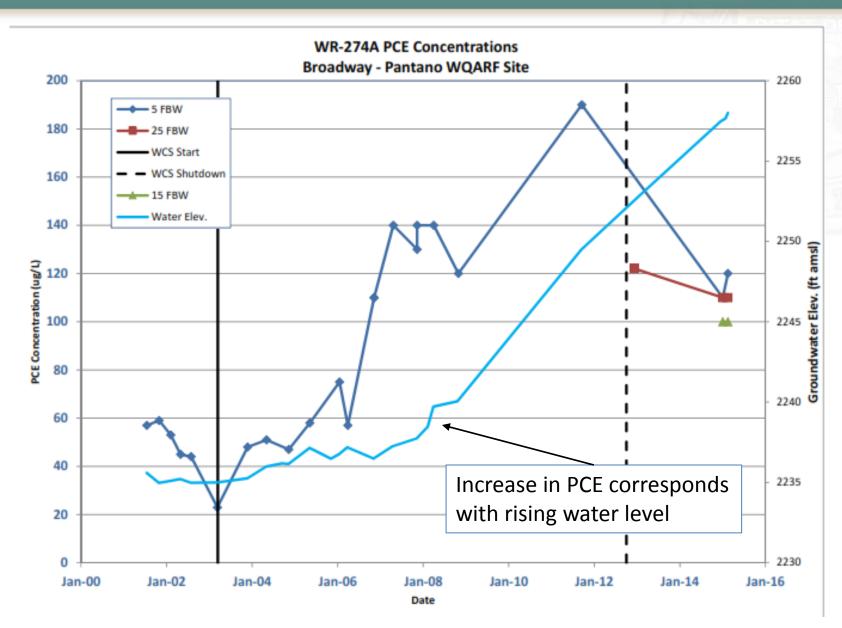
## BNL Source Area Wells: VOCs





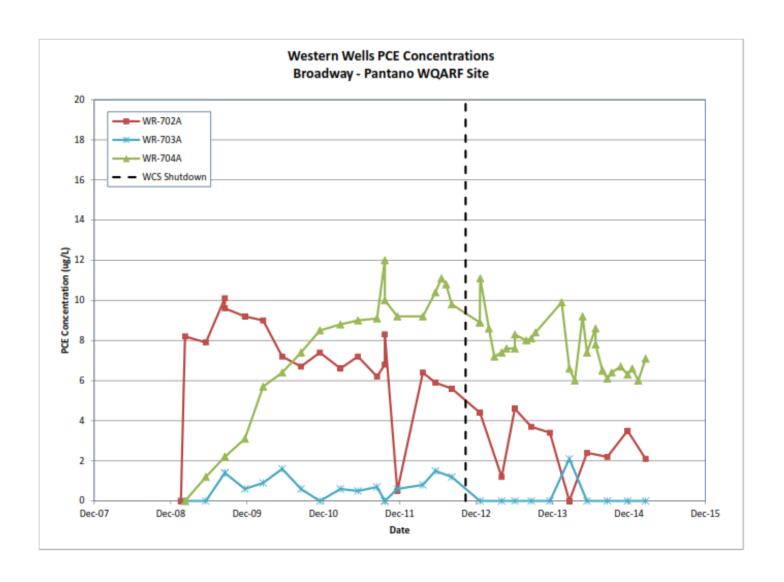
## WR-274A Well Water Quality vs. Water Elevation





## Wells West of WCS: PCE Concentrations

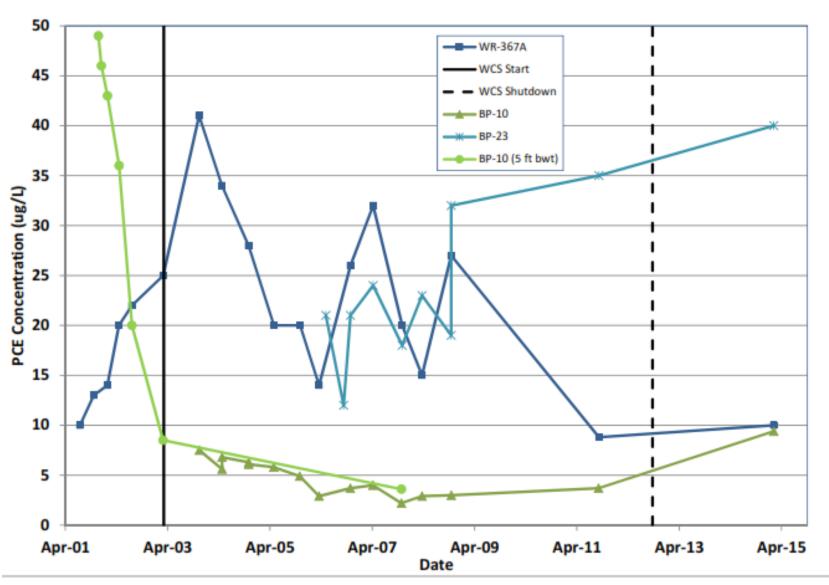




## **BSL Wells PCE Concentrations**







# Groundwater Sampling Events (March 2015)



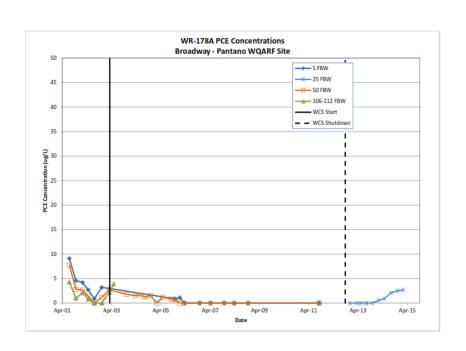
- Western Containment System (WCS) System
  - WCS was Shut off on October 12, 2012
    - No exceedance of AWQS at extraction wells
    - High O&M costs of WCS
  - PCE concentration continue to be low to nondetect in WCS extraction wells since shut off
  - No Tucson Water Last On/First Off wells impacted

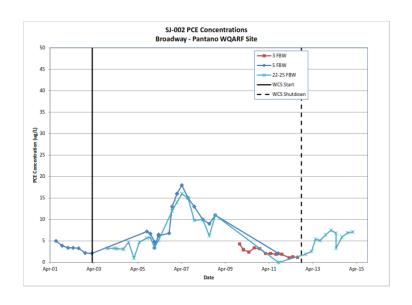
## WCS Side and Upgradient Wells



#### WR-178A PCE Concentrations

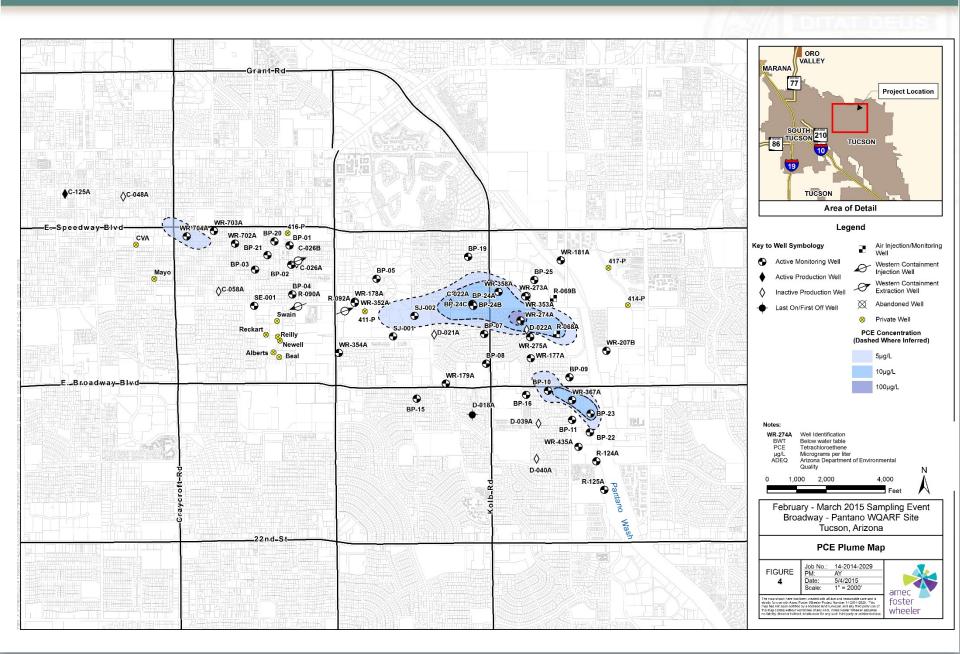
#### SJ-002 PCE Concentrations





### PCE Plume Map (March 2015)





## Groundwater Sampling Event (May 2015)



- WCS Enhanced Monitoring Network (May 2015)
  - BP-04, BP-21, C-51A/B (Wellhead), R-092A (Wellhead), SJ-002, WR-178A and WR-704A



# Community Advisory Board Call to Action

Scott R. Green
Manager, Remedial Projects Unit
[May 12, 2015]



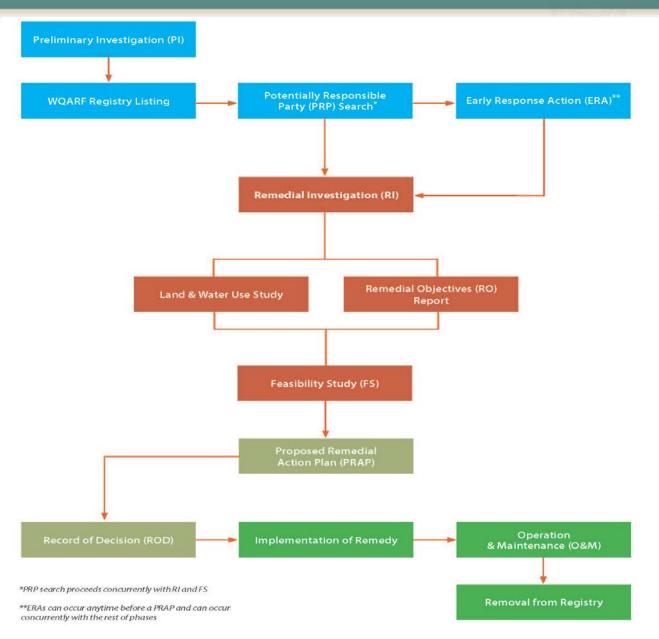
#### What is WQARF & How Does it Relate to CERCLA?



- What is the Water Quality Assurance Revolving Fund (WQARF)?
  - A state program established in 1998 <u>loosely</u> patterned after the Federal Superfund program
  - Addresses environmental contamination deemed <u>not</u> to score high enough to be a Federal Superfund site or that the state has decided to take the lead on remediating
  - Specific differences include:
    - Has its own state Statute and Rules
    - Has a proportional liability scheme based on equitable allocation of liability (results in high orphan share to state)
    - Focuses heavily on water quality protection; allows options to "protect or otherwise provide for"-
    - Is funded by a State Statute (Law) requiring Legislature to provide \$18 MM annually to ADEQ (we have received full funding only once-FY2007 and other years they have swept our WQARF budget)

## Phases of WQARF





### CAB Responsibilities



- Part of the WQARF program includes formation of Community Advisory Boards (CAB)
- Responsibilities of the CAB Include but are not limited to:
  - Attend and actively participate in CAB meetings
  - Set goals for developing issues relates to the site
  - Serve as an intermediary between ADEQ and public
  - Assist ADEQ in decision-making process for Remedial Actions
  - Share information with fellow community members through neighborhood meetings, newsletters and <u>other</u> <u>methods</u>

## CAB Responsibilities cont'd



 Compare to a corporation: Governor is CEO, Legislature is Board of Directors, and CAB members are like stock shareholders in this process of working towards fulfilling our mission

#### ADEQ's Focus on Environmental Good



- Implemented LEAN in FY12
  - Continuous process improvement initiatives:
    - Conducted Kaizens for WQARF Remedial Investigations (RI)
      /Feasibility Studies (FS)/Proposed Remedial Action Plans
      (PRAP)/Record of Decision(ROD) phases
    - Resulted in Performance Measure definition:
      - ❖ Reduce total time to implement final remedy by 30% over 5 years.
        - » Complete RI in under 2 years
        - » Complete FS/PRAP/ROD in under 3 years

### ADEQ's Focus on Environmental Good



In context of WQARF in order to meet the Performance Measures:

- ADEQ Completed 12 of 14 planned RI's in Fiscal Year (FY) 14 – in one year 5 times as many as completed since 1998
- FY15 ADEQ to complete at 8 additional final RIs and move 10 sites of the total estimated 33 into the FS phase – more than any year previously.
- ADEQ on track to issue 5 PRAPs and 2 RODs this FY alone.

### ADEQ's Focus on Environmental Good



- FY15 began evaluation of 26 Preliminary Investigation sites as possible additions to the WQARF Registry:
  - Which means if they are listed, more sites will be moving into the RI phase in coming years
- Resulting effect: we will likely be moving more sites into PRAP and ROD within the next few years -

Benefit: <u>Increased protection of human health and</u>
 <u>the environment</u>

#### **CAB** Assistance



#### HOWEVER- (there is always a but...)

- In light of these new initiatives for the first time in WQARF we have been able to spend down the WQARF funding for site work this FY.
- What this means for next FY (beginning July 1<sup>st</sup> 2016):
  Site funding available ONLY to
  - Continue Interim Remedial Actions
  - Continue Early Response Actions (SVE systems for mass removal)
  - No new RI or FS work
  - Existing site work on hold beginning July 1<sup>st</sup> or before
  - No Community Involvement activities except statute driven (public notices and outreach)

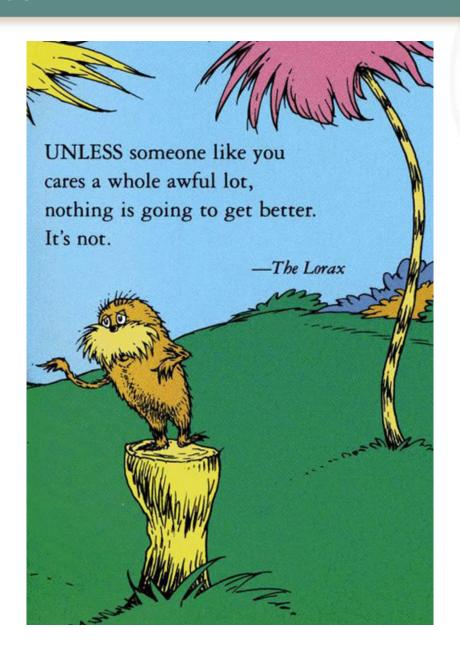
#### **CAB** Assistance



- What can you do as shareholders?
  - Either individually or perhaps collectively as a CAB or both:
    - Write a letter remind your legislator of the recent ADEQ process improvements resulting in more "environmental good" and <u>ask</u> the Legislature to approve full statutory funding of \$18 MM for the entire WQARF program to clean up sites of contamination in Arizona.
    - Ask them not to sweep the WQARF budget.
    - Remind them that to continually underfund WQARF jeopardizes ADEQ's overall mission and ability to protect human health and the environment for the citizens of Arizona.

### **CAB** Assistance





Dr. Seuss , 1971