

Institutional Controls Tracking Network Workshop
EPA Brownfields Conference
October 26, 2003

Workshop Summary

Introduction and Agenda Overview - David Borak, International City/County Management Association (ICMA)

Mr. Borak, ICMA, welcomed participants and presented an overview of the meeting agenda. The goals of the workshop were presented as follows: 1) promote the Institutional Controls (IC) Tracking Network among state, local, industry, and community stakeholders; 2) discuss existing tracking systems, especially those using Geographical Information Systems (GIS); and 3) discuss pilot projects and next steps for the network. Introductions by each of the attendees followed.

ICs: Where Are We Now - Joseph Schilling, ICMA

Mr. Schilling, ICMA, began by highlighting his involvement with ICs. ICMA has been involved with ICs since the beginning of the Brownfields program and has worked with practitioners to identify and close major gaps/issues in the design, selection, implementation, and enforcement of land use controls. Mr. Schilling presented a brief overview of ICs, explaining when they are used and who is responsible for their implementation, monitoring, and enforcement. He stated that multi-stakeholder coordination of IC tracking is critical to build upon established relationships among and between public and private organizations. Mr. Schilling highlighted the importance of an information infrastructure to provide notice to affected stakeholders as early as possible in order to prevent and manage unreasonable risk of exposure to soil and ground water contamination. He described the IC Tracking Network as a network of systems consisting of local land use tracking and permitting systems, local inventories, county recording systems, state inventories and tracking systems, federal databases and tracking systems, and industry tracking systems. Mr. Schilling concluded by describing the next steps that will facilitate a national information network: 1) collaborative design and planning through Land Use Controls Implementation Plans (LUCIPs); 2) continued coordination of federal, state, and local regulatory agencies; and 3) capacity building, training, education, and development of innovative approaches for IC tracking and financing.

Federal, State, Local, and Industry Perspectives on IC Tracking - Michael Bellot, EPA OSRTI; Mark Gregor, City of Rochester; Bob Wenzlau, Terradex; Michael Sowinski, DPRA

Mr. Bellot led off with a presentation of EPA's activities involving IC tracking. He discussed the strengths and weaknesses of the four IC categories. Governmental controls, such as local ordinances, are often called for by EPA in their decision documents but are implemented, monitored, and enforced by parties other than EPA. Proprietary controls are subject to property law which varies by jurisdiction and have historically involved non-specific terminology such as deed restrictions. Enforcement devices, such as consent decrees, generally only apply to sites that have Responsible Parties (RPs). Informational devices, such as deed notices, while useful in some situations are not enforceable. Mr. Bellot pointed out that these weaknesses identify the

need to consider the following factors during the IC planning and selection phase: 1) the objectives for limiting/reducing exposure; 2) the specific restrictions; and 3) the impact of the obligations on all stakeholders. Mr. Bellot then described the results of previous data collection pilots in EPA Region 3 and 5. These pilots made it clear that EPA does not always have the documentation needed to respond to questions regarding the implementation, monitoring, and enforcement of ICs. Mr. Bellot also presented the preliminary results of an informal analysis of Records of Decisions (RODs) since October 2000 that called for ICs. Mr. Bellot stated that EPA is 100 percent behind a voluntary national IC Tracking Network. A national network of this nature would enable cross-program and cross-agency coordination to ensure the long-term protectiveness of ICs.

Mr. Gregor presented the local perspective on ICs. The City of Rochester, a Brownfields redevelopment community, has been working in partnership with EPA for several years. This relationship has fostered successful redevelopment in the city. The city has been effectively monitoring sites that have ICs through the building permit application process. Applying for a permit at a flagged site will trigger the city's Division of Environmental Quality to consult with the building permit applicant before an approved permit is obtained. By linking the flagging system to the existing permit application process, a simple yet powerful IC monitoring program has been established. In conclusion, Mr. Gregor stressed the importance of coordination among all stakeholders when tracking ICs so that information is available to the appropriate decision makers.

Mr. Wenzlau presented the industry perspective on ICs. Terradex is participating in the IC Tracking Network through a pilot with EPA Headquarters (HQ), California EPA, and local agencies in California. Terradex utilizes an information messaging service that tracks changes and alerts RPs when land transactions, construction and building permit applications, excavations, or water resource uses potentially conflict with an existing IC. Mr. Wenzlau described in detail the flow of information for the EPA/Terradex pilot, which involves the exchange of information between EPA HQ, California EPA, Terradex, and the local land use agencies to provide increased public protection and promote site redevelopment. The pilot involves selected Brownfields, Superfund, RCRA Corrective Action, Federal Facilities, and Leaking Underground Storage Tank sites in Santa Clara County, California.

Mr. Sowinski presented an update on American Society of Testing and Materials (ASTM International) activities involving IC tracking. ASTM has formed a workgroup to consider options for identifying minimal IC data elements to ensure long-term stewardship at sites. Preliminary discussions have identified the following six general categories of information:

- 1) Site Identification/IC Location;
- 2) IC Instruments;
- 3) IC Objectives;
- 4) IC Restrictions/Obligations
- 5) Location of Other IC Information; and
- 6) IC Contact Information.

Data Sharing and the IC Tracking Data Registry - Michael Bellot, EPA OSRTI

Mr. Bellot introduced data collection and data sharing pilots between EPA and federal, state, local, and industry stakeholders. Mr. Bellot described previous data collection pilots conducted by EPA to determine what information is available, how much it costs to collect, and whether it answers the critical questions regarding IC tracking. Mr. Bellot discussed the importance of the IC Tracking Network for efficient data exchange to ensure the long-term protectiveness of ICs. He stressed that the IC Data Element Registry (DER) is a tool to facilitate the exchange of information among existing tracking systems using common language. The DER was developed as a collaborative effort with stakeholders. EPA distributed an Information Collection Request (ICR) to 300 organizations within various levels of government. EPA also organized and facilitated a series of focus groups with each stakeholder group to identify the data categories that are most important to each. To develop a common language for sharing IC information, a data element registry was developed from the resulting 35 data categories. Mr. Bellot asked participants to review the draft IC DER and offer suggestions on how to implement it within their organization.

Mr. Bellot reiterated that the IC Tracking Network is not an EPA system and the IC DER is not a EPA mandated list of required elements to track. Mr. Bellot briefly described EPA pilots with industry, states, locals, and other federal agencies. These pilots involve the transfer of data through nodes, submission of electronic deliverables, and use of web forms. EPA is also partnering with ICMA, ASTM, Environmental Council Of States (ECOS), and Association of State Territorial Solid Waste Management Officials (ASTSWMO) in the effort to facilitate the exchange of information within the IC Tracking Network.

GIS as a Tool for IC Tracking - Dr. Larry Zaragoza, EPA OSRTI

Dr. Zaragoza highlighted the use of GIS in tracking ICs. He began by reiterating that, as discussed during the workshop, partnerships are critical to the success of the IC Tracking Network. Dr. Zaragoza presented an overview of EPA's Institutional Controls Tracking System (ICTS), including the GIS component. ICTS is a web-based system with a mapping component that tracks the life-cycle of ICs and allows for data sharing with stakeholders. Dr. Zaragoza showed how GIS can be useful for allowing user-friendly presentation of information and providing maps of ICs and other items of interest. He also offered suggestions for further implementation of GIS functionality within the application. Dr. Zaragoza discussed the software and data requirements for IC tracking systems. Dr. Zaragoza concluded with a discussion of data sharing capabilities that include the interaction of web forms, file upload and transfer, and data exchange through nodes. These capabilities are being evaluated through ongoing demonstration pilots.

Open Discussion on IC Tracking - Michael Bellot, EPA OSRTI

One participant asked about the differences between the data in EPA's system and the IC Tracking Network. Mr. Bellot responded that the data should only be entered one time by the individual most familiar with the data. Appropriate information could then be shared with other stakeholders through the network. Another participant suggested that the amount of effort required to obtain data about ICs was significant. Mr. Bellot agreed that data population is an

extensive activity but that EPA may have different data collection strategies and requirements for historical sites than for present and future sites. Once a business process is established, collection of data for future sites should be easier. Another participant added that the source of the information is important to ensure that the best data are used and discrepancies are resolved. Another participant stated that preparing an estimate of the cost of tracking ICs is important and that the appropriate party should pay for the cost.

Closing Remarks - Michael Bellot, EPA OSRTI

Mr. Bellot thanked all of the participants for attending and encouraged them to stay involved with IC tracking efforts to the extent they could.

Attendee List

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