



The report is produced by an independent technical advisor to interpret and help the community understand technical information about our Superfund Sites.

## Terry Creek - Outfall Ditch Consent Decree



### Site Background

Since 1911, chemical plant wastes have been discharged into Dupree Creek, which flows into Terry Creek in Brunswick, Georgia. From 1948 to 1980, the Hercules pesticide facility discharged pesticide production wastewater. The wastewater contained polychloro camphene pesticide and manufacturing wastes, which was marketed as Toxaphene and under many other names. The chemical plant wastes from the past 107 years are still present in the outfall ditch sediments, Terry and Dupree Creek sediments, and dredge disposal areas. The Terry Creek Site consists of three disposal areas and the Hercules Outfall Ditch.

Toxaphene is a dangerous mixture of over 970 chemicals that was banned in the U.S. in 1990. In the past, toxaphene uses included killing insects on cotton plants and unwanted fish in lakes, and as cattle dip. Humans come into contact with Toxaphene when they are exposed to water, soil, and food contaminated with the chemical. Eating fish caught near the Terry Creek Site is especially dangerous because Toxaphene builds up in the tissues of animals over time. Bigger fish contain more Toxaphene than smaller fish. For this reason, there is a fish consumption advisory for fish caught in Terry and Dupree Creeks. The advisory gives community members guidance on the amount and types of fish that can be safely eaten.

**July 2018**

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Find this update and more information about Glynn County Superfund Sites online at

[www.glynnenvironmental.org](http://www.glynnenvironmental.org)

or contact the Glynn

Environmental Coalition by phone 912-466-0934 or email [gec@glynnenvironmental.org](mailto:gec@glynnenvironmental.org).

This project has been funded wholly or partly by the U.S. Environmental Protection Agency under Assistance Agreement Numbers 198448298, 198453298, 199485001 to The Glynn Environmental Coalition, Inc. The contents of this document do not necessarily reflect the views and policies of the U.S. Environmental Protection agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use. This report was produced by Environmental Stewardship Concepts, LLC (ESC, LLC) for and in cooperation with the Glynn Environmental Coalition.

## Superfund Process: Where are we now?



The EPA and Hercules just filed a Consent Decree proposing to move forward with the site remedies that were proposed in the Interim Record of Decision last June. However, the proposed remedies are inadequate and the Consent Decree does not require Hercules to clean up the whole site thoroughly. The purpose of this report is to inform the Brunswick community about the Terry Creek cleanup process and answer questions about Toxaphene manufacturing wastes contamination.

## What is a Consent Decree?

A Consent Decree is a mutually binding contract between two parties in which the goal is to solve a dispute. In this case, the parties are the EPA and Hercules. The Consent Decree allows consequences, disciplinary action, and/or reprimand to be enforced without conducting a formal court hearing.

A Consent Decree can be useful because it can aid in regaining trust and respect from a community and authoritative officials. It can also be established and negotiated efficiently because enforcement of Consent Decrees do not require legislation, the legal document is viewed by only one court, and the document can be adjusted based on changes in circumstances.



## Proposed Action at the Terry Creek Site

An Interim Record of Decision was released by the EPA in June of 2017. The Interim Record of Decision explained the actions that will be taken to clean up the site. The remedies proposed by the EPA were:

- Re-routing the discharge into a new conveyance channel
- Backfilling the outfall ditch over geo-textile fabric
- Covering the backfill slope with heavy stone
- Seeding and stabilizing the disturbed areas

- Periodic inspections, maintenance, and sediment removal
- Development of a long term monitoring plan

In May of 2018, attorneys from the EPA and the Hercules filed a Consent Decree. The Consent Decree proposes that the remedies in the Interim Record of Decision be put into place. Members of the public can submit comments on the Consent Decree to the EPA until August 21, 2018. After the public comment period ends, a final decision will be made about the Consent Decree.

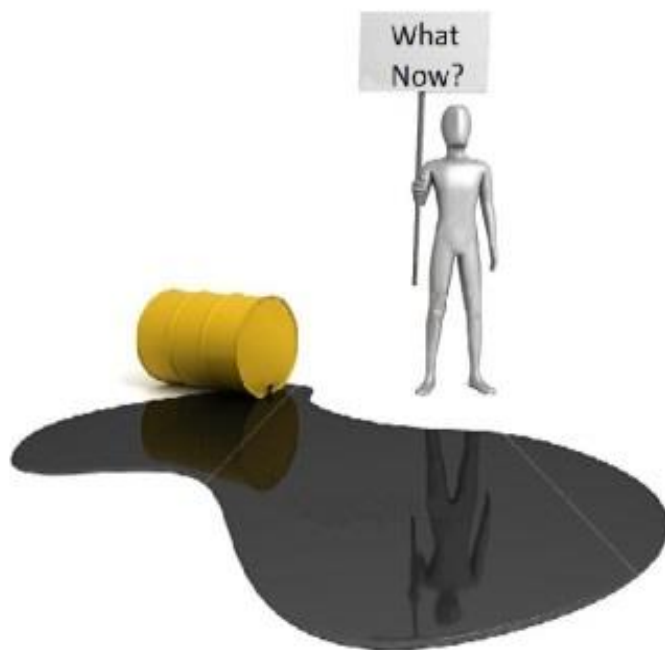
## Issues with the Consent Decree and Interim Record of Decision

- The Interim Record of Decision is not a final Record of Decision. The EPA claims the Record of Decision cannot be released until a study on the toxicity of Toxaphene manufacturing wastes is completed. The study is due out this summer, likely before the comment period on the Consent Decree closes on August 21, 2018. Once the report on Toxaphene manufacturing wastes is out, then the final Record of Decision can be released.
- The EPA used the wrong methods to understand what happens to Toxaphene manufacturing wastes at the Terry Creek Site. Toxaphene applied to farmers' fields is a commercial product, but the chemicals at Terry Creek are toxaphene manufacturing wastes which contain different chemicals from the product applied to crops.
- The EPA indicates that they have no idea what went on inside the plant as a chemical process, despite the legal documents filed that provide the process and chemical reactions.
- The Consent Decree states that Hercules will take responsibility for the site, not for the release of Toxaphene wastes at the site.

Overall, both the Interim Record of Decision and the Consent Decree are inadequate. These documents do not propose an adequate cleanup of the Terry Creek site. Rather, the discharged Toxaphene wastes at the site will be rerouted to a concrete channel. Additionally, the Consent Decree states that Hercules will not be liable for the potential impacts to the environment and human health caused by the Toxaphene manufacturing waste contamination.

### How Toxaphene was Manufactured

The August 28, 1951 Hercules Patent describes how the pesticide and manufacturing wastes were produced. The process was a recipe, not a chemical formula. Chlorine was added to camphene until around 40% to 75% chlorine content was achieved. The resulting multi-chemical product was washed with water at the end of the process which produced the wastewater released through the Outfall Ditch into Dupree Creek, which then flows into Terry Creek.



## Next Steps — Public Comment Period

**Public Comment Period - June 22, 2018 to August 21, 2018.** The public comment period for the Consent Decree will end on August 21, 2018. Anyone can comment on the Consent Decree. Comments are sent to the Department of Justice, and can be submitted through email or postal mail. Comments can be submitted by US Mail or Email using the following contact information:

**By Email:** [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov)

**By US Mail:** Assistant Attorney General, U.S. DOJ-ENRD, P.O. Box 7611, Washington, DC 20044-7611

After the comment period is over, a final decision will be made on the Consent Decree.





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### ***Terry Creek Site—Consent Decree released:***

*Many questions remain at the Hercules Outfall Ditch site where chemicals still exist in high concentrations and make their way to the surrounding creeks. The EPA released Consent Decree is inadequate at addressing the severity of these contaminants, and it is not holding the Hercules company responsible for the damage to the site.*

#### ***Historical Highlights***

**1997: Site proposed for the National Priorities List but never finalized**

**1999: EPA enters into agreement with Hercules to conduct a Remedial Investigation/Feasibility Study**

**2001: Remedial Investigation/Feasibility Study Work Plan submitted but work suspended**

**December 2014: Focused Remedial Investigation/Feasibility Study for the Outfall Ditch**

**June 2015: Proposed Plan for Outfall Ditch**

**June 2017: Interim Record of Decision**

**May 2018: Consent Decree**

**Next steps: Public comment period on the Consent Decree until August 21, 2018**

