

Summary Report
Pittard Road Environmental Review
Potential Environmental Issues and Community Concerns
March 17, 2023

Project Authorization

In June 2021 the Athens-Clarke County Unified Government (ACCGov) Mayor and Commission identified a need and allocated funding to investigate potential environmental concerns in the area of Pittard and Dunlap Roads. The nature and extent of the concern was not defined at that time.

Based on the information gathered as part of this report, the environmental concerns related to Pittard Road are generally associated with privately owned land, while the concerns in the area of Dunlap Road involve the Municipal Solid Waste Landfill owned by ACCGov.

Because of the two different types of ownership (public and private), these areas were divided into two sub-projects to better address area-specific concerns and issues.

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Attachments

- 1 - Elements of Environmental Review
- 2a - An Overview of the Brownfield Program in Georgia
- 2b - Brownfield Frequently Asked Questions
- 3a and b - Area of Interest -Location Map [MAP]
- 4a - DHR Chemical Hazard Program
- 4b - Public Health Assessment Summary
- 4c - Health Consultation -CancerClusterHC031006-Pittard Road
- 4d - DHR-Letter and survey sample
- 4e - Environmental Health Education Needs Assessment
- 5 - Well Testing Sites – Available Historic Data [MAP]
- 6 - ACCGov Water Accts [MAP]
- 7a - DOJ Complaint
- 7b - Consent Decree
- 8 - Cover and Reliance Letters
- 9 - All Phase Environmental Phase I - August 2019
- 10 - Atlanta Testing [March 1988] and Vetex Reports [July 2018]
- 11 - Phase II UST study [February 2019]
- 12 - LAS Site Selection and Evaluation; [January 2020]
- 13 - EPD Complaint ID 97706 - Public Copy

Pittard Road Environmental Concerns

I. Evaluations and Considerations

The majority of the land in the Area of Interest is in private ownership. As such, ACCGov's legal standing to pursue testing and sampling was investigated by ACCGov Attorney Drake and Environmental Attorney Rebecca Davis. As part of this analysis, Environmental Justice issues were also included. A summary of Attorney Davis's findings are:

A. Private Land

There are no state or local laws, rules or regulations that allow ACCGov to enter private property without consent. The EPA does have the authority to enter property to conduct investigations, studies, and cleanups. However, since there is no known historical contamination that exists and no data that suggests there are any current issues on the site, the U.S. Environmental Protection Agency (EPA) has no evidence suggesting that such an investigation is necessary. Thus, it is unlikely that the EPA would investigate this area.

B. Georgia Environmental Protection Division (EPD) Authority

The EPD also has authority to conduct investigations under certain circumstances. However, given the lack of evidence that the criteria warranting an action has been met, it is unlikely EPD would pursue an investigation in this area.

C. Environmental Justice Concerns

A thorough investigation into available reports, documents, citizen feedback, and legal filings was undertaken. Throughout this process, no evidence was found suggesting that there were environmental, health, or toxic substance release concerns that would raise Environmental Justice related issues.

II. Conclusions and Recommendations

This investigation did not find any data or evidence that environmentally harmful or toxic releases have taken place within the Pittard Road Area of Interest. Additionally, ACCGov has no standing to pursue this issue on private land and there is no evidence that raises any Environmental Justice-related issues associated with toxic waste. Based upon these findings, it is recommended that:

- A.** Once presented to the Mayor and Commission, a summary report and associated attachments be made available to the public.
- B.** ACCGov host a community meeting to share results of investigation.

III. Background – Review of Initial Investigation

A. Identifying Concerns

1. A working group was created that included the Sustainability Office, Manager's Office, Attorney's Office, Solid Waste Department, and Geographic Information Office. As the investigation progressed, there was interest in adding an independent, third party expert to the research team. Attorney, Rebecca Davis with Seyfarth Shaw LLC was hired, adding expertise in environmental issues and regulations along with an independent viewpoint to the team.
2. As the District 9 representative, Commissioner Thornton was contacted, providing historic context and insights related to the concerns of Pittard Road area residents. As a result, the Sustainability and Manager's Office reached out to the community members identified by Commissioner Thornton for additional information.
3. Research was conducted to identify internal, public, and agency documents related to properties located within the general area.
4. Based on finding, a set of maps identifying the “best guess” boundary and existing conditions were created for the Pittard Road area.
5. As part of this investigation, additional research was conducted that included:
 - a. Criteria for Environmental Assessments (see *Attachment 1 – Elements of an Environmental Review*)
 - b. The Georgia Brownfield Program (see *Attachments 2a -An Overview of the Brownfield Program in Georgia* and *Attachment 2b - Brownfield Frequently Asked Questions*)
 - c. Any law suits or settlements associated with properties in or near the general target area.
 - d. Any relevant local, state, or federal investigations or legal actions located in or near the general target area. This included the use of Open Records and Freedom of Information requests to respective agencies.
 - e. Any Phase 1 or Phase 2 environmental studies that were conducted in or near the general target area.

B. Identifying Project Boundaries

The boundary of the area of concern remains uncertain. There are private homes and industrial businesses located in the Pittard Road area, including:

1. CSX Corporation – rail line right of way

2. Invista – 278 acres located at 400 Pittard Road consisting of forest and agricultural land; the company produces nylon polymers and products (the 278 acres is undeveloped and a mixture of forest and field; a portion of the site appears to be managed for hay production)
3. Nakanishi Manufacturing – 60 acres that includes forest and buildings located at 1225 Voyles Road
4. Koch RP Holdings II LLC – a 42 acres located adjacent to 110 Voyles Road
5. RWDC Industries – operates a manufacturing facility on 132 acres owned by the Industrial Development Authority. The property includes DuPont Lake and a building located at 110 Voyles Road. The manufacturer focuses on environmentally responsible products and biodegradable plastics.
6. Industrial Development Authority – the IDA owns the 132 acre site located at 110 Voyles Road and holds title for RWDC Industries as part of an economic development agreement.
7. Based on land ownership research, an “Area of Interest” was established (*see Attachments 3a and 3b – Area of Interest maps*)

Additional Relevant Ownership Information – 110 Voyles Road

In circa 1970, a DuPont subsidiary, Arteva Specialties, built a textile manufacturing facility at 110 Voyles Road. This plant was in production until it was sold, in approximately 2003. The subsidiary was one of 42 properties worldwide sold by DuPont. Thereafter, Arteva Specialties merged with Koch Industries of Wichita, Kansas and began operating under the name of Invista. The plant made “non-woven” products using nylon fibers and the flooring division of the plant blended yarn for the commercial carpet industry. The property was sold to RWDC Athens Real Estate Holdings September 30, 2019, to RWDC Industries LLC on December 19, 2019, and to the Industrial Development Authority on December 20, 2019.

IV. Pittard Road Investigation and Findings

A. Preliminary Resident Contact

1. Based on information provided by Commissioner Thornton, two area residents were interviewed. They indicated that the general feeling among area residents is that the area they live in is the “forgotten” part of Athens and has, historically,

been treated poorly by ACCGov staff and elected officials. They shared that there is little trust in the government by area residents.

2. One of the community members interviewed lives in the area under consideration expressed concerns related to pollutants associated with rail operations, illegal dumping, and dogs off leash.
3. Another resident interviewed shared the experiences of her family during the time she was growing up in a small residential area off of Pittard Road. This area is surrounded on three sides by property owned by Invista. She indicated that, in 2005-2006 the family expressed concern with the cancer rates experienced by her family and neighbors. She also shared what she was told by her mother, along with her own memories from sometime during the late 1990s/early 2000s. She specifically shared:
 - a. An incident when she was driving along Pittard Road and witnessed one or two tanker type trucks that appeared to have what she thought was an Invista company logo releasing some sort of liquid or chemical into a field located near her home. She proceeded to her home to get her Mother and when she returned, the trucks were gone. (*See section IV.D.2.b (2)(a) – page 11 - for possible explanation*)
 - b. That her Mother was working with a local attorney in the early 2000s and was told by the attorney that, based on communications with the either the U.S. Environmental Protection Agency or the Georgia Environmental Protection Division, residents were advised not to eat anything grown from the soil of their property. On several occasions, staff requested both copies of any letters, reports, etc. related to the topic from the residents, and the local attorney's contact information in order to follow up on this information. Since the staff has not received any information, no additional follow up has been possible at this time.

B. Health Investigations – Area of Interest

1. Both residents interviewed reported that a “Cancer Study” had been conducted by a government agency sometime around the mid-2000s. Staff research located a U.S Department of Health and Human Services, Public Health Services, Agency for Toxic Substances and Disease Registry *Pittard Road Cancer Cluster Investigation* dated March 10, 2006.

See *Attachments*

4a. DHR Chemical Hazard Program

4b. Public Health Assessment Summary

4c. Health Consultation – Pittard Road Cancer Cluster Investigation

4d. DHR Letter and Survey Sample

4e. Environmental Health Education and Needs Assessment

A copy of this study was obtained and shared with the two residents with whom staff met.

2. The Department of Public Health study investigated potential exposure to unspecified contaminants and “cancer cluster” concerns. The study concluded that there was “No Apparent Public Health Hazard.” This conclusion was based on
 - a. No potential releases of regulated substances in the Pittard Road to air, water, and soil within approximately one mile of the homes in the residential area located within the Area of Interest. This was determined by:
 - (1) A sampling of nine wells by the Georgia Environmental Protection Division, which evaluated 130 parameters per sample (see *Attachment 5 – Well Testing Sites; Available Historic Data*). *Note: the map identified the location of the wells based upon best available historic data provided by EPD.*
 - (2) A sampling of indoor air quality for Radon
 - (3) A well integrity evaluation and well maintenance assistance was provided in partnership with the University of Georgia,
 - (4) An investigation of nine confirmed cases of cancer within the study area, finding that 56% of cases were breast cancer and that several of the cases were diagnosed in related women
 - b. Concluded that no statistically significant incident rates of cancer were found.
 - c. Soil tests were not conducted as part of this study.
3. Based on a GIS review of active Public Utilities Department water meters, it appears residents in the Pittard Road area currently have access to or are on municipal water (See *Attachment 6 – ACCGov Water Accounts*). To determine if there are any wells still in use in the area, individual residents will need to be contacted.

C. Legal Actions - Area of Interest

1. Staff searched for any lawsuits involving DuPont or Invista that might be relevant. This investigation located a Department of Justice Complaint as well as a Consent Decree involving DuPont, Invista and the U.S. Environmental Protection Agency. The plant in Athens was included in the facilities covered by the complaint, but did not appear in the final Consent Decree. (*See Attachments 7a –DOJ Complaint and 7b – Consent Decree*)
2. After reviewing the available documents (Attachments 8a and 8b), ACCGov staff and Environmental Attorney reached the following conclusions:
 - a. The DuPont tract was purchased by Invista as part of a larger sale circa 2004.
 - b. Invista self-reported hazard waste violations in multiple sites across the US in approximately 2005.
 - c. Invista sued DuPont (for lack of disclosure).
 - d. The EPA and several states became involved – Georgia was not one of these states.
 - e. The Athens site was identified in the Complaint for various registration violations (i.e., certain required paperwork and filings).
 - f. A Consent Decree was issued and agreed to by parties involved; the Athens site was not included or involved in any issues contained within the Consent Decree and there is no indication that there were any pollution-related violations at the Athens plant.

D. Environmental Site Assessments - Area of Interest

Research was conducted for any documentation indicating there was an environmental hazard in the Pittard Road Area of Interest. The only tract within the Area of Interest that is in public ownership is 110 Voyles Road, currently owned by the Development Authority as part of an economic package provided to RWDC Industries. Staff reached out to the Development Authority, who voluntarily provided the following.

1. November 2022 Development Authority cover letter and an All Phase Environmental LLC Reliance letter attesting to the findings of Environmental Site Assessments (*See Attachment 8 – Cover and Reliance Letters.*)

2. August 2019 Phase I Environmental Site Assessment

- a. All Phase Environmental Phase I Environmental Site Assessment, *See Attachment 9 – All Phase Environmental Phase I Report*

This study was conducted by All Phase Environmental LLC for RWDC Industries. The purpose of the Site Assessment was to “identify, to the extent feasible, the recognized environmental conditions (RECs) of the property according to ASTM publication E 1527-13. This assessment consists of a records review, a site reconnaissance, a review of tax data, two previous Phase I ESA Reports, and a previous Phase 2 Report [February 2019] with monitoring well sampling near the old UST [Underground Storage Tank] basin.”

The study included a search of the Environmental Protection Agencies Environmental Data Base. This data base provides information about Recognized Environmental Conditions (RECs) related to state and federal regulations that require reporting of specific hazardous chemicals and compounds that could potentially pose environmental problems.

- (1) The data requested by All Phase included sites within a 1-mile radius of 110 Voyles Road.
- (2) Invista was listed on eight of the RECs reported in the data base.
- (3) There are no violations reported in the data base and the site “appears to be in compliance with local, state, and federal regulations.”
- (4) The investigating consultant (All Phase Environmental LLC) concludes “we do not believe that these RECs will cause detrimental problems for the subject site.”
- (5) This report also stated:
“Hundreds of pages in the previous Phase II reports were devoted to reporting, testing, and lab analysis of wastewater collected, stored, and applied on the spray fields. We do not consider this water as being a REC for the subject site. The two Phase I reports we reviewed reached the same conclusion about the water but included volumes of descriptions and data that can be viewed in their reports. All Phase Environmental has included excerpts from these past reports in the appendix of this report.”

- b. Land Application Systems and Underground Storage Tanks at 110 Voyles Road (See *Attachment 10 – Atlanta Testing and Vertex Phase I* reports - as excerpts from the All Phase report)

Based on available information, the “spray fields” or Land Application System was used by both DuPont and Invista to treat water coming from the scrubber system at the plant. According to information provided, both companies used the site for “beaming” (winding) yarn for distribution to textile manufactures. Fibers released into the air as part of this process were pulled into an air filtration system where water was used to remove fibers from the air in a closed loop. At a certain point in the cycle, some water (referred to as “finish water”) was removed and subsequently sprayed on the land as part of the treatment process. Releases associated with both air quality and Land Applications were in accordance with permits issued by the Georgia Environmental Protection Division.

(1) Atlanta Testing and Engineering Phase I Environmental Assessment

In 1988, the Atlanta Testing consultant was contracted by DuPont to conduct a Groundwater Study to determine if there was an impact resulting from spray fields, fuel tanks, and inadvertent spills on the 132 acre site. The excerpt of the Atlanta Engineering Consultant report that was included in the All Phase Engineering Phase I document reported:

(a) Monitoring wells associated with the spray fields (Land Application System) had been in use from approximately 1979 – 1987. Dr. Wade Nutter of Earth Systems Associates had been responsible for testing and management.

- Data was collected from both shallow surface and ground water.
- Testing was conducted on potable water supplied by the City of Athens as a reference and was compared to groundwater samples.

(b) The consultant concluded that:

- Elevated levels of certain parameters associated with fertilization and liming of the spray fields were measured in the shallow water table aquifer. All concentrations were generally below the [EPA] limits established for drinking water.

- Based on the parameters analyzed, off-site mitigation of contaminated groundwater from the spray fields was not occurring.
- Elevated concentrations of organic vapors were detected near the fuel tank area in soil samples that were collected during drilling of Wells FT-1, FT-2, and FT-3. Concentrations ranges from 0.10 parts per million (ppm) to 613 ppm. The average concentrations for Wells FT-1, FT-2. and FT-3 were approximately 3 ppm, 1.0 ppm, and 84 ppm, respectively.
- The monitor wells installed near the fuel tank area and were sampled for benzene, toluene, ethyl benzene, and xylene (BTEX). No BTEX was detected in wells FT-2 and FT-3. Two samples taken from well FT-1 indicated a xylene concentration of 23 parts per billion (ppb) and 34 ppb. The data indicates that xylene appears to be confined to within the tank pit and has not migrated into the deeper aquifer(s).

(2) Vertex Companies Phase I Environmental Assessment

Also included in the All Phase Environmental LLC report was an excerpt from Vertex Companies. In 2018, Vertex Companies was hired to perform a Phase I Environmental Assessment and the “purpose of this assessment was to identify Recognized Environmental Conditions (RECs), Controlled RECs (CRECs), Historical RECs (HRECs}, and de minimis conditions in connection with the site.” Vertex reported that Land Application System monitoring expanded from 1987 – 1994, when the “finish” water was permitted for discharge “directly into the municipal stormwater system.” In this report, there was:

(a) An indication that the “finish water was sprayed onto five fields on the site and **an adjacent property to north (formerly associated with the site)*** [bold added for emphasis]. The spraying process was referred to as a Land Application System (LAS), and was permitted by the Georgia Environmental Protection Division (GEPD) via Permit# GA01-405. Due to the proximity of residential water wells in the vicinity of the site, and the eventual discharge of the on-site lake to the Oconee River, groundwater quality was monitored within the spray fields for drinking water parameters.”

**the “adjacent property to the north” may have been the field where the resident reported seeing tanker type trucks dumping what appeared to be some kind of liquid into a field adjacent to a residential area.*

- (b) "During the sampling events, groundwater was encountered at depths ranging from 2 feet below ground surface (bgs) to 40 feet bgs. As part of the NPDES permit (GAR0S0000) filed for the site in June 2012 for stormwater discharges associated with industrial activity, annual monitoring of the two on-site stormwater outfalls was required."
- (c) "No associated concerns were identified by the GEPD in the most recent report (2017). It should also be noted that the 2012 NPDES permit expired in 2017, and due to discontinued site operations, was not renewed."
- (d) "Various administrative violations were identified on the ICIS [Integrated Compliance Information System] database pertaining to the facilities AIRS [Aerometric Information Retrieval Subsystem – now called the Air Quality Subsystem] and NPDES [National Pollutant Discharge Elimination System] permits; however, no formal action or violation descriptions were provided. The facility was not identified on any large quantity petroleum storage, spills, or release databases; no information has been identified indicating a material threat of subsurface contamination; and the site building is currently vacant. As such, these database listings, as well as former LAS operations, are not considered to represent a REC [Recognized Environmental Concern] in connection with the site."

(3) All Phase Environmental Phase II

Based on the findings from the 2018 Vertex report, a Phase II Environmental Assessment was conducted focusing on the Underground Storage Tanks (USTs).

- (a) February 2019 Limited Phase II Subsurface Investigation Report
This study was conducted by All Phase Environmental LLC for Alan Gray of the Rooker Company. The Rooker Company appears to be a real estate development and construction management company in Atlanta, Ga.

The purpose of the investigation was to "test for petroleum hydrocarbons in areas near the former heating oil underground storage tanks (USTs). These non-regulated UTS systems were removed prior to the 1988 UST regulations. Heating oil USTs would not require any sampling by today's standards, however, any contamination from

former USTs would be regulated.” See *Attachment 11 – Phase II UST Study*.

- Testing was done in two of the three on-site monitoring wells; the third well was dry. Samples were analyzed for BTEX (benzene, toluene, ethylbenzene and xylene) and PAHs (Polycyclic Aromatic Hydrocarbons).
- Samples were taken in a location that captured surface runoff from the site. Test were conducted on:
 - BTEX, PAHs,
 - TPH-DRO and TPH-GRO (hexane, benzene, toluene, xylenes, naphthalene, and fluorene, other constituents of gasoline, jet fuels, mineral oils, and of other petroleum products).
- Results on all samples found contamination levels below laboratory reporting limits in soil, surface waters, and groundwater.

E. Freedom of Information and Open Records Request Related to Area of Interest

As part of due diligence efforts to find environmental hazards within the Area of Interest, a Freedom of Information request was submitted to the U.S. Environmental Protection Agency and an Open Records request was submitted to the Georgia Environmental Protection Division asking for any documentation related to environmental contamination in the target area. A Freedom of Information Request was also submitted to the Department of Justice to determine if they were involved in an enforcement action in the Area of Interest. Information as received and evaluated by environmental attorney Rebecca Davis is as follows:

1. EPD Responses

- a. The Watershed Protection Branch had responsive records for the request, and supplied a Site Selection and Evaluation Report from 2020 for RWDC’s Proposed Land Application System (See *Attachment 12, LAS Site Selection Report; Nutter 1.2020*). The investigation was conducted by Nutter and Associates for RWDC Industries.
 - (1) This study evaluates “the feasibility for a Land Application System (LAS) that will provide treatment of “recovery water from a biopolymer production facility [RWDC Industries]”.

- (2) The report indicates that the majority of the flow produced would be reused within the plant following treatment by a “dissolved air flotation and polishing within a constructed wetland recycling system”. The study further states “There will be no domestic waste or hazardous constituents included in these streams [i.e. water used for land application], and solids may be utilized as a soil amendment.”
- b. The GEPD Open Record Act Coordinator provided a closed complaint regarding a prior practice of dumping unprocessed/uncleaned water into drainage ditches (*see Attachment 13 – Complaint ID 97706 – Public Copy*). GEPD followed up on the complaint and did not find any relevant issues of concern. The Environmental Attorney for ACCGov sent a follow up to the local EPD office but no additional information has become available.
 - c. The GEPD Land Protection Branch, which also regulates underground storage tanks, did not provide any additional documents, and no relevant documents were located under the Land Protection Branch on theG EPD website.
 - d. EPD’s Air Protection Branch has acknowledged receipt of the request, but no additional information has been provided.
- 2 Environmental Protection Agency and Department of Justice
These agencies have acknowledged receiving the request. No further information has been provided, suggesting there are no additional records.