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To: "Richards, JC" <JC.Richards@jer.com>
Date: 12/12/2006 10:16 AM
Subject: RE: Agenda for DRO meeting

CC: <Johnson.Kathleen@epa.gov>, <attys@wellingtonlaw.com>, <Trombadore.Clair...

Thanks for your note. I believe that a number of your questions will be answered when Michele walks us conceptually through the model Bona Fide Prospective Purchaser Agreement. This model is brand new, just released by EPA HQ and should provide a very useful model for what we are trying to accomplish here. In the short period of time since our last meeting, it was not possible for us to produce a site-specific version of the BFPP agreement. However, by sharing the model, everyone can see the general direction of this kind of AOC. Our time next week can best be spent by discussing the conceptual framework (who is a party to the various documents etc.) and a report out on the various action items. Following the meeting, our attorneys can work out a schedule for a series of meetings to hone the model into a site-specific agreement. EPA will take the lead for producing the document.

As the AOC negotiations are going forward, we must also continue to make progress on the ROD and the CEQA documentation. All three are critical path documents.

As I recall, at the last meeting a request was made for DTSC to review the maps and see if there are any sections on which the protocol would not be required. This may be somewhat of an iterative process. As the development plan becomes more specific, the regulators will be in a better position to overlay specific requirements on specific areas. Lets discuss the timeline for this process as well.

See you on Wednesday.

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12/11/2006 03:26 PM

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<Richard.Harkins@jer.com>
Subject
RE: Agenda for DRO meeting

Kathleen:

Thank you for sending along the draft agenda for Wednesday's meeting. We have several suggestions/revisions for you and the group to consider.

At our previous meeting, we had agreed in principle to crafting a form of agreement with EPA that did not increase any party's liability beyond compliance with the existing CRUP and implementation of the residential clearance Protocol if and to the extent that residential development is proposed (as we are proposing for certain portions of the site).

We had understood that our next meeting would be to discuss the substantive content of such an agreement, and, per my earlier email, had hoped to receive a draft of such an agreement in advance of the meeting

in order to move the process forward. We understand that we will not be receiving such a draft from you; therefore we have requested that our attorneys mark up the model BFPP agreement in order to review this with you at the December 13 meeting. In general, we have directed our attorneys to create this draft with a priority placed on achieving certainty about schedule, tasks, and approval processes. We anticipate being able to review this draft with you during discussion of the agenda item relating to the BFPP.

Second, we would also like to clarify with the Army, DTSC, and EPA the role of each entity with respect to the AOC approach, the CRUP modification, and the ROD under the BFPP agreement approach. This discussion would encompass such matters as: (i) which agencies expect to be signatories; (ii) what the oversight roles of each agency would be and if any agency expects oversight cost reimbursement (this of course would place an additional burden on overall project cost); (iii) which agencies have a role (and what that role would be) in relation to Army approvals of the ROD and the CRUP modification.

Third, we understand that there continues to be some potential that implementation of the Protocol may ultimately not be necessary, and we anticipate that if all parties agreed, this flexibility can be included in the AOC.

Finally, there is no final land plan for the property yet; thus, we do not think that it would be a prudent use of everyone's time to review the conceptual plan as part of our meeting agenda. (I think that Kristie Reimer has shared the most recent "planning" iteration with you, however.)

Thank you for the opportunity to provide feedback on the draft agenda. We look forward to meeting with you on Wednesday and to making substantive progress in moving the process further along.

JCR

-----Original Message-----

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Subject: Agenda for DRO meeting

Attached please find the agenda for the meeting on Wednesday. Kristie, thank you for setting up the conference call number for those calling in:

Toll Free Access Number: 1-800-406-9170

Conference Code: 3079610

(See attached file: DRO agenda.doc)

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