

From: <Johnson.Kathleen@epamail.epa.gov>
To: <Chesnutt.John@epamail.epa.gov>, <Trombadore.Claire@epamail.epa.gov>, <S...>
Date: 11/21/2006 9:01 AM
Subject: Fw: DRO

Kathleen H. Johnson
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----- Forwarded by Kathleen Johnson/R9/USEPA/US on 11/21/2006 08:50 AM

Keith
 Takata/R9/USEPA/
 US To

11/17/2006 12:26 PM Kathleen Johnson, John Chesnutt,
 Claire Trombadore/R9/USEPA/US@EPA
 cc

Subject
 Fw: DRO

I haven't read this yet, but here it is. Let's discuss next week before I respond.

From Keith Takata
 Email: takata.keith@epa.gov
 Phone: 415-947-8709
 Fax: 415-947-3528
 ----- Forwarded by Keith Takata/R9/USEPA/US on 11/17/2006 12:24 PM -----

Ray Clark
 <rayclark@clarkg
 rouplic.com> To
 Keith Takata/R9/USEPA/US@EPA

11/17/2006 10:32
AM

cc

Subject

Re: DRO

Please respond
to
Ray Clark
<rayclark@clarkg
rouplic.com>

Keith,

To help prepare for the potential meeting, it would be helpful if we could all get on the same page with respect to the vocabulary that we are using for this site.

From the developer's perspective, we are anticipating implementing the MEC clearance protocol for planned residential sub-areas. The protocol was negotiated with DTSC, and we understand is technically accepted by EPA. It includes a new scan, and then removal of MEC-impacted soils, and then another scan to confirm that enough was removed, and if more MEC is discovered then the process has to be repeated until we have a "clean" scan of all residential areas of the site. (There is no "sifting" process - this was infeasible for various reasons.)

This protocol would be implemented as the first phase of the mass grading program - a program that will not begin until the whole of the development project is reviewed and approved under CEQA. Our team understood and agreed that this protocol would be endorsed by DTSC and commented on by EPA, before the Army amended the CRUP and authorized residential uses on cleared areas. The CRUP amendment would follow completion of the work, but DTSC/EPA acceptance of the protocol is needed now for a CEQA and public review process that has long been scheduled to start next week - a process now in limbo based on the current confusion.

We also understood that eventually the Army would complete a ROD, and that this would occur in tandem with de-listing this area or the whole of the base from the NPL. The ROD process was not required by the FOSET or CRUP to occur in tandem with DTSC's acceptance (and EPA's comment role) on the residential clearance protocol. We continue to believe this approach will satisfy everyone's needs, and no deviation from this approach (including an Army ROD) is required nor does it seem appropriate.

From the Army, however, we understand that a compromise position may be available that would work for everyone: the Army is willing to do a ROD that

approves the protocol now as the required activity that must be completed before the Army modifies the CRUP. We can potentially accept this compromise approach, and would like to work with the City and other interested parties to encourage everyone to accept it.

Any process that requires the protocol to be implemented now, or before the ROD is issued, would postpone the final remedial requirements to after implementation of the protocol and jeopardizes the project. This would be unacceptable for the financing of the project and the developer would find unacceptable. Both the procedural pre-requisites to undertaking this activity under state law, including most importantly CEQA's prohibition on piecemealing projects, and the financial costs of implementing this protocol with no assurance that it will - finally - be the accepted "final" remedial activities required by EPA or DTSC for the residential reuse of this site, make this "protocol-first, then ROD" approach unacceptable.

Because there have been so many terms used - "scan", "lift and sift", "protocol", "remediation grading", "scan as part of feasibility study", etc.

- we are no longer clear on what EPA is asking for. We are hopeful that either the original approach, or the approach suggested by the Army of using a ROD to require protocol implementation prior to CRUP amendment, will be acceptable to EPA.

Finally, we are anxious to assure that this process debate does not interfere with the progress made by all parties: My understanding from talking to numerous parties is that the protocol is technically sound and our team has been assured as much by DTSC and has been endorsed by EPA as well, there is a willing developer who upon completion of the required CEQA process for the whole of the redevelopment project (including protocol implementation for residential sub-areas) will pay for the implementation of the protocol to assure that residential redevelopment is a safe and appropriate use. Surely there is a process solution that will avoid another train wreck for Del Rey Oaks.

Keith, what hangs in the balance here is much needed affordable housing and the redevelopment of Ord. I think your leadership in this meeting is essential and as I said before, I would like to focus on outcomes, rather than process. The developer is dedicated to ensuring human health and safety and that's what we ought to be focused on. I think you can help us get there. I know the Army was very receptive to finding a win/win solution and even putting some more resources into making it happen. You know that I have always worked in this manner and I know you have as well. I am looking forward to working with you to help the folks in Del Rey Oaks.

Regards,

Ray

<Takata.Keith@epamail.epa.gov> wrote:

Ray, Kathleen will organize a meeting at her level which will include DTSC, the Army, DRO, and the developer in the next month. I think this meeting will go a long way in clearing up any misconceptions and who said what confusion. We should use that meeting to identify what we agree on and what needs to be elevated to a higher level. If we have to meet, Dec 18 works for me but it may be too close to the holidays for some people.

Keith

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

From: Ray Clark [rayclark@clarkgroupllc.com]
Sent: 11/14/2006 04:26 PM
To: Keith Takata
Subject: DRO

Keith,

Thanks so much for taking the time to talk with me today. I think we are on the right track to making the DRO property work. Kathleen has been helpful as has Rick Newsome at the Army. The important point is that we meld all the documentation in a parallel process as Kathleen has suggested and we get a ROD as soon as possible and then move toward clean up. The developer is willing to do the work necessary and is not complaining about getting it right. And as you and Kathleen said, we ought to be able to get this done quickly. However, I was told by Army today that someone at your office is talking about scanning, which our people take to mean scanning over the earth, when you find metal, you dig it up and clean up the area. I hope I or Rick misunderstood that.

I do think this will take your leadership Keith. I believe that Rick Newsome is willing to invest some leadership and effort into it as well. I suggest that we pick a date (Dec 18th as an arbitrary start) and sit around a table focused on principles and outcomes, not process.

Thanks for all your help and advice.

Ray