

Pre-RD Sampling – Key Issues: Comprehensive Package Proposal by the Pre-RD Group 9-5-17

Issue	Pre-RD Group Position (as reflected in document revisions 8-23/25 and 8-28-17 Presentation)	EPA Position (as of 8-31-17 Call)	Comprehensive Package Proposal
TECHNICAL			
COC's	Focused COC's only	Full ROD lists (Table 17) of COC's by media / biota – to be done by Pre-RD Group or through split samples	Willing to accept EPA's position to include full list of COC's by media/biota per Table 17 of ROD in Pre-RD Group scope as part of comprehensive package; PDI Report to evaluate data for purpose of limiting list of COC's for future monitoring rounds
Surface Sediment Sample Numbers	Keep SMA and baseline integration with 580 samples	EPA wants only randomized baseline sample locations (424 unbiased)	Willing to accept EPA's position on number of unbiased sample locations as part of comprehensive package
Downtown/Upstream Reach	40 sediment samples in combined background (upriver) areas (20 & 20); 25 SMB fish tissue samples	Not discussed on call; prior EPA Region 10 position is separate reaches; 60 sediment samples (30 & 30); 40 SMB fish tissue samples (20 in each segment)	Retain combined DTR/USR (one background dataset) with 40 samples. EPA can use them as 20 & 20 if they want to evaluate DTR and USR separately
Subsurface Sediment Coring	2 feet sample increments	Not discussed on call; prior EPA Region 10 position is 1 foot increments	Limit to 2 feet intervals; 1 foot intervals are unnecessary and will add time and cost
AOC/LEGAL			
Work Takeover	Delete	Needs to stay in AOC; Willing to modify so that subject to dispute resolution with Regional Administrator as final decision maker for this particular item	Agree to leave in AOC subject to dispute resolution, but final decision maker needs to be at EPA HQ (Administrator or Administrator's Designee); work takeover would constitute a termination of the AOC and parties would have no future obligation (including no obligation to fund work taken over by EPA going forward)
Costs	No NRD Trustee/Tribal oversight costs; cap on EPA costs at \$1.5M; no past costs related to development of	Agree on cap at \$2.5M; no direct payment for Tribal oversight costs, but could be included indirectly as assistance grants within the cap limit; did not address the past costs	Agree on \$2M cap (reduction in comparison to EPA proposal takes into account that Pre-RD Group is assuming significant increase in costs due to willingness to accept EPA position on threshold technical issues as described above);

	EPA’s sampling plan (\$270K); need clarification on cooperative/technical assistance grants to Tribes		assistance grants and any past EPA costs are within the cap
Dispute Resolution	Technical disputes submitted to impartial peer review panel selected by CSTAG Chair with recommendations by EPA and Respondents; any party can seek a reconsideration of the peer review panel’s determination by the Administrator’s Designee who will make the final decision	No peer review panel; third party review by CSTAG Chair. Under the last EPA draft of the dispute resolution provision, all disputes were decided by the Director or Associate Director of the Region 10 Office of Environmental Cleanup with disputes on a narrow group of deliverables (Work Plan, QAPP, and Sampling Plan) subject to submission to CSTAG Chair for evaluation prior to final decision by such Director/Associate Director.	All disputes to be resolved by final decision maker at EPA HQ (Administrator or Administrator’s Designee); process for technical disputes will include a review and evaluation by the CSTAG Chair who will submit a report and the Respondents shall have the opportunity to simultaneously provide an evaluation by an independent peer review panel that they establish, all within same, set timeframe; tolling of penalties and deliverables schedule during dispute resolution process
Work Plan	Needs to be agreed and attached to AOC/Statement of Work prior to signing	Deliverable post-signing; will agree to a 30-day review for completion	Agreement in principle reached on outstanding issues first week of September; Work Plan finalized within 25 days and needs to be agreed and attached to AOC/Statement of Work prior to signing
Termination of Order	Except for certain sections that survive termination, Work requirements terminate when respondents submit PDI Report	EPA must agree that Work has been completed; willing to subject that determination to dispute resolution	AOC terminates on completion of the Work; disagreement on whether Work has been completed is subject to the dispute resolution provisions
Data Usage/Report	Critical that included	Was not addressed on call	Confirm agreement on data evaluation as set forth in the proposed Work Plan including: <ul style="list-style-type: none"> - Refinement of the CSM; - Refinement of sediment recovery curves; - Re-calculation of Site-wide and segment-wide surface sediment SWACs; - Assessment of fish home ranges used in the FWM;

			<ul style="list-style-type: none"> - Assessment of monitored natural recovery potential; - Evaluation of current (2017/2018) upstream background concentrations; - Update the active remedial footprint; and - Refine understanding of the FWM and update calculations of baseline fish consumption risks
Scope Increase	Any change to scope must be mutually agreed; no EPA right to unilaterally require additional samples; split-samples limited to QA/QC	Was not addressed on call	Confirm that Pre-RD Group position as reflected in 8-23 AOC mark-up has been accepted