Message

From: Bob Martineau [Bob.Martineau@tn.gov]
Sent: 8/17/2017 2:10:08 PM
To: Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]
Subject: RE: Dept of Energy - Oak Ridge Cleanup efforts - new landfill proposal

Kell

Sorry for the delayed response . Wanted to try to get update on some technical discussions going on with our folks

Here is an update of where things stand.

We had the initial Dispute Resolution Meeting with me, Acting Region 4 RA Anne Heard , and Jay Mullis , lead DOE EM person at Oak Ridge. We did not reach resolution but focused issue down to three things our staff folks were to refine and reach agreement and then the three of us are scheduled to meet next week to see if they can be resolved if staff did not during their discussions. The three issues are as follows:
(1) what additional site characterization is necessary to show this is a preferred alternative site before moving to Proposed Plan;
(2) Ability of state (and EPA) to do independent verification of modeling DOE has to run to show landfill design and location and proposed and waste in landfill will be safe; and
(3) what ARAR's would govern the new landfill design etc.

We reached agreement (2), the modeling issue.

On (1), at the dispute meeting in late July , we all agreed that EPA and State were to give DOE what additional minimum site characterization analysis we felt was necessary to proceed to Proposed Plan for public comment. DOE would determine if they could live with that and if not the three of us will take that up in our next meeting . We submitted that information about ten days ago to DOE and have no response yet.

On the ARAR's , in the last decision document DOE submitted to us for approval they had a list of ARAR's and there were only a couple of specific state rules in list that EPA and State needed to be included that were not but it we were close to consensus. In other words , we felt as if we had about 90 percent agreement. This week, rather than working to resolve the last 10 percent, DOE took a dramatic step backwards and has backed away from the list they submitted to us for approval in the last decision document. This has given us great pause. Hard to try to resolve a dispute thru compromise and everyone giving a little and getting a little, if what they had already agreed to is taken off the table and we are back to square one.

Our meeting is next Thursday. I will let you know how that goes.

Thanks for your interest in this and support. Please do not hesitate to contact me if you have any questions.

Two final notes – first , please use "Bob" . Not one for much formality in titles !
Second, your staff of folks in Region 4 working on this issue have been great to work with in trying to resolve this in a collaborative way with DOE. From Anne Heard on down to her technical and legal team, they have put significant effort in to try to move this forward.

Best regards
Bob M

Bob

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TN Department of Environment & Conservation

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From: Kelly, Albert [mailto:kelly.albert@epa.gov]
Sent: Thursday, August 10, 2017 7:16 AM
To: Bob Martineau
Subject: RE: Dept of Energy - Oak Ridge Cleanup efforts - new landfill proposal

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Hello Mr. Martineau, I just wanted to circle back and see how the discussion on the above were progressing and see if I can be of any help. When you have time, could you give me and update please.

Albert Kelly
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From: Bob Martineau [mailto:Bob.Martineau@tn.gov]
Sent: Tuesday, July 25, 2017 9:53 AM
To: Kelly, Albert <kelly.albert@epa.gov>
Cc: Heard, Anne <Heard.Anne@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Barbery, Andrea <Barbery.Andrea@epa.gov>
Subject: Dept of Energy - Oak Ridge Cleanup efforts - new landfill proposal

Kell,

It was a pleasure to meet you and Ken Wagner and many other of the new leadership team at EPA during our ECOS session last Tuesday morning and at the ECOS meeting on Monday. We most appreciate your commitment to building an improved partnership relationship with the state environmental agencies and I look forward to further efforts and discussions on that effort.

Anne and I appreciated the opportunity to give you a heads up from our perspective on the issue related to the ongoing cleanup activities at the DOE Oak Ridge complex in Tennessee. As promised, below and attached is a bit more information on the nature of the dispute. A significant effort to clean up the legacy wastes containing radioactive materials , mercury and other contaminants. We have been working with DOE thru many issues over the years to keep that cleanup effort moving forward as quickly as budgeted money allows. Unlike some states (e.g Washington) , we did not sue DOE and enter a consent decree to set out the cleanup requirements, but rather entered into a Federal Facilities Agreement.

Currently much of the waste being cleaned up is remaining on site in a landfill that was built many years ago. To avoid shipping all the waste out west and incurring those upfront costs, DOE would like to build a second landfill on the site to handle wastes when the current landfill capacity is reached in approximately 2024. While there are those who disagree with keeping the waste on site, EPA and TDEC have both agreed to a second landfill on site, but want to ensure that the landfill is designed in a state of the art safe manner at the best location at the site and that we ensure only those wastes suitable for onsite disposal stay on site. (None of the sites are ideal at the property from what we have ascertained and if this was a commercial landfill, it would not likely be sited in this area). DOE has balked at doing some of the basic things to provide that assurance but wants to proceed with a Proposed Plan for public comment on a second landfill. While EPA and TDEC staff had all but negotiated a path forward and gave several options to DOE to move forward, DOE invoked a formal dispute under our Federal Facilities Agreement. The first level effort to resolve was unsuccessful.

This Thursday , Acting Region 4 Administrator Anne Heard, I and Jay Mullis , the senior DOE person at the site, are meeting to see if we can resolve the issue in accordance with the dispute resolution provisions of the federal facilities agreement. Attached is a statement of the basic dispute being presented to us. If we are unable to resolve on Thursday in unanimous agreement, then Anne Heard has the authority to make a decision ,which if not accepted one of the other parties can appeal to the Administrator.

Please do not hesitate to contact me if you have any questions. Thank you for your interest in this matter.

Best regards
Bob

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