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**From:** rich.gold@hklaw.com [rich.gold@hklaw.com]  
**Sent:** 8/29/2017 5:40:13 PM  
**To:** Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]  
**Subject:** Re: Issues Unresolved

Yes

Rich Gold | Holland & Knight  
Practice Group Leader  
Public Policy & Regulation Group  
800 17th Street, N.W., Suite 1100<x-apple-data-detectors://0/1>  
Washington, D.C.<x-apple-data-detectors://0/1>. 20006  
T 202.457.7143<tel:202.457.7143> | **Personal Phone / Ex. 6**  
Rich.Gold@hklaw.com<mailto:Rich.Gold@hklaw.com> | @HK\_PPR

On Aug 29, 2017, at 1:23 PM, Kelly, Albert <kelly.albert@epa.gov<mailto:kelly.albert@epa.gov>> wrote:

Would you be available for a call at 3 eastern to go over this?

Sent from my iPhone

On Aug 29, 2017, at 8:37 AM, "rich.gold@hklaw.com<mailto:rich.gold@hklaw.com>"  
<rich.gold@hklaw.com<mailto:rich.gold@hklaw.com>> wrote:

Fyi for context

\* Cost - EPA staff told the RA that the total cost of the work efforts is \$4.5M - there was no detailed support of this position - we indicated that the cost, inclusive of EPA oversight estimates is above \$15M

\* Data utilization - there was neither push-back nor affirmative acceptance of data utilization from the study to reset background / refine and rescale the remedy and rescale (this issue is a non-starter for half the PRP group, would have like to hear affirmation of the items laid-out in the presentation)

\* Sediment samples - EPA RA was briefed that our dataset would only provide a statistical power of 60% versus 80% by EPA's - she seemed caught off-guard when we explained that we have had several meetings with her staff and using EPA's own power curve our dataset can to 75% power vs 80% - which is essentially within the margin of error of this work (no EPA staff in the meeting or on the phone refuted this statement, the only sign was the EPA PM sitting down the table shaking his head - he is not bought in to this process)

\* Work takeover clause deletion - EPA is not willing to remove the clause for work takeover - this is a key issue with some of the Pre-RD group members that were part of LWG since EPA took over their work after 15-years and +130M\$ of expenditure - this is an issues since once signed the AOC has the force of Law

\* EPA RA did not outwardly agree to a restriction on scope changes - I think we can get there but would have expected just a simple agreement on this term

\* COC's - we explained the reasons why we wanted to limit COC's to the focused risk / remedy drivers - tried to explain it is not just a cost issues / but also jeopardizes the schedule and opens the ENTIRE data set to rejection and questioning if some obscure / difficult chemicals that are not risk drivers do not have proper analytical recoveries or miss calibration targets. Also, the group expressed concern and frustration that after spending +130M\$ we know the key risk drivers and contaminate distribution

\* Dispute Resolution - RA did not support a peer review panel and wanted to keep the dispute process within the region - LWG participants indicated this was a key issue given the poor experience from agency decisions in the past on key issues as background data / risk / fish consumption rates, etc.

she indicated that she would depend on K Gustafson as the new head of CSTAG to advise but the decision she seemed to indicate would come from the region.

\* More Samples / Sampling by EPA - We ask if the agency had another party or how they would achieve more samples or COC's - the response was vague - there was a short mention of splitting samples - this would be logistically difficult and would extend field execution well beyond our ability to meet a final work product date by June 2019. Again their response was vague

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