

Message

From: Peter Saba [psaba@schn.com]
Sent: 9/16/2017 12:18:44 AM
To: Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]
CC: Howard Schweitzer [hschweitzer@cozen.com]; rich.gold@hkllaw.com
Subject: FW: Portland Harbor - Pre-RD Group Comprehensive Package Proposal on Key Outstanding Issues

Kell,

We appreciate all of your efforts and attention to this matter. I just wanted to make sure you knew how serious and committed the Pre-RD Group is to moving forward on this data sampling proposal and the Portland Harbor clean-up.

As you may have noted, the Schedule included with the additional materials I sent this week (in response to the request for additional information on the data usage/evaluation) provides that "the draft PDI Evaluation Report is targeted for delivery to EPA by June 2019." To achieve that Schedule, we need to start the sampling this Fall. Pending the response from EPA on the comprehensive package proposal, the Pre-RD Group has been moving forward with a RFP for the sampling work so that this work can start as soon as the AOC and Work Plan are finalized. The RFP reflects our agreement to do the full COC list and additional sampling that EPA has requested. The Pre-RD Group worked on finalizing that RFP this week and is planning to issue it on Monday with bids due the first week of October. The group has also had a number of calls this week with respect to next steps following signing of an AOC.

I believe the continuing expenditure of time and resources by the group on moving this forward evidences not only our commitment to the effort and shared goals, but also our trust and belief that we can reach agreement with EPA on an AOC and Work Plan based on the proposal we submitted.

I am prepared to meet in person in Portland, Seattle, or Washington DC any day next week to bring this to a close. I am available on my cell throughout the weekend at Personal Phone / Ex. 6 if you have any follow up questions or if I can otherwise be helpful.

Best regards,
Peter

From: Peter Saba
Sent: Friday, September 15, 2017 4:42 PM
To: 'Opalski, Dan' <Opalski.Dan@epa.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>
Cc: Cora, Lori <Cora.Lori@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Gustavson, Karl <Gustavson.Karl@epa.gov>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; Bilbrey, Sheryl <Bilbrey.Sheryl@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>; Ingemansen, Dean <Ingemansen.Dean@epa.gov>; Loren R. Dunn (LDunn@bdlaw.com) <LDunn@bdlaw.com>; greg.christianson (greg.christianson@morganlewis.com) <greg.christianson@morganlewis.com>; richard.george (richard.george@pgn.com) <richard.george@pgn.com>; Karen TRAEGER (karen.traeger@external.total.com) <karen.traeger@external.total.com>; J.W. Ring (JWRing@ringbenderlaw.com) <JWRing@ringbenderlaw.com>; Christine L. Hein (CHein@ringbenderlaw.com) <CHein@ringbenderlaw.com>
Subject: RE: Portland Harbor - Pre-RD Group Comprehensive Package Proposal on Key Outstanding Issues

Dan,

Thank you for the update. The Pre-RD Group had a call this afternoon, and I can confirm that we are prepared to meet by telephone conference or face-to-face next week at EPA's earliest convenience.

Both because time is short to complete our discussions and execute an AOC so that we can commence sampling this Fall and because of scheduling conflicts for some of our participants later in the week, our strong preference would be to schedule this for early in the week. Given that it is late on Friday afternoon, we would propose Tuesday if the meeting is in person. In any event, we are prepared to make any day next week work and look forward to hearing back on scheduling.

Thank you,
Peter

From: Opalski, Dan [<mailto:Opalski.Dan@epa.gov>]

Sent: Thursday, September 14, 2017 2:59 PM

To: Peter Saba <psaba@sch.n.gov>; Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>

Cc: Cora, Lori <Cora.Lori@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Gustavson, Karl <Gustavson.Karl@epa.gov>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; Bilbrey, Sheryl <Bilbrey.Sheryl@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>; Ingemansen, Dean <Ingemansen.Dean@epa.gov>; Loren R. Dunn (LDunn@bdlaw.com) <LDunn@bdlaw.com>; greg.christianson (greg.christianson@morganlewis.com) <greg.christianson@morganlewis.com>; richard.george (richard.george@pgn.com) <richard.george@pgn.com>; Karen TRAEGER (karen.traeger@external.total.com) <karen.traeger@external.total.com>; J.W. Ring (JWRing@ringbenderlaw.com) <JWRing@ringbenderlaw.com>; Christine L. Hein (CHein@ringbenderlaw.com) <CHein@ringbenderlaw.com>

Subject: RE: Portland Harbor - Pre-RD Group Comprehensive Package Proposal on Key Outstanding Issues

Peter –

Michelle is unexpectedly out-of-pocket this afternoon, so I am following up on her behalf. Thank you for getting back to us as quickly as you did. We appreciate the additional clarity and your willingness to make a call tomorrow work. Unfortunately, we now are having trouble making arrangements to have the right folks participate from our side, so we are looking toward early next week, with the possibility of seeing who might be available for a face-to-face meeting. We will be back in touch as soon as we solidify our thinking on possible next steps.

From: Peter Saba [<mailto:psaba@sch.n.gov>]

Sent: Thursday, September 14, 2017 10:34 AM

To: Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>

Cc: Cora, Lori <Cora.Lori@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Gustavson, Karl <Gustavson.Karl@epa.gov>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; Bilbrey, Sheryl <Bilbrey.Sheryl@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>; Ingemansen, Dean <Ingemansen.Dean@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Loren R. Dunn (LDunn@bdlaw.com) <LDunn@bdlaw.com>; greg.christianson (greg.christianson@morganlewis.com) <greg.christianson@morganlewis.com>; richard.george (richard.george@pgn.com) <richard.george@pgn.com>; Karen TRAEGER (karen.traeger@external.total.com) <karen.traeger@external.total.com>; J.W. Ring (JWRing@ringbenderlaw.com) <JWRing@ringbenderlaw.com>; Christine L. Hein (CHein@ringbenderlaw.com) <CHein@ringbenderlaw.com>

Subject: RE: Portland Harbor - Pre-RD Group Comprehensive Package Proposal on Key Outstanding Issues

Michelle,

Thank you for your email requesting additional detail to clarify that portion of the Pre-RD Group's comprehensive package proposal relating to "data usage/report."

The comprehensive package proposal relating to this item provides as follows: "Confirm agreement on data evaluation as set forth in the proposed Work Plan including" and then lists some of the key evaluation report elements from the

proposed Work Plan. The draft Work Plan for the Pre-RD Sampling, including additional detail on data usage and on the evaluation report, was provided to EPA Region 10 staff on August 25, 2017. For ease of reference, I have attached the relevant excerpt from the draft Work Plan (Section 3.3) and the Tables from the draft Work Plan referenced in Section 3.3 (Tables 5 & 8) that provide this additional detail.

The attached excerpt also includes Section 5 of the draft Work Plan that provides additional information on Schedule and Deliverables. These provisions of the Work Plan are made operative through Section 5 of the Statement of Work relating to Deliverables. Please refer to the draft Statement of Work that also was provided on August 25, 2017.

I trust that the attached information provides additional detail and clarity on this item. We would be pleased to discuss this item and the rest of the comprehensive package proposal and are prepared to do so tomorrow. I would propose 10 AM Pacific, tomorrow, Friday, August 15 for such a call, but we can be flexible on time.

Best regards,
Peter

From: Pirzadeh, Michelle [<mailto:Pirzadeh.Michelle@epa.gov>]

Sent: Wednesday, September 13, 2017 5:09 PM

To: Peter Saba <psaba@schm.com>

Cc: Cora, Lori <Cora.Lori@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Gustavson, Karl <Gustavson.Karl@epa.gov>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; Bilbrey, Sheryl <Bilbrey.Sheryl@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>; Ingemansen, Dean <Ingemansen.Dean@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Loren R. Dunn (LDunn@bdlaw.com) <LDunn@bdlaw.com>; greg.christianson (greg.christianson@morganlewis.com) <greg.christianson@morganlewis.com>; richard.george (richard.george@pgn.com) <richard.george@pgn.com>; Karen TRAEGER (karen.traeger@external.total.com) <karen.traeger@external.total.com>; J.W. Ring (JWRing@ringbenderlaw.com) <JWRing@ringbenderlaw.com>; Christine L. Hein (CHein@ringbenderlaw.com) <CHein@ringbenderlaw.com>

Subject: RE: Portland Harbor - Pre-RD Group Comprehensive Package Proposal on Key Outstanding Issues

Hello Peter,

I'm writing to ask for some additional information on the portion of your proposal labeled as "data usage/report". Since as you noted we did not discuss that on our 8/31/17 call, I'm asking that you please provide additional detail to clarify that portion of your comprehensive package proposal. Once we have received this additional detail in writing we would like to have a telephone call to discuss that and the rest of your comprehensive package proposal. We could have such a call as early as Friday of this week.

Please let me know if you have questions about my request and when you and the other parties would be available for a phone meeting.

Thank you,

Michelle

Michelle L. Pirzadeh
Acting Regional Administrator
U.S. Environmental Protection Agency, Region 10

Office: (206) 553-1234

Personal Phone / Ex. 6

Fax: (206) 553-1809

From: Peter Saba [<mailto:psaba@schm.com>]

Sent: Tuesday, September 05, 2017 2:29 PM

To: Pirzadeh, Michelle <Pirzadeh.Michelle@epa.gov>

Cc: Cora, Lori <Cora.Lori@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Gustavson, Karl <Gustavson.Karl@epa.gov>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; Bilbrey, Sheryl <Bilbrey.Sheryl@epa.gov>; Zhen, Davis <Zhen.Davis@epa.gov>; Ingemansen, Dean <Ingemansen.Dean@epa.gov>; Opalski, Dan <Opalski.Dan@epa.gov>; Loren R. Dunn (LDunn@bdlaw.com) <LDunn@bdlaw.com>; greg.christianson (greg.christianson@morganlewis.com) <greg.christianson@morganlewis.com>; richard.george (richard.george@pgn.com) <richard.george@pgn.com>; Karen TRAEGER (karen.traeger@external.total.com) <karen.traeger@external.total.com>; J.W. Ring (JWRing@ringbenderlaw.com) <JWRing@ringbenderlaw.com>; Christine L. Hein (CHein@ringbenderlaw.com) <CHein@ringbenderlaw.com>

Subject: Portland Harbor - Pre-RD Group Comprehensive Package Proposal on Key Outstanding Issues

FOR SETTLEMENT PURPOSES ONLY – SUBJECT TO Rule 408, FRE

Michelle,

I am writing on behalf of the Pre-RD Group to follow up on my email from Friday afternoon and the discussions last week between EPA and members of the Pre-RD Group regarding the Pre-RD Group's Proposal for Pre-RD Investigation and Baseline Sampling at the Portland Harbor Superfund Site. Those discussions were very constructive and focused on several key issues that remained outstanding. In order to resolve these remaining outstanding issues, the Pre-RD Group is submitting the attached proposal as a collective and comprehensive response. We believe this response provides a package solution that will allow EPA and the Pre-RD Group to move forward on collecting additional Pre-RD data and analysis and achieve progress at the Site in the near term.

It is important to emphasize that we consider this to be a package solution, and the Pre-RD Group's acceptance of EPA's position on the two threshold technical issues (full ROD list of COC's by media/biota and number of unbiased surface sediment samples) is based on EPA's acceptance of the comprehensive package which includes resolution of the remaining other technical issues and compromise proposals on the key AOC/legal issues. If this package is acceptable to EPA, we believe that we will have achieved agreement in principle on all of the main issues on both technical scope and AOC/legal. Assuming that agreement in principle this week, we believe that we can then finalize the documentation (the AOC, Statement of Work, and Work Plan) in the following two to three weeks in order to execute an AOC with an attached Statement of Work and Work Plan in the later part of September.

Simultaneous with finalization of the documentation, the Pre-RD Group is planning to move forward with the contracting process so that we can commence actual field work this Fall and stay on the two-year schedule. We will also be simultaneously with the documentation finalization presenting this scope of work to the full PCI Group and seeking a funding commitment from them.

Please note that the attached proposal is subject to finalization of definitive documentation and the internal approval process of each of the Pre-RD Group companies.

We recognize that time is limited in order to achieve our mutual goal of getting into the water to start the field work this Fall and meet the two-year schedule. We believe that the comprehensive package we are presenting provides a fair and reasonable solution on the remaining issues and that the schedule outlined above will allow us to achieve these mutual goals.

Thank you,
Peter

Peter B. Saba

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