

Message

From: eltonringsak [Ex. 6]
Sent: 4/29/2018 11:40:44 PM
To: Fritz Daily [buttedaily@bresnan.net]; Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]; Mutter, Andrew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7446c126af5d4888a569472e8b53542b-Mutter, And]; doug.benevento@epa.gov
CC: Bill Macgregor [Ex. 6]; COkrusch@mtech.edu; cpdolan@bsb.mt.gov; cshaw@bsb.mt.gov; Daniel Hogan [hogan@mtcompact.org]; David McCumber [david.mccumber@mtstandard.com]; dfoley@bsb.mt.gov; bmcdonough@bresnan.net; banderson@bsb.mt.gov; Don Peoples [dpeoples@bresnan.net]; Doug Coe [DCoe@mtech.edu]; Ed Simonich [Ex. 6]; Elizabeth Erickson [eerickson@wet-llc.com]; Erik Nylund [erik_nylund@tester.senate.gov]; fiskcm@butte.k12.mt.us; Imagine Butte [Ex. 6]; JAMES Madison [Ex. 6]; jfisher@bsb.mt.gov; Jim Kambich [jim.kambich@merdi.org]; Jim Keane [d.keane@bresnan.net]; Jim Robbins [jimrobbins@mt.net]; JMetesh@mtech.edu; John Emeigh [jemeigh@kxlf.com]; John Malia [jmalia@mt.gov]; Joselyn Dodge [Ex. 6] ksullivan@bsb.mt.gov; [Ex. 6] [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=589fe5c32f204d4fab99c0f315600b1f- [Ex. 6]; Mary Jo McDonald [Ex. 6] Mary Kay Craig [Ex. 6] Michelle Shea [Ex. 6] ochenski@mt.net; Pam Haxby-Cote [pam.haxbycote@mt.gov]; Patrick Dudley [Ex. 6] Ray Rogers [rrogers@mtech.edu]; Ray Robins [rayr@seacast.com]; Rick Walsh [Ex. 6]; Shelly Davis [Shelly@MicheleKDavisPLLC.com]; Ron Davis [rondavis@kbowkopr.com]; speechray@in-tch.com; Sophie (Daines) Miller [Sophie_Miller@daines.senate.gov]; tmalloy@bsb.mt.gov; Vince Fischer [vfischer348@bresnan.net]; dpalmer@bsb.mt.gov; Dr. Dan Harrington [danielharrington_phd@comhssl.net]
Subject: Re: Judge Hadden Phone Conversation

Fritz, do we have any idea
Where the county was on this?
With the EPA or ARCO??

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Fritz Daily <buttedaily@bresnan.net>
Date: 4/29/18 11:57 AM (GMT-07:00)
To: "Albert "Kel" Kelly" <kelly.albert@epa.gov>, Andrew Mutter <mutter.andrew@epa.gov>, doug.benevento@epa.gov
Cc: Bill Macgregor <[Ex. 6]>, COkrusch@mtech.edu, cpdolan@bsb.mt.gov, cshaw@bsb.mt.gov, Daniel Hogan <hogan@mtcompact.org>, David McCumber <david.mccumber@mtstandard.com>, dfoley@bsb.mt.gov, bmcdonough@bresnan.net, banderson@bsb.mt.gov, Don Peoples <dpeoples@bresnan.net>, Doug Coe <DCoe@mtech.edu>, Ed Simonich [Ex. 6] Elizabeth Erickson <eerickson@wet-llc.com>, Erik Nylund <erik_nylund@tester.senate.gov>, fiskcm@butte.k12.mt.us, Imagine Butte [Ex. 6], JAMES Madison <[Ex. 6]>, jfisher@bsb.mt.gov, Jim Kambich <jim.kambich@merdi.org>, Jim Keane <d.keane@bresnan.net>, Jim Robbins <jimrobbins@mt.net>, JMetesh@mtech.edu, John Emeigh <jemeigh@kxlf.com>, John Malia <jmalia@mt.gov>, Joselyn Dodge <jocedodge@gmail.com>, ksullivan@bsb.mt.gov, Mark Sweeney <[Ex. 6]>, Mary Jo McDonald [Ex. 6], Mary Kay Craig <[Ex. 6]>, Michelle Shea [Ex. 6], Mick Ringsak <[Ex. 6]>, ochenski@mt.net, Pam Haxby-Cote <pam.haxbycote@mt.gov>, Patrick Dudley [Ex. 6], Ray Rogers <rrogers@mtech.edu>, Ray Robins <rayr@seacast.com>, Rick Walsh [Ex. 6], Shelly Davis

<Shelly@MicheleKDavisPLLC.com>, Ron Davis <rondavis@kbowkoppr.com>, speechray@in-tch.com, "Sophie (Daines) Miller" <Sophie_Miller@daines.senate.gov>, tmalloy@bsb.mt.gov, Vince Fischer <vfischer348@bresnan.net>, dpalmer@bsb.mt.gov, "Dr. Dan Harrington" <danielharrington_phd@comhssl.net>
Subject: Judge Hadden Phone Conversation



Fritz Daily
1901 Roosevelt Ave.
Butte, MT 59701
April 30, 2018

Kel, Doug and Andrew,

I was disappointed to learn that the Consent Decree Talks were not opened to the public as promised by the EPA in the recent phone conversation with Judge Hadden. With Butte's significant contribution to the creation of this great nation we absolutely deserve better!

In a letter to Silver Bow Creek Headwaters Coalition in an attempt to request we withdraw our lawsuit to open the Consent Decree Negotiations, EPA attorney Henry Elsen wrote the following info. **It was a commitment by the EPA to make the process transparent.**

In summary, EPA has heard the concerns that there is no meaningful public involvement if the only chance for the public to influence the consent decree process is after negotiations are completed. The activities described above are intended to address this concern and will occur well before a consent decree is completed and lodged with the federal district court, and noticed by the USDOJ for public comment. I attached the complete letter and a letter from our attorney Jim Goetz to Henry Elsen.

In the past, I have always felt the only recourse we as citizens have to truly affect the process is a lawsuit or God forbid a catastrophe. Recently however, I felt a slight bit of optimism on your visit to Butte. I now hope and pray that optimism was not for not! After thinking about the proposal by Arco/BP, the EPA, the State and Local Government to not completely open the Consent Decree talks these are my thoughts.

- First of all, we don't know any more today than we did yesterday or for that matter sixteen years ago when the "secret closed door process" was initiated.
- Folks like me who care and want to offer constructive input are not the enemy!
- **Until we actually know what is eventually contained in the Agreement in Principle and the final Consent it is impossible to know if the remedy for Butte Priority Soils and the cleanup of the Creek is a good decision or if it is not a good decision.**
- It now appears the participants no more want the talks open today than they did sixteen years ago.
- **Sadly, Judge Hadden does not know all that he needs to know. He will only have the info he has received from Arco/BP, the EPA, the State and the Local Government and that is only what they want him to know! He absolutely needs to hear from others if he wants to know the truth!**
- If the EPA is truly serious about finally making the process transparent they should allow folks like me and others to also offer constructive input as I did when I wrote to Judge Hadden following his refusal to open the Consent Decree negotiation. There are definitely two sides to the issue! For Judge Hadden to make a responsible decision he needs to know both sides.
- Not allowing the Standard to participate definitely shows the agencies and Arco/BP are not serious about opening the talks.
- I see this as a game of poker! As always, our cards are all on the table and we have no idea of the EPA's the State's and the Local government's cards.
- While I did have some hope in Doug Benevento, Kel Kelly and Andrew Mutter indication to open the talk, by them not demanding the Talks be opened, and I mean completely opened as promised, let's hope we are not seeing the total denial of input and community involvement as we have seen from the

EPA, State, Local Government and Arco/BP in the past. What are they trying to hide? Maybe folks like me overreacted to the positives of Doug's Kel's and Andrew's positive involvement. I sure hope not!

- Obviously if it is the intension to only open a portion of the Talks as it sounds, we are only going to hear what the agencies and Arco/BP want us to hear and not what we need and are entitled to hear, as they have told us in the past
- We need to know;
 1. Are sufficient resources now available to complete the task?
 2. Has a Consent Decree Amendment been prepared to address the necessary corrections to the original 2006 Record of Decision?
 3. Are contingency plans in place to deal with the unknowns that will in all probability develop?
 4. Are all the contaminated tailings going to be removed---Diggings East, Northside, Parrot Tailings and Blacktail Berm?
 5. Is the inadequacy of the Reverse French Drain not collecting all of the contaminants going to be addressed as the State adamantly professes? This needs to happen to assure a quality Creek can once again flow through the center of our town.
 6. Are the methods of addressing Storm Sewer run off coming from the Butte Hill going to be addressed other than with mosquito or Zika Ponds? Obviously if the Butte Hill was cleaned properly under a responsible cleanup and not Time Critical Removal as was the case, this problem of storm run-off would have already been addressed.
 7. Are they going to use State Natural Resource Damage dollars for remediation or are they going to use restoration dollars that are designed to restore the area to productive use after a responsible cleanup have taken place to clean the Creek?
 8. Is the Restore Our Creek Vision Statement going to be used as part of the Settlement? Restoration and remediation should take place at the same time.
 9. How much money is now being spent form the Allocation Agreement to address the improper cleanup we as a community have received?