

From: Dhont, Jeffrey <Dhont.Jeff@epa.gov>
Sent: Thursday, January 13, 2022 2:05 PM
To: 'KAY BIGELOW' <kaybigelow@cox.net>
Cc: Ed Dickie <edickie@dhaz.gov>; Sanchez, Yolanda <Sanchez.Yolanda@epa.gov>; Kim, David <Kim.David@epa.gov>; Rogow, Michelle <Rogow.Michelle@epa.gov>
Subject: RE: Conference Call on 1/11/22

Hello Kay,

Our conversation on January 11 and your follow-up email were very helpful. Knowing that the Town is focused foremost on getting the site to cleanup with sufficient funding to accomplish it provides us with clearer perspective. We appreciate having a better understanding of the Town's intentions in hiring two environmental attorneys to help the Town create an action plan to better coordinate with EPA and ADEQ with the aim of making progress on the site.

What you were hearing from us on the phone call was concerns that bringing in additional environmental attorneys for a site, depending on the purpose and focus, can greatly hamper progress in the process that we must follow to complete work at a site. They may issue broad requests for documents under the federal Freedom of Information Act that requires us to spend months to compile a response, seek to meet regularly with senior management, or develop extensive comments on past reports. Knowing that the Town prioritizes faster cleanup for this site, we were concerned that adding environmental attorneys might actually hinder the Town in that priority. We have also been concerned about finding a way to build and maintain a focus on the big-picture process and progress toward cleanup, as EPA staff have spent a great deal of time addressing many smaller issues that seem to emerge randomly and outside of the larger context. We do not mean to imply that these are all unimportant or unworthy of response from us. But sometimes they can pull limited staff time away from where we need to go to get to cleanup.

The Proposed Plan is a very important part of the Superfund process, and it is the best time for the public to provide comments to EPA. We are hopeful that hired environmental attorneys and any other staff that the town brings to the work can help the Town develop relevant and appropriate comments on EPA's Proposed Plan. Having streamlined and appropriate comments will enable EPA to better address the Town's needs when developing a final cleanup decision (Record of Decision).

Even before our discussion, the Town's attorneys have contacted David Kim, our assistant regional counsel for the site. This is the appropriate first point of contact for them. David can coordinate with the project team and management. We anticipate that conversation will be fruitful. Here is David's contact information: kim.david@epa.gov; 415-972-3882.

Again, thank you for your thoughtful email and we look forward to continuing to work with the Town with the goal of getting the site to cleanup.

Jeff

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From: KAY BIGELOW <kaybigelow@cox.net>
Sent: Wednesday, January 12, 2022 2:22 PM
To: Dhont, Jeffrey <Dhont.Jeff@epa.gov>; Sanchez, Yolanda <Sanchez.Yolanda@epa.gov>
Cc: Ed Dickie <edickie@dhaz.gov>
Subject: Conference Call on 1/11/22

Dear Jeff and Yolanda:

I wanted to memorialize part of our telephone conversation yesterday so I make sure that we all have the same interpretation. This is not meant to box you in but to truly discuss any differences we took away from the conversation.

Yesterday, Ed Dickie and I finally understood that you and other EPA representatives have had some concerns about the Town's two environmental attorney, Stan Curry and Stuart Kimball. As I understood it, this was based on your presumed scope of work for which the Town had hired the attorneys. There are no secret or adversarial purposes in the Town's hiring. The Town wanted to have people that had high environmental and EPA expertise in order to create a Town action plan for coordinating with both the EPA and Arizona Department of Environmental Quality for progress in the clean-up of the Iron King Mine Humboldt Smelter Superfund site as efficiently and quickly as possible.

The attorneys have had a notice to proceed for nearly two months now and although they did read through the documents on the website for the IKMHS site as well as viewing the 7/13/21 on the Town's website, they are not going to be asking for further documents because the scope of work does not include questioning or making challenges to ADEQ and the EPA's earlier steps in this process. Additionally, the soil testing being done on Town property based on Council's direction is NOT part of their scope of work.

Based on our conversation yesterday, Ed and I are very pleased to hear that the Proposed Plan (along with the Feasibility Study) is nearing release for public feedback. Again, the Town wants to give substantive feedback by a consultant competent to make such feedback as well as educating the Town Council and hopefully public. It is not helpful for reaching the goal of cleaning up the site to have the highly charged emotional atmosphere as there was in the 7/13/21 Council meeting. I realize that both you are used to dealing with difficult situations but the purpose of these meetings is to exchange information not accusations. We want to work with EPA and ADEQ so that whenever this project is discussed in a Town meeting, information is actually being heard. We are committed to working with your agencies to try to make those types of meetings more useful within the realms of reality. The

Town's attorneys are not going to argue about why the site has not gone faster before now. The attorneys are tasked with developing a plan of action that pushes the project forward.

The Town understands that our focus may be different because our objective is focused on one superfund site and EPA and ADEQ's focus is broader. What pushes the Town to aggressively push this project forward is the recent passage of the federal infrastructure funding legislation. While it is a multi-year funding packet, the "dibs" for the funding has already started and those moneys not slated for the dibs will be exhausted sooner than the demand. We are working with ADEQ on the same type of issues although their funds from the federal legislation is likely less than EPA District 9.

We want to explore how we can coordinate and what we can expect from EPA and ADEQ. We also want to continue the cooperation among ADEQ, EPA and the Town to efficiently and quickly the clean-up of this site.

Part of the reason for this email is to repeat my request for you to talk to David Kim or others within EPA to relay the information you gained from our 1/11/22 conference call and your lessened concerns about talking to the Town's attorneys. We do not want to chill EPA's conversation with other Town representatives but we also want to provide attorneys and consultants that have the expertise to understand more about environmental technical and legal issues. We did not do this because the Town is "getting back" at EPA but again to move this project forward.

Please confirm or comment on anything I have misunderstood. Additionally, please commit to a discussion between the Town's attorneys and David Kim as well as whoever else at EPA can work with the Town's representatives. We may not always agree with EPA but disagreement will be done professionally and the Town is interested in working on areas of agreement and cooperation rather than adversarial issues.

Ed and I are trying to develop and educate the Town Council on how to lead on resolutions to this problem without non-professional personal attacks on the representatives of EPA or ADEQ. Never worry about being candid with us and we will strive to do the same.

Please feel free to contact Ed or me.

Sincerely,

Kay Bigelow

Bigelow Law Offices, PLC

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