From: "Matson, Jeffrey T CIV USARMY CENWP \(USA\)" <Jeffrey.T.Matson@usace.army.mil>
To: "Mednick, Richard" <Mednick.Richard@epa.gov>
CC: Gary.L.Vrooman@state.or.us
john.level@atg.wa.gov
"Wright, Ann L CIV USARMY CEHQ \(USA\)" <Ann.L.Wright@usace.army.mil>
Date: 10/17/2022 7:19:32 AM
Subject: RE: [Non-DoD Source] RE: Draft Site Management Plan - Bradford Superfund Site

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Thank you, Richard. I received it.
JTM

From: Mednick, Richard <Mednick.Richard@epa.gov>
Sent: Saturday, October 15, 2022 11:53 AM
To: Matson, Jeffrey T CIV USARMY CENWP (USA) <Jeffrey.T.Matson@usace.army.mil>
Cc: Gary.L.Vrooman@state.or.us; john.level@atg.wa.gov; Wright, Ann L CIV USARMY CEHQ (USA) <Ann.L.Wright@usace.army.mil>
Subject: RE: [Non-DoD Source] RE: Draft Site Management Plan - Bradford Superfund Site

Whoops, sorry about that, I neglected to attach the letter to my prior message. I just sent to you but just in case here is it again.

Thank you,

Richard

From: Matson, Jeffrey T CIV USARMY CENWP (USA) <Jeffrey.T.Matson@usace.army.mil>
Sent: Friday, October 14, 2022 3:30 PM
To: Mednick, Richard <Mednick.Richard@epa.gov>
Cc: Gary.L.Vrooman@state.or.us; john.level@atg.wa.gov; Wright, Ann L CIV USARMY CEHQ (USA) <Ann.L.Wright@usace.army.mil>
Subject: RE: [Non-DoD Source] RE: Draft Site Management Plan - Bradford Superfund Site

Richard,

Apologies if I missed it—would you please send me the 2009 EPA-DoD letter agreement you mention below?

Thank you,
Jeff

Jeffrey Matson
Assistant District Counsel
U.S. Army Corps of Engineers, Portland District
(503) 808-4522

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From: Mednick, Richard <Mednick.Richard@epa.gov>
Date: Thursday, Oct 13, 2022 at 12:16 PM
To: Wright, Ann L CIV USARMY CEHQ (USA) <Ann.L.Wright@usace.army.mil>
Cc: Gary.L.Vrooman@state.or.us <Gary.L.Vrooman@state.or.us>, john.level@atg.wa.gov <john.level@atg.wa.gov>, Matson, Jeffrey T CIV USARMY CENWP (USA) <Jeffrey.T.Matson@usace.army.mil>
Subject: [Non-DoD Source] RE: Draft Site Management Plan - Bradford Superfund Site

Ann,

Although six months have passed since EPA initiated negotiations by providing a draft FFA to USACE and the States, USACE has yet to provide a proposed SMP or a substantive response to the draft FFA. This lackluster effort is made more remarkable by the fact that the only aspect of the draft FFA that arguably is in need of any alteration by USACE are two provisions that pertain to funding. The States cooperatively provided their succinct and valuable input on the draft FFA months ago. Since USACE has not been able to produce a draft SMP for us, EPA, a fellow federal agency with vast expertise and experience in this area, has done the parties a service by developing the draft SMP.

EPA wants USACE to work from the EPA draft SMP so that we can make progress without further unnecessary delay. Time is running out on our ability to meet the joint commitment made by EPA and USACE during formal consultation with the Yakama Nation to have a final signed FFA by March of 2023. It would save time and resources and allow us the best chance of meeting our shared goal to work from the draft SMP developed by EPA. With that in mind, EPA requests that USACE technical staff contact EPA technical staff in order to convene a meeting during the week of October 24 to 28 or November 7 to 11 to discuss USACE input on the draft SMP.

On the matter of the Yakama Nation participation for Bradford Island, I have confirmed with Region 3 of EPA that there was no tribal interest in the Ft. Eustis matter. As a result, the Ft. Eustis model fails to account for a level of tribal involvement that we see expressed for Bradford Island by the Yakama Nation. A community advisory group may have been sufficient for Ft. Eustis where there was no tribe to advocate otherwise, but it is not satisfactory enough for the Yakama Nation whose tribal members have traditionally fished in the areas surrounding Bradford Island which have become contaminated by the activities of USACE. The Yakama Nation has also experienced years of delay in investigation and cleanup work by USACE, and abandonment by USACE, without just cause, of a previous technical advisory group that included the Tribe. To address these issues, the Yakama Nation is looking for a level of involvement that improves upon the past and EPA fully supports that goal.

EPA, therefore, reiterates that it wants to see paragraph 10.8.1, that has been proposed by the States, added to the FFA for Bradford Island. Including this provision would be in keeping with the attached 2009 letter agreement between EPA and DOD that allows for “site specific changes” to the Ft. Eustis model. This allowance would also be in keeping with the directions given to EPA and USACE in Section 120(f) of CERCLA, 42 U.S.C. § 9620(f), which state “[t]he Administrator and each department, agency, or instrumentality responsible for compliance with this section shall afford to relevant State and local officials the opportunity to participate in the planning and selection of the remedial action, including but not limited to the review of all applicable data as it becomes available and the development of studies, reports, and action plans.”

Lastly, EPA remains committed to having the proposals made by the States for additional time in review and comment and for electronic exchanges of notices, data, and documents included in the Bradford Island FFA. These changes will provide for more timely and effective transmissions between the parties and allow the amount of time necessary for a high quality work product.

Respectfully,

Richard

Richard Mednick
Associate Regional Counsel
Regional Judicial Officer
U.S. EPA l Region 10

1200 Sixth Avenue
Suite 155, M/S 11 C07
Seattle, WA 98101
(206) 553-1797

From: Wright, Ann L CIV USARMY CEHQ (USA) <Ann.L.Wright@usace.army.mil>
Sent: Tuesday, October 11, 2022 12:32 PM
To: Mednick, Richard <Mednick.Richard@epa.gov>; jeffrey.t.matson@usace.army.mil
Cc: Gary.L.Vrooman@state.or.us; john.level@atg.wa.gov
Subject: RE: Draft Site Management Plan - Bradford Superfund Site

CUI (Legal) - CONFIDENTIAL NEGOTIATION COMMUNICATION NOT FOR RELEASE OUTSIDE OF AGENCY COUNSEL

Richard,

The SMP is a lead agency primary document under the FFA. It requires the lead agency to consider site information presently known, work that has been completed, available resources, budgeting, site controls that are the lead agency responsibility, and work capabilities and processes including Federal procurement planning for the lead agency, as well as FFA consultation periods. It establishes deadlines and milestones which the lead agency must meet, subject to enforcement under the FFA. USACE is already drafting an SMP, as we discussed on our last FFA negotiation call. It is drafted to conform to the model FFA requirements and is being coordinated internally to ensure USACE can meet the commitments to be made there. Once this SMP is coordinated internally, it will be furnished to the FFA parties through the attorneys for negotiation by counsel and technical staff as an enforceable element (appendix) of the FFA. We will be ready to include attorneys and technical staff of the FFA parties in discussing the SMP when we submit it to the attorneys for the rest of the FFA parties.

As the lead agency, USACE will be coordinating with the CAG and the broader community including all interested Tribes as part of our community involvement plan. The FFA has a process for the FFA parties to follow for public involvement once the FFA parties have completed consultation on the SMP in accordance with Section XII of the FFA. That is part of the Fort Eustis Model FFA that EPA and DoD have agreed to follow. We intend to comply with it.

It is not appropriate for EPA to seek to assert control over USACE in drafting a document such as the SMP. It has the potential to create conflicts and takes resources of all our agencies away from the important FFA development process, including the lead agency SMP. Engaging with outside parties on a USACE lead agency primary document is also inappropriate.

As part of our SMP development, we are having to address the lack of agreement to the pre-FFA coordination process USACE proposed in my letter to you of 26 August 2022. With no commitment to pre-FFA reviews by the FFA parties, we have to assume in the SMP that consultation reviews that might have been completed before the FFA is in effect have to wait until that time. We would like to discuss this further on the FFA negotiation call on 21 August 2022, to inform the schedules in the SMP. After that we will be able to finish the USACE SMP and submit it and schedule an FFA/SMP negotiation session.

VR, Ann
Ann L. Wright
Attorney
Office of the Chief Counsel
U.S. Army Corps of Engineers
402-996-3880
Wk Cell 402-860-2465

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From: Mednick, Richard <Mednick.Richard@epa.gov>
Sent: Tuesday, October 11, 2022 11:56 AM
To: Wright, Ann L CIV USARMY CEHQ (USA) <Ann.L.Wright@usace.army.mil>; Matson, Jeffrey T CIV USARMY CENWP (USA) <Jeffrey.T.Matson@usace.army.mil>
Cc: Gary.L.Vrooman@state.or.us; john.level@atg.wa.gov
Subject: [Non-DoD Source] FW: Draft Site Management Plan - Bradford Superfund Site

Ann and Jeff,

I am forwarding a message to USACE from EPA which transmit a draft Site Management Plan (SMP) for the Bradford Island Site. EPA shared the draft SMP with the states of Washington and Oregon as well as with the U.S. Fish and Wildlife Service and five interested tribes including and the Yakama Nation, Nez Perce Tribe, Cowlitz Tribe, Grand Ronde Tribe, and Confederated Tribes of Umatilla. This was done, in part, to fulfill what EPA considers to be the responsibility it shares with USACE under Section 120(f) of CERCLA, 42 U.S.C. § 9620(f).

I emphasize once again that EPA is interested in providing the Yakama Nation with the opportunity to participate in meetings of the project managers and to review and comment on plans and actions for the Site. The Yakama Nation has repeatedly requested this level of involvement. The allowances sought by the Yakama Nation could be included in the SMP without affecting the Ft. Eustis model provisions which make up the main body of the Bradford Island FFA.

Respectfully,

Richard

Richard Mednick
Associate Regional Counsel
Regional Judicial Officer
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(206) 553-1797

From: Lynch, Kira <lynch.kira@epa.gov>
Sent: Monday, October 10, 2022 6:08 PM
To: Mednick, Richard <Mednick.Richard@epa.gov>
Subject: FW: Draft Site Management Plan - Bradford Superfund Site

Kira Lynch, Remedial Cleanup Branch
EPA Region 10, Superfund & Emergency Management Division
1200 Sixth Ave., Suite 155 (Mail Code: 12-D12-1)
Seattle, WA 98101
206-553-2144
(b)(6) ©

From: Lynch, Kira

Sent: Saturday, October 08, 2022 10:23 AM
To: Martinez, Leslie G CIV USARMY CEHNC (USA) <leslie.g.martinez@usace.army.mil>
Cc: Elizabeth.R.Wells@usace.army.mil; Coffey, Frances E (Beth) SES USARMY CENWD (USA) <Frances.E.Coffey@usace.army.mil>; Terada, Calvin <Terada.Calvin@epa.gov>; Fleming, Sheila <fleming.sheila@epa.gov>; Wroble, Julie <Wroble.Julie@epa.gov>; Bottcher, Helen <Bottcher.Helen@epa.gov>; Francis, Richard <Francis.Richard@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>
Subject: Draft Site Management Plan - Bradford Superfund Site

Hello Leslie,

Please find attached the draft Site Management Plan (SMP) for the Bradford Island Superfund Site that has been prepared by EPA for review by the USACE technical team. The SMP establishes a schedule and milestones associated with the performance of work and submittal of documents for the Bradford Island Superfund Site (Site). The SMP will become an enforceable component of the associated Federal Facility Agreement (FFA) for the Site and will be updated on an annual basis as a primary document under the FFA. This initial SMP was set up to include placeholder Operable Units (OUs) to address current uncertainties regarding the site Conceptual Site Model (CSM) and how this will be translated into a site implementation approach for defining OUs and potential early action areas. The EPA technical team that I have assigned to this Site (Section Manager-Julie Wroble; RPM- Helen Bottcher; and RPM-Richard Francis) are ready to begin discussions and finalization of the SMP. Please have someone from the USACE technical team that will be working with EPA to finalize this document contact Helen Bottcher at 206-553-6069 to set up a meeting the week of 10/24 or 11/7 to discuss comments from the USACE on the draft SMP. We would like to have this initial SMP finalized and ready to attach to the FAA by mid-December so we can stay on the schedule we all committed to of finalizing the FFA by January 2023.

We look forward to hearing your thoughts on how we have laid out an approach and schedule for taking advantage of the work and data that has already been completed by the USACE on the Site while also recognizing current unknows with the CSM and moving toward active cleanup as soon as possible for at least a portion of the Site. Please let me know if you have any questions or would like any further discussion. Kira

Kira Lynch, Remedial Cleanup Branch
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