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Jim Christiansen
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To: Michele Straube <mstraube@inquo.net>
cc: Paul Lammers <lammers@parkcity2002.com>, Laura Scales <scalesl@law.utah.edu>

Subject: Re: Soils Work Group - Issues List Strawperson

Michele - you have done a good job of capturing some of the key issues, but I've got a few suggestions on how we present and attack those issues. This is really long, sorry, but it isn't cut and dried....

1. Most of your issues directly discuss risk, which makes sense. But.....even though our #1 goal is to ensure no "unacceptable" risk to hh & e, I want to stay away from goals/tasks which deliberately state we are trying to find out what risk is present or seek to somehow define risk. Here is why. Risk as a concept is very nebulous; but, in many instances it is crucial to define/explain/utilize risk with those you are working with because it is the driver of many environmental actions. It is the foundation of EPA's work. Here, though, I don't think that will be the best route. In this instance, we are dealing with many issues which *do* revolve around risk, but *cannot* be easily quantified or explained. So, I believe tackling risk, as a direct subject or task, will be counterproductive. Two examples: (1) we have no method to estimate or quantify risk from metals below the immediate soil surface. Our risk models and risk assessment methodologies only look at metals in the top 0-2 inches of soil. Below that, there is no way to accurately estimate possible exposures, and hence you cannot estimate risk. However, these potential exposures exist (digging, yard work, erosion of soil cover, etc) and they are sometimes more real than the ones we measure (and acute, as some very high concentrations are often left at depth, as in Prospector). Over time, they can lead to significant recontaminaiton of the surface. That is why we generally remediate to a depth of 18 inches - even though our risk estimates are based on surface only. So, in this instance, one of the things we are interested in is mitigating risk (or getting data to support a conclusion that no unacceptable risk is present) from metals which may not be at the surface, even below 6 inches - but I can't really put a number to that risk and have no method to estimate what risk is (or could be) present. That will confound and upset many people. That is why I think it will be better to simply tackle the possible ways of addressing/mitigating this "undefined" risk, rather than spending tons of time impossibly trying to define or quantify it. Using a weight of evidence approach, addressing the problem from several fronts, will form a strong case that no unacceptable risk is present, without dinkering over meaningless numbers or overly confusing people (though there are numbers associated with some of those means). That also is why I don't really want to pursue a true risk assessment alone - it doesn't fit this situation & will miss many of the key points and hence won't be as definitive as people perceive them to be. (2) We *can't put a number or probability to failures of the Ordinance (ie breaching of the cap), nor can* we say if such failures would cause any "unacceptable" risk when they do occur. However, it is common sense to know we need to minimize these failures or the consequences, especially since we can't quantify them. The Ordinance, as it stands, is already one of the better run institutional controls I have seen. Park City has done an excellent job. Still, failures occur and could realistically get worse when the limelight is off this in the future. But, since there is really no way to measure or quantify this potential "failure risk," then we need simply need to seek practical ways to minimize it - now and in the future. Again, this coupled with other steps in a weight of evidence approach, will make a strong case that no unacceptable risk is present, even though we can'really quantify "unacceptable."
2. OK, so how do I propose getting at the issues - which are based on risk - without going directly at risk? Go back to #5 of the EPA/UDEQ letter to Toby and the EPA/UDEQ issue sheet before that. The letter really breaks down the specific issues (means to address risk) we have with the

current situation and the issue sheet kind of explains why we have those issues. If we satisfactorily address these one by one, I am quite sure we will have strong case on a weight of evidence approach to the whole kittenkaboodle of "unacceptable risk." We also need to start from the premise that the Ordinance is effective, and we are not looking for a problem - it is the solution and we are making sure it works and improving it to the best of our ability.

3. Therefore, I would rephrase our primary issues based on what I have presented:

- Is the Ordinance working where it was applied? (effectiveness)
- How can we ensure it is applied everywhere it should be? (full compliance)
- How can we ensure it is effective over the long term? (maintenance, admin improvements)

Also, a precursor to going further at any time, is whether - given EPA's stated positions - the status quo is better than moving forward, both to Park City govt and the residents of the Ordinance area. I think the City's support and residents' desire to end this all have answered that for now, but it will always be on the table.

In answer to your questions: (1) I don't think we should present these issues before the meeting - I would rather unveil them as part of a discussion. (2) I am talking to Mo at UDEQ and keeping them in the loop - no need to send this over to them. (3) There are other metals which are of concern, but we are starting from the assumption that lead is the driver (supported by many, many other sites) and that the action level in the Ordinance will stay. Those are issues which I do not want to readdress.

Lastly, the follow-up soils letter to Park City based on Toby's response (with 5 questions) to my original letter is going out today. It will further help clarify this stuff.

Hope that helped, rather than confused. Jim
Michele Straube <mstraube@inquo.net> on 02/22/2001 02:31:37 PM

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cc: Laura Scales <scalesl@law.utah.edu>

Subject: Soils Work Group - Issues List Strawperson

Paul is in the middle of a deadline and asked me to take a first cut at drafting up a list of issues that could be used to focus discussion at next week's work group meeting. So, with many disclaimers (starting out with "I'm not a technical person" and ending with "it is intended to prompt discussion"), here it is.

Some questions for you both to think about:

- Should we be giving this to UDEQ too for their input before the meeting?

- Should we distribute this list (however it gets revised) to work group members before the meeting, or hit them with it cold on Wednesday?

- Is lead the only issue?

I will be at a conference all day tomorrow, but will be attached to my cell phone (801-455-5789) and will have a copy of this strawperson list with me.

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