1158123 - R8 SDMS

PARK CITY 1884

Office of The Mayor and City Council

June 18, 2010

Mr. James B. Martin
Administrator
US EPA Region 8
8OC-EISC
1595 Wynkoop St
Denver, CO 80202-1129

Dear Mr. Martin:

Thank you for your letter of June 14, 2010. I sincerely appreciate your prompt attention to the issues facing Park City. The ongoing inability to haul contaminated soils to Richardson Flat has delayed a federally-funded project and added almost $600,000 in costs to the construction of a pedestrian tunnel. Failing to haul 15,000 cubic yards by early next week to Richardson Flat will result in the city hauling the soils to a facility in Tooele, Utah, at a cost of $1,440,000 to Park City taxpayers. I am grateful for your staff's expedited efforts in creating a draft proposal that would allow Park City to immediately haul 15,000 cubic yards of mine-impacted soils to Richardson Flat consistent with existing agreements between Talisker/United Park City Mines Company and Park City.

I am certain you recognize the challenges inherent in deciding within one week whether to accept your proposal as drafted with no public hearing or input. The impacts Park City is seeking to mitigate by hauling soils are the product of more than a century of mining activity. As we discussed last week, the Park City community has expended significant resources over the last few decades to address the environmental issues related to our town's mining history. The decision you are now asking the city council to make will have perpetual ramifications and will commit the city to enormous capital investments.

Notwithstanding the magnitude of the decision and the innumerable unknown conditions, Park City will work with the EPA as a partner to locate a site for a repository. Since Park City has never constructed or operated a repository and does not have in-house resources to answer what are perhaps fundamental questions, Park City will need to rely on EPA as a resource. Given the circumstances, I feel strongly that a more effective working relationship between Park City and EPA is essential for your proposal to succeed. Accordingly, I have identified the following items that would need to be addressed in the course of negotiating a work plan:

Park City Municipal Corporation • P.O. Box 1480 • Park City, UT 84060-1480
Phone (435) 615-5007 • FAX (435) 615-4901

1. Volume of soils.

In order to site a repository, Park City must know the volume of hazardous mine-related soils anticipated to be stored in the repository. This will require an understanding of EPA's intentions to clean up additional sites within the Silver Creek watershed and elsewhere within the Park City area; which CERCLIS sites will be remediated under EPA purview; and, estimates of the capacity necessary for those sites. Park City must also know what the additional capacity of Richardson Flat is and the total capacity of Richardson Flat. Park City will identify the volume of soils in excess of 50,000 cubic yards from municipal projects and residential clean-up that will be required to use the repository.

2. Financing the Repository

I am pleased to learn of your plan to store waste from Lower Silver Creek (the newly created OU02 of the Richardson Flat CERCLIS site) in the proposed repository. I am confident that ASARCO bankruptcy money and other federal resources are available in connection with receiving such waste. I assume that you contemplate Park City operating the new repository as a municipal venture with functions similar to those performed at the Richardson Flat Repository. Toward that end, the Park City Council would need an estimated cost of designing, constructing, and maintaining a repository before the City Council could formally submit a work plan. It would be unlawful – and without effect – for the City Council to vote to commit a future City Council to the development of a repository without first identifying a cost figure. More importantly, Park City would violate Utah law by committing public funds and burdening its taxpayers without conducting the required public process.

3. Location of the Repository

Park City's first choice for the repository location will likely be on city-owned property within the Lower Silver Creek OU02. This property is known locally as the "Pace Property" and is located entirely outside the Park City municipal boundaries; it is under the jurisdiction of Summit County. If that is the chosen location, Park City would necessarily become a working partner in the Remedial Investigation/Feasibility Study currently underway in Lower Silver Creek. While I cannot say at this time where the additional repository will be located, I can rule out the "Triangle Parcel," which is subject to preexisting commitments inconsistent with its use as a repository.

4. Regulation of Repository.

Park City will need to know the role EPA intends to play in the operation and/or regulation of the repository. Park City will also need to respect Summit County zoning and other regulations should it be located outside of municipal boundaries. I would also like to confirm that EPA's regulatory authority will not preempt Park City's soils ordinance and any future ordinances regarding mine reclamation or the mitigation of physical mine hazards.

5. Additional Agreements.

I assume EPA would enter into a Covenant Not to Sue or similar administrative order, consistent with EPA's practices in the Park City area, wherein Park City would be protected from future liability and indemnified for damages arising from any claims made in relation to the management and operation of the repository.

6. Alternative Plan.

Park City has identified a candidate repository site which is indicated on the attached map. This parcel is the "Pace Property" referred to above. It is located within the Richardson Flat OU2. It is heavily burdened with mine waste and needs to be remediated. Park City is willing to offer this site to EPA for development of an EPA owned and operated mine waste repository. In exchange for allowing Park City to deliver mine waste from municipal and private projects to a repository on the Pace Property, EPA would assume control of all operational considerations, including the necessary capacity and design requirements of the repository, sources and sites from which waste will be accepted, sources of funding, operating responsibility, institutional controls, and liability protections.

Closing

We would like to arrange a meeting with you in the next few weeks to begin discussing and resolving, or identifying the process to resolve, the foregoing issues and details.

I will close by again thanking you for allowing Park City to haul 15,000 cubic yards to Richardson Flat. It is the City's position that this letter is consistent with your request and your letter of June 14, 2010. Therefore it is our hope to begin hauling soils to Richardson Flats on Monday, June 21, 2010.

I will contact you today to confirm your receipt of this letter and response.

Sincerely,

Dana Williams

Mayor Dana Williams

cc: City Council
City Manager Tom Bakaly
City Attorney Mark Harrington
Lori Potter, Esq.