From: McDonald, Jeffrey
To: "Gilmore, Tyler J"
Cc: Greenhagen, Andrew; Bayer, MaryRose; Lucinda Swartz; Jaime Rooke
Subject: 2/4/14 phone call
Date: Wednesday, February 05, 2014 4:36:00 PM

Tyler,

As I mentioned on the phone today and yesterday, people from our office, HQ, and the Cadmus Group spoke yesterday about our review of FutureGen's (FG's) financial responsibility (FR) for the proposed permits. FG currently proposes to have an insurance plan for the ERRP and a trust fund to cover all the other FR aspects of the proposed wells. Regarding the insurance, we will need more information on how a proposed insurance policy would meet the regulatory requirements. You said that you and/or Lucy would pass along what you have learned exploring that issue. You also reiterated your offer to have a call between you, us, and the insurance underwriter, possibly on Friday (2/7). I think that could be helpful. It would need to fit it into Molly and Jaime's schedules since they know the most about this subject.

Regarding the trust fund, although we see reasons for having funds in the trust prior to any potential draft permit decision, we think that having a fully executed trust (without the funds) may be sufficient to demonstrate that part of FR at the time of a possible draft permit decision. If that is the case, then the trust must have a schedule (perhaps Schedule B of the draft plan that was sent to you 1/28/14) that details when funds need to be in the trust fund and what those amounts are (Note: we are still evaluating those estimated costs and will discuss any discrepancies/concerns we identify). We were thinking that the initial amount (under the draft plan that was sent to you 1/28/14) might be scheduled to be in place within one week of any final permit decision, but before the effective date of the permit. This would allow FG to place those funds in the trust anytime before or during the comment period, and past that up to one week after the final permit decision date. All of this, of course, is assuming the Agency makes an affirmative determination regarding whether to issue permits for these proposed wells. The schedule would then have the remaining funds needed for the trust fund divided over a three year period. Of course, there are inflation adjustments that will have to be considered annually so numbers might evolve. The first of the three annual payments into the trust would be required before initial injection (of any of the

proposed wells) is authorized. The next two payments would be due annually after that payment, again with inflation and/or cost adjustments as needed. This would be in Schedule B (or elsewhere?) of the Trust and therefore be an enforceable permit condition.

We also talked about the injection zone depiction. I told you that I was reviewing the draft AOR and Corrective Action plan. A number of graphics in it from the permit applications indicate an injection interval around 4040’ BGS. Construction details and other discussions we’ve had suggest that FG was proposing injecting from that depth up to the top of the Mt. Simon as well as the Elmhurst. My discussion with you confirmed that the modeling was done with that broader injection interval. This matches the proposed construction also. If those graphics are used, we’ll need them corrected to show the broader range of depths where injection is proposed to take place. They should also be amended to reflect the injection zone includes the lower submembers of the Lombard that the model predicts will be accepting injected CO2. We will send you a draft AOR and Corrective Action plan shortly which will note these and other suggested changes.

Jeff