From: Sheldrake, Beth
To: Kelly Wright
Cc: Virginia Monsisco; Jennings, Jannine; Albright, Rick; Woods, Jim; Williams, Jonathan; Zokan, Jim; Solis, Ricardo; Arnold Appenev; Krista Sievers; Steve Hagler
Subject: RE: 2015 FMC CA
Date: Thursday, January 15, 2015 12:21:13 PM
Attachments: 2014-12-23 Letter to EPA - Resolution of Dispute re Bill No. 2701426S006....pdf
RE Simplot .msg
FMC 2015 workplan - EPA edits 1-12-15.doc
Final FMC 3rd QTR 2014-sh.doc
CostResponse11-6-14.pdf

Hi, Kelly.

I have reviewed your revisions to your work plan and they appear to address the latest set of comments Jonathan provided on Monday. With respect to the funds for "travel" and "other expenses," I think Jonathan suggested eliminating the $4,200 and $600, respectively, from your budget table because there is no mention of either of these items in the work plan. Since the FMC site is in Pocatello and it is my understanding that meetings are typically done over the phone or in Pocatello, I am not sure what travel expenses may be required. However, if you believe travel will be necessary to implement the work plan, please articulate your assumptions/rationale under the appropriate task. I am not well versed on issues surrounding the federal government funding light refreshments under grants, but if you believe that is allowable, please articulate in Task 2 Public Involvement – Communications your assumptions/rationale regarding providing light refreshments at your public meetings. I also notice that in your cost tables you have question marks ("?") in the columns for "Groundwater Remedy RD" for both tribal staff and contractor, but have hour estimates included in the text of Task 1. Did you intend to request hours for the Groundwater Remedy RD document review? With these minor adjustments, please submit your full grant application paperwork to our Grants Office so we may begin the processing ASAP.

With respect to Simplot and the Off Plant, Jannine is reviewing the revised work plans she received last week and hopes to get the Simplot input to you by the end of this week. Due to workload issues including travel to Fort Hall early next week, you likely will not receive input on the Off-Plant until later next week.

With respect to the Simplot cost dispute, the only Tribal request for documentation EPA is aware of is an email from Susan Hanson to Jannine Jennings on Monday, January 12th. Jannine responded to that email the same day providing the letter received from Simplot articulating their informal dispute (letter from Simplot dated September 29, 2014). I have attached that email exchange for your information as well as the letter EPA sent Simplot in response to their informal dispute letter. I don't know where the confusion may have arisen in your discussions with Simplot, but they were disputing IDEQ and Shoshone-Bannock Tribes' costs as the attached documentation clearly indicates. On December 24th, Simplot dropped their informal cost dispute (see attached letter).

Jannine and I would be happy to meet with you next week to discuss the cooperative agreements. To help facilitate a meeting, Jannine and I are willing to change our return travel plans such that we could meet with you Wednesday afternoon, maybe around 2 pm? Please let us know as soon as possible when and where you would like to meet so we can adjust our travel plans accordingly.

I am happy to hear you received the original letter signed by Rick Albright on December 23rd. As I mentioned in my email last week, we had an administrative error and we apparently did not retain a copy of the letter for our records. Further, in the rush of the holidays, our administrative staff could not confirm with 100% certainty that the letter had indeed been mailed to you after Rick signed it. That uncertainty prompted my inquiry to you last week to confirm that you had indeed received it. When I didn't hear back from you, we went ahead and had Rick re-sign the letter and I emailed a pdf of it to you and staff in your Finance Office. Given the importance of the letter, I wanted to ensure you had indeed received it. Apparently you have now received the original letter and the re-signed version which may bear a slightly different looking date stamp. I apologize for the confusion our administrative error caused. The content of the original letter signed on Dec 23rd and the letter re-signed by Rick was exactly the same.

I understand the Tribes' frustrations related to the cooperative agreement. Considerable time has been spent by both EPA and the Tribes in an attempt to secure the necessary documentation. I believe EPA has been clear and consistent in communicating our concerns as well as the information that must be contained on the QPRs to support costs expended by the Tribes under the cooperative agreements.

As a summary of the history of EPA's concerns related to these cooperative agreements, EPA received both Q1 and Q2 QPRs for the FMC, Simplot and Off-Plant QPRs on July 21st and 22nd . Receipt of these QPRs followed a July 18, 2014 letter from EPA reminding the Tribes that we had yet to receive the Q1 QPR for Simplot and Off Plant which were due on April 30, 2014 (we had also not received the FMC Q1 QPR). On August 26, 2014, I sent you a letter outlining our specific concerns with both the quality of the submitted QPRs on all three Eastern Michaud Flats operable units as well as our need for documentation showing that costs on the QPRs were consistent with draw-down requests from your Finance Office. This request for financial documentation was prompted by what appeared to be a significant disconnect between the QPRs and the draw-down requests at that time. This letter referenced similar concerns raised in the 2011 Limited Scope Administrative and Financial Review as well as the September 2013 Advanced Post Award Monitoring review. Attached to that letter were specific and detailed comments on each of the QPRs for FMC, Simplot, and the Off-Plant.

Q1 and Q2 QPRs were resubmitted by the Tribes on September 29th, but unfortunately the vast majority of EPAs concerns were not addressed. On October 15, 2014, I sent you another letter re-articulating our concerns and providing an extended deadline to resubmit the QPRs addressing our concerns. The Tribes also did not provide any documentation to show that costs reported on QPRs were consistent with draw-down requests and thus this request was also repeated. Upon the Tribes' request following receipt of our letter, EPA participated in a conference call with you and the Tribes' Finance Office on October 23, 2014, where we answered questions regarding our comments and concerns with the QPRs and we also discussed, at length, our need for additional financial documentation. During that call, we were told that the requested financial documentation couldn't be provided for Q1 and Q2, but Q3 QPRs would include the additional financial documentation EPA requested. EPA received revised Q1 and Q2 and the new Q3 QPRs on October 29th. Following EPA's review of the re-submitted Q1 and Q2 QPRs which again failed to fully address our concerns as well as the Q3 which did not include any additional financial documentation, the Superfund program made the decision to place the new 2015 grants in a programmatic high-risk category. This decision was the subject of Mr. Albright's letter to you dated December 23rd. This decision was not reached lightly as this designation requires additional work for both the Tribes and EPA. However, we felt it was necessary to protect both EPA and the Tribes and would help provide the necessary framework

for us to work together to resolve the concerns expressed over the last year and a half.

EPA's comments and concerns on the Tribes' QPRs for Eastern Michaud Flats have been consistent and well documented. QPRs must clearly document the specific work performed by the Tribes, consistent with the approved work plan, the hours and dollars associated with this work, and outcomes achieved. The costs reported on QPRs must be consistent with draw-down requests. These are fundamental requirement across all EPA funding agreements. As an example of the problems we have been consistently seeing, below is an excerpt from the Q3 QPR submitted by the Tribes on October 29th (QPR also attached). Under Task 1, the Tribes report that your contractor spent 118 hours on Task 1. The documentation states that 42 hours were spent on "Remedial Action" and 72 hours on "Remedial Design QAPP and SAP." This equates to 114 hours, not 118 hours and nothing in the documentation describes what was accomplished for the 42 and 72 hours, respectively. Adequate documentation could say something like, *"The Tribes' contractor spent 42 hours reviewing the drafts of the Remedial Action Work Plan received in July and September and provided comments to the Tribes which were transmitted to EPA on DATE. The Tribes' contractor reviewed several remedial design documents including DOCUMENT 1 received on DATE, DOCUMENT 2 received on DATE, and DOCUMENT 3 received on DATE, and provided comments to the Tribes which were transmitted to EPA on DATE."* EPA does not require a lengthy discussion or comments on where EPA and the Tribes may disagree on technical issues, but simple statements about the **work conducted, hours/dollars spent, and outcomes achieved**. This is a consistent requirement for all EPA assistance agreements. Further, several of the tasks describe work conducted and hours expended but include notes saying the work/hours were funded by "internal general funds." This leads to significant confusion in reviewing costs. QPRs for cooperative agreements are to document work and funds expended under the subject agreement, not work conducted by the Tribes using your own internal funds. All work and hours funded by Tribal resources must be removed from the QPRs.

As always, I and my staff are happy to discuss any specific questions you have and we are happy to review language/provide input as we have done several times over the last year. Again, Jannine and I would be happy to meet with you, your staff, and staff from the Tribes' Finance Office when we are at Fort Hall on January 21st. Please let us know as soon as possible when would be a convenient time for you so we can adjust our travel arrangements if necessary.

Take care and see you next week.

Beth

jective/Task our Scope of , including rgeted letion Date	**Describe what activities were undertaken this quarter to accomplish this Task (including status, summary, accomplishments & if the task is on schedule)**	**If you had problems, what corrective actions Did you take to resolve them?**	**How much additional time and money are needed to complete this task? If a new target completion date is proposed, please list.**
Remedial Design, Remedial Action and Other Documents - reviewing, commenting and participating in oversight of the remedial design and construction activities.			
	For the 3rd quarter, we received: • Remedial Action Plan for Site-Wide Grading Phase – July • Remedial Action Plan for Site-Wide Grading Phase – September • Engineering Design Drawings – July • Engineering Design Drawings – July • Modification to Ambient Air and Dust Emission - September Ambient Air Monitoring Plan - Tribes continued to stress the importance of ensuring proper characterization but new RPM did not agree but after having another meeting with the old and new RPM, it was agreed upon that Tribal monitoring would occur. Tribes are working with the TAMS to get a correct location. Gamma Cap – continued to have similar concerns as identified in both the 1st and 2nd Quarters. Tribes continued to express the importance of using a collimated detector and PIC. Several conference calls (July 15th, August 21st, September 4th, September 18th and September 25th) were held with the agencies and again with FMC. New EPA RPM assigned. A couple of meetings were set up where the information and questions were being forwarded to the new RPM. Still continue to have problems with FMC and their contractors providing the necessary documentation and notifications. September 9th EPA met with FMC on a pre-briefing construction meeting. Hours: Are broken down based on the subtask assigned as follows for the Consultant only for reviewing these documents which were: • Remedial Action – 42 • Construction QA/QC – 0 • Emergency Response – 0 • Remedial Design QAPP & SAP – 72 • Operation & Maintenance - 0 • Performance Standard Verification – 0 • Performance Testing – 0	Problem: Some documents continue to be sent to wrong address or not sent at all. Resolution: Contacted FMC- requested documents be provided. Problem: Tribes continue to be concerned ambient air monitoring is not being performed to ensure worker protection or public health. New RPM was not aware the previous RPM had agreed to set up air monitors outside the facility fence line. Resolution: Call with EPA and Tribal staff, cleared up issue of Tribal monitoring. Analysis and human health risk remains concern. RPM was asked to get permission to place one of the air monitors at the historical location.	Additional air monitoring will be required to be able to address Tribal concerns about speciation for both metals and radionuclides. No additional expenses for the Tribes, EPA stated that they would be paying for the analyses. Additional hours will be needed to complete document reviews but no resources will be requested until other task hours are exhausted.
ours Spent = 118 hours used by the Contractor. 3.7 Staff hours. **on:** Activities assigned to Staff have been refocused to the Contractor Work plan estimates were underestimated. Expectations were higher than what the quality received so more s needed.			

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Superfund Site Cleanup Unit #1

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From: Kelly Wright [mailto:kwright@sbtribes.com]
Sent: Tuesday, January 13, 2015 2:30 PM
To: Williams, Jonathan
Cc: Virginia Monsisco; Jennings, Jannine; Sheldrake, Beth; McDonnell, Kimberlee; Albright, Rick
Subject: RE: 2015 FMC CA

Jonathan, Sorry to hear that you are out on funeral leave.

Beth, I am attaching a copy of the revised version to make sure that you agree. The only difference is with the travel and extra costs associated with refreshments for District Lodge meetings which have been historically included. Many times membership has been more receptive of changes or modification with light refreshments provided. These costs were $4,200 and $600 respectively.

Please let us know if these changes are acceptable and we will submit them into Grants for our 2015 Cooperative Agreement. Still waiting on the Simplot and Off-Site.

I do have an additional question to ask of you Beth, we have asked several times for the documentation supporting the allegations that Simplot is questioning Tribal charges. Tribes contacted Simplot to see what sort of additional details were needed because we are spending way too much time trying to do Project Management than necessary. Based on Simplot's response, they were not questioning the Tribes charges but rather EPA's cost. They also said that it was an issue with their Finance Department who requested their Attorney's Office to submit an informal questioning but later decided to simply pay the cost.

I received your email with the letter of Rick Albrights and also received in the mail today the original one you were questioning. At a first glance, it appears that the date was added to the electronic version of December 23rd. Why the change?

Next week, our Finance Department would like to meet with you and Janine to discuss some of the issues identified in Mr. Albright's letter. We can do this prior to the Government to Government Consultation. I am also enclosing a copy of the internal monthly reporting issues being taken by the Tribes which should have addressed the concerns with earlier correspondences. This document appears not to have been provided to EPA on oversight on my behalf.

I am also working on the 4th QPR but not exactly sure what is missing in the 1st, 2nd, 3rd QPRs that has not been addressed as identified in both the August and October correspondences. Please advise so we can get them done accurately and ensure that 4th Qtr will be acceptable as well.
Thanks
Kelly

From: Williams, Jonathan [mailto:Williams.Jonathan@epa.gov]
Sent: Monday, January 12, 2015 6:46 PM
To: Kelly Wright
Cc: Virginia Monsisco; Jennings, Jannine; Sheldrake, Beth; McDonnell, Kimberlee
Subject: RE: 2015 FMC CA

Thanks for the resubmittal of the Cooperative Agreement Work Plan in response to EPA comments of Dec. 12, 2014. Attached in redline/strikeout are remaining comments to be addressed on the Work Plan.

EPA has accepted the SBT proposal for maximum onsite hours although it appears too high. EPA expects to have onsite representation about 40 hours each week when remedial action construction is occurring. That amounts to a total of about 1400 hours for the period of March through December.

Note that I've suggested revising the Cooperative Agreement activity date to begin February 1, 2015. This assumes that the Work Plan can be resubmitted soon along with the Grant Application. No costs can be covered for 2015 until the Cooperative Agreement has been approved.

Beth Sheldrake has agreed to cover for me on this aspect of the FMC OU in my absence the next couple of weeks. Feel free to contact her at (206) 553-0220 with any questions you might have.

Jonathan Williams, LHG
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From: Kelly Wright [mailto:kwright@sbtribes.com]
Sent: Tuesday, January 06, 2015 4:35 PM
To: Williams, Jonathan
Cc: Virginia Monsisco
Subject: 2015 FMC CA

Dear Mr. Williams:

Attached you will find the Tribes 3rd submittal based on EPA comments for the Cooperative Agreement. As you will see, the Tribes accepted many changes but not all. We are very concerned EPA is describing the level of effort and work the Tribes can do through this Cooperative Agreement despite our communications with you.

I have amended the scheduled date for submittals to reflect realistic time frames.
I have broken out Tasks listed in Task 1 to reflect your preferred submittal however, please be advised the hours are estimated.
I have not accepted the changes to hours you prescribed for oversight. The Tribes expect to accompany EPA and be present at all Times FMC will be doing work at the site.

I have retained consultation time under Task 2. The Shoshone-Bannock Tribes FHBC, Land Use Policy Commission have retained consultation and expect updates to both policy makers and general membership by staff an consultants. Because EPA chooses to utilize BAH and other consultants for specific tasks does not require the Tribes do the same.

I hope I have answered your questions adequately so we can move forward on this Workplan.

Thanks
Kelly C. Wright