Portland Harbor Superfund Site Revision Process for Feasibility Study

Modified December 15, 2014

EPA and LWG Senior Managers and Project Managers developed and agreed upon a FS Revision Process Matrix and Schedule ("Matrix") dated June 11, 2014. EPA and LWG Senior Managers and Project Managers agree to this revised Matrix for development of the final FS, as shown in the attached diagram and described below and consistent with the AOC. This document explains when EPA modifications, comments, and direction for changes to the LWG will occur per the Matrix and when the RI/FS AOC dispute process may be invoked.

1. Technical Discussion Process

While the parties will work together to finalize each section of the FS, EPA will modify, rather than merely comment on, the LWG draft FS after significant technical discussions with the LWG as set forth in the Matrix. This process acknowledges that the parties will seek agreement EPA's modifications of the FS, however, it also provides for dispute resolution if that does not occur.

After EPA has modified each section, both parties will meet and discuss technical issues identified by the LWG, seeking consensus. Representatives of any AOC party may attend any of the meetings. EPA will consider LWG positions and decide how to move forward with FS revisions. Any technical discussions or decisions are non-binding on either party, and any materials provided to the LWG in connection with these discussions do not constitute EPA comments, modifications or directions for change that must be addressed by the LWG under Section IX of the AOC. During the technical discussions, EPA may ask the LWG to perform revision work, technical or editorial, on a particular FS section. If the LWG does not agree with the requested work or position, it may decline to perform the revision work, and then EPA will perform the work. The refusal to perform this work by the LWG is not subject to penalty under the AOC as EPA will be requesting and not directing the LWG to perform this work. Available additional data, including data collected under early action AOCs may be considered in these discussions.

EPA will draft the main text for each section and provide the text to the LWG for review. The LWG technical team will have thirty (30) days to review each section and identify any technical issues or issues with the text EPA has drafted on Sections 1 through 4. EPA will provide a written response to LWG comments as to whether they are incorporated or rejected for each section (note: EPA's responses will be incorporated into the LWG comment document as comments, not as a "stand alone" summary document). The LWG technical team will then have fifteen (15) days to resolve issues for each section. Additional time may be warranted to resolve issues (for example, by raising issues of key concern with LWG and EPA senior managers) and EPA may extend the 15 day resolution period on a case-by-case basis. EPA will share a copy of the proposed final version with the LWG after considering the LWG's comments, but the EPA is not planning to direct the LWG to incorporate these modifications at this point in the process. Any discussions or decisions are non-binding on either party.

2. AOC Dispute Resolution Process

At the conclusion of the technical discussion process for all sections and within 120 days following NRRB review, EPA will send a formal letter with its final text modifications, and additional work requirements for revision to supporting tables, maps, and figures for all sections and direct the LWG to incorporate the text and perform the requested revision work for the draft Final FS. Per the AOC, the LWG shall proceed on the direction, unless

within fourteen (14) days of receipt of the EPA letter, the LWG invokes dispute resolution by identifying their objections as set forth in the AOC. In accordance with the AOC, the LWG must dispute issues contained in each section or directions given within 14 days of receipt of the EPA letter or waive its right to dispute those issues. EPA Senior Managers and Project Managers will meet with the LWG Senior Managers and Project Managers and are committed to this effort to informally resolve disputes raised by the LWG in accordance with the AOC. If an agreement is not reached within 14 days as provided in Section XVIII of the AOC as may be extended by agreement of EPA, the LWG may request a determination by EPA's Environmental Cleanup Office (ECL) Director in accordance with the AOC.

EPA and the LWG acknowledge that each AOC signatory can raise dispute issues upon receipt of EPA modifications and direction for change in accordance with Section XVIII of the AOC.

Both EPA and LWG reserve the right to withdraw from the technical discussion process only set forth in the Matrix, if the number and/or magnitude of disputed matters is so significant that it is apparent EPA and the LWG will not complete the FS revision process within a reasonable timeframe. Prior to withdrawing from the technical discussion process, the party seeking to withdraw must provide the other with written notice and there must be at least one Senior Manager and Project Manager meeting to discuss the basis for ending such process. In the event the technical discussion process is ended, EPA reserves all of its rights and authorities under the AOC to have the FS revised in whole or in part by the
LWG, and the LWG reserves all of its rights to initiate dispute resolution under §XVIII.1 of the AOC within 14 days of receipt of EPA written comments, modifications and directions for changes.