To: Kivowitz, Sharon[Kivowitz.Sharon@epa.gov]
Cc: LaPoma, Jennifer[LaPoma.Jennifer@epa.gov]; Todd Hooker[thooker@lcrlaw.com]
From: Rushton, Lisa K.
Sent: Wed 10/1/2014 1:31:24 PM
Subject: RE: Settlement Agreement and SOWs in Word
SAOC -- RD RI-FS Opening Draft to PRPs From USEPA(79700031_2).DOCX
Draft SAOC - RIFS SOW NCHGW OU3 Mark-up(79933186_1) (2).DOCX

Sharon:
In follow-up to our correspondence last week, I've now had an opportunity to discuss the draft Settlement Agreement and Order on Consent with my clients and the DOJ lawyers representing the Corps, as well as with the Vishay parties. Based upon these discussions, GTEOSI, Osram Sylvania and Vishay have authorized me to provide you with the attached revised comments for discussion purposes. However, we want to stress that all three parties continue to question whether it is appropriate to enter into an Agreement and Order with the EPA at this time and ask that the EPA reconsider whether this is the appropriate course of action, for the reasons explained in this e-mail.

As you know, neither GTEOSI, Osram Sylvania nor Vishay signed onto the comments provided to EPA by the NCIA parties last week. However, we are in full agreement with the NCIA parties that it does not make sense to combine requirements to perform the OU-1 remedial design and the OU-3 RI/FS in a single document. The OU-1 parties appear willing to move forward with the OU-1 remedy without having it tied to OU-3, and we believe that the EPA and the NCIA parties should undertake these OU-1 activities. Although we recognize that the NCIA parties contend otherwise, the scientific data generated to date makes it abundantly clear that GTEOSI, Osram Sylvania and Vishay are not responsible for the contamination being addressed in OU-1. Therefore, none of us should be involved in that effort unless and until a scientifically based nexus is found.

Both the Vishay parties and Osram/GTEOSI parties have put forth a significant effort to determine the direction and extent of the plume migration from our former sites. Additionally, based upon our conversations with the DOJ lawyers representing the Corps, we understand that the Corps is continuing to actively evaluate where the contaminants from the former Sylcor facility are flowing. Moreover, the Corps' effort is extending south of the Hicksville Plant 5 well field, and thus appears to fall within the area that the EPA may conceive as OU-3. It also is our understanding that the Corps' OU-2 RI/FS effort will fully delineate contamination emanating from the former Sylcor and GI sites. As such, the results from OU-2 should necessarily determine the boundaries for OU-3, as the OU-2 plume will be fully delineated and addressed by the Corps. Our markup of the AOC reflects those positions.

If the EPA is amenable, the OU-2 parties would like to meet with EPA to discuss the technical basis for our position, current findings from the OU-2 investigation and results from modeling of that plume, which is being performed pursuant to an order from the New York State Department of Environmental Conservation. Based on our discussions with the DOJ lawyers, we're encouraged that the Corps will likely attend such a meeting, and while we do not expect the Corps to comment on our conclusions until it completes its efforts, we hope that they can provide a status update, and that the EPA will agree that any additional effort by Vishay, Osram or GTEOSI would be duplicative of the ongoing work being performed by the Corps.

We appreciate your consideration of the above and look forward to hearing from you to schedule a meeting.

Best regards,
Lisa

From: Rushton, Lisa K.
Sent: Tuesday, September 23, 2014 4:06 PM
To: 'Kivowitz, Sharon'
Cc: LaPoma, Jennifer; Todd Hooker
Subject: RE: Settlement Agreement and SOWs in Word

Sharon –
Attached are comments on the draft Settlement Agreement from the upgradient parties. We are still working on comments related to the SOW and hope to have those to you tomorrow. Please note that I have only just sent the attached draft to my client and plan to forward it this afternoon to DOJ for their consideration. So, we may have additional comments once we receive their feedback.

Best regards,
Lisa

From: Kivowitz, Sharon [mailto:Kivowitz.Sharon@epa.gov]
Sent: Monday, August 18, 2014 4:41 PM
To: Charlotte Biblow; d Roggenkamp; Dan Chorost; David Feldman; John Peltonen; John Privitera; Kevin Maldonado; Rushton, Lisa K.; Michael Rowe; Miriam Villani; Pam Cox; Peter Aufrichtig; Phillip Landrigan; Rachel Balaban; Robert Lucic; Sheila Woolson; Suzanne Avena; Thomas Smith; Tiffany Heineman; Todd Hooker; William Ife
Cc: LaPoma, Jennifer
Subject: Settlement Agreement and SOWs in Word

Hi,
Thank you for attending today's meeting. Attached are the Settlement Agreement and SOWs in Word. As we discussed, we will need to have your redline/strikeout on these documents by no later than September 23rd. Again, Jennifer would be happy to discuss technical issues and answer any questions your technical folks may have during the first two weeks of September. Please have them contact Jennifer directly at 212-637-4328 or at lapoma.jennifer@epa.gov. I am always available to answer your questions as well.

One thing we did not discuss during today's meeting is a date for a follow-up meeting in October, after EPA has had an opportunity to review your comments. I will be in touch in mid-September to figure out a date.

Thank you for your cooperation. Enjoy the rest of the summer.
Sharon

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