To: Phillip Landrigan[plandrigan@mccarthyfingar.com]
From: Kivowitz, Sharon
Sent: Tue 10/25/2016 9:29:19 PM
Subject: FW: NCHGW OU1 RD
NCHGW OU1 RD SOW 10-25-16 to prps.pdf
NCHGW RD AOC 10-25-16 to prps.pdf
NCHGW OU1 RD SOW 8-10-16 compared to 10-25-16.pdf
NCHGW OU1 RD SOW 10-25-16 to prps.docx
NCHGW OU1 RD AOC RLSO 10-25-16 draft compared to 9-10-16 draft.pdf
NCHGW RD AOC 10-25-16 to prps.docx

I'm sorry. I failed to include you on this message.
Sharon

From: Kivowitz, Sharon
Sent: Tuesday, October 25, 2016 5:27 PM
To: Charlotte Biblow <cbiblow@farrellfritz.com>; Debra Rothberg (drothberg@richmanlevine.com) <drothberg@richmanlevine.com>; John Martin <jmartin@garfunkelwild.com>; John Privitera <PRIVITERA@mltw.com>; Kevin Maldonado <kevinmaldonado64@yahoo.com>; Miriam Villani <mvillani@swcblaw.com>; Peter Aufrichtig <peter@mccarthyfingar.com>; Robert Lucic <RLUCIC@sheehan.com>; Sheila Woolson <swoolson@ebglaw.com>; Suzanne Avena <savena@garfunkelwild.com>; Ted Firetog <tfiretog@eniinternet.com>; Thomas Smith <tsmith@bsk.com>; William Ife <wbife@verizon.net>; C. Trimarchi Peter (ptrimarchi@nixonpeabody.com) <ptrimarchi@nixonpeabody.com>
Cc: David Batson (dbatson@alterecho.com) <dbatson@alterecho.com>; Mannino, Pietro <Mannino.Pietro@epa.gov>; LaPoma, Jennifer <LaPoma.Jennifer@epa.gov>
Subject: NCHGW OU1 RD

Attached please find a revised settlement agreement and SOW in PDF and Word, as well as compare versions comparing today's draft with the drafts we sent you on August 10th. Below is a discussion of some, but not all, of the items which were changed. Please review the documents to see all of the changes.

1. Changes to the SOW to address the Central Plume group's comments regarding the PDI Recommendations Report. Note that while we did not acknowledge in the SOW that we would consider changes to the remedy if information is gathered during PDI Directives 1 and 2 which cause us to rethink the remedy, we do allow for an alternative to be proposed, and we clarify that your clients can choose which PDI Directive (3,4 or 5) your clients will be performing.

2. Parties:

   a. Spiegel Estate parties have been deleted as we were told that they would not be separately settling however Next Millennium and 101 Frost Street are included.

   b. 1150 Motor Avenue, which we believed was the owner of 29 New York Avenue, has been deleted. They have never responded to any of our efforts to reach out to them and we are told that they are not the current owner. I am still investigating how that error happened. We have recently been provided with information on the current and prior owners of that property and we intend to send 104e/Notice letters to these parties in the near future. We will then review their responses and determine whether to enter into a cooperate and coordinate settlement with them. We will not hold up this settlement to catch these parties up and we will not issue a UAO to parties who have not as yet received a notice letter from us. As you know, this is a settlement for RD only. We will have time in the future to bring other parties into the mix when we negotiate a settlement for RA and past costs. Of course you also have all rights afforded under CERCLA with respect to these and other parties.

   c. Certain other parties have either not participated or minimally participated in settlement discussions. These parties have been kept abreast of our negotiations and I expect to recommend to my management that a UAO be issued to some or all of these parties if they refuse to settle.

3. Changes to the Settlement Agreement related to coordinating with either parties that do not settle and that may receive a UAO from us, and coordinating with us if we end up doing work. Note that EPA would only step in to perform work if there is no party from a plume group performing under either this settlement agreement or a UAO.

4. Changes making clear that all Respondents are responsible for Future Response Costs for Common Work Elements and Relevant Respondents are responsible for Future Response Costs related to Work in their plume group.

We would like to discuss these drafts with you in a conference call towards the end of next week. We are available on 11/2 after 1:00 and 11/3 from 1:15 – 3:00. While we would prefer not to extend out until the following week, we will also be available on 11/10 after 11:00. We fully anticipate concluding these negotiations by the end of November.

Please coordinate a date for the conference call with David Batson. Please do not hesitate to call me before the conference call if you have any particular questions or concerns. Note I will not be in the office and will not have access to email tomorrow (10/26). I look forward to moving forward.
Sharon

Sharon E. Kivowitz
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, NY 10007
212-637-3183
kivowitz.sharon@epa.gov