To: Timothy Duffy[TDuffy@coughlinduffy.com]
Cc: Fajardo, Juan[Fajardo.Juan@epa.gov]; Flanagan, Sarah[Flanagan.Sarah@epa.gov]; Wilson, Eric[Wilson.EricJ@epa.gov]; john.doherty@pseg.com[john.doherty@pseg.com]; David Schneider[DSchneider@bressler.com]; jklock@gibbonslaw.com[jklock@gibbonslaw.com]; louis.destefano@bipc.com[louis.destefano@bipc.com]; alipuma@saul.com[alipuma@saul.com]; Peter.Simshauser@skadden.com[Peter.Simshauser@skadden.com]; jstewart@lowenstein.com[jstewart@lowenstein.com]; joshua.frank@bakerbotts.com[joshua.frank@bakerbotts.com]; hbbennet@sbflawfirm.com[hbbennet@sbflawfirm.com]; andrew.kolesar@thompsonhine.com[andrew.kolesar@thompsonhine.com]; Faure, Warren[Warren.Faure@sunchemical.com]; jschiff@textron.com[jschiff@textron.com]; bonni.kaufman@hklaw.com[bonni.kaufman@hklaw.com]; JLuxton@ClarkHill.com[JLuxton@ClarkHill.com]; Jeremy.karpatkin@apks.com[Jeremy.karpatkin@apks.com]; rschillinger@saiber.com[rschillinger@saiber.com]; bob.greenslade@nortonrosefulbright.com[bob.greenslade@nortonrosefulbright.com]; james.otoole@bipc.com[james.otoole@bipc.com]; bfreeman@rc.com[bfreeman@rc.com]; Heidi Minuskin[HMinuskin@coughlinduffy.com]
From: Marylin Jenkins
Sent: Mon 4/17/2017 7:22:43 PM
Subject: Re: EPA March 30, 2017 Cash-Out Settlement Offers re Diamond Alkali Superfund Site, Lower 8.3 miles of the Lower Passaic River
removed.txt

OK, I don't think it's fair for EPA to allow some parties out without an "allocation process" and others, who arguably are similarly or even better situated, to have to go through that process. Also, I think EPA should be asked what the allocation process is? It sounds expensive and burdensome and EPA is, so far, without justification in how it has treated those to whom it has offered early settlement and those that have to go through the allocation process. This "response" is a non-response and deserves a pointed response from those of us who are unfairly left out. Can we discuss a response?

Marylin Jenkins
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On Apr 17, 2017, at 11:36 AM, Timothy Duffy <TDuffy@coughlinduffy.com> wrote:

Juan…Thank you. I retrieved your response of April 11 which my fire wall did block. Thank you for responding so quickly. I will provide your response to the all the companies identified in our communication. Best regards. Tim

From: Fajardo, Juan [mailto:Fajardo.Juan@epa.gov]
Sent: Tuesday, April 11, 2017 9:03 AM
To: Timothy Duffy
Cc: Flanagan, Sarah; Wilson, Eric
Subject: RE: EPA March 30, 2017 Cash-Out Settlement Offers re Diamond Alkali Superfund Site, Lower 8.3 miles of the Lower Passaic River

Timothy,

I received your letter regarding the Agency's proposed cash out settlement offer to approximately twenty (20) parties associated with the Lower 8.3 Miles of the Lower Passaic River, Diamond Alkali Superfund Site.

In the spirit of transparency, the Agency wrote to all of the potentially responsible parties notifying them that the Agency was offering an early cash out settlement to twenty (20) parties. The U.S. Environmental Protection Agency's March 30, 2017 letter states that "EPA has identified for immediate settlement those parties that are not associated with a disposal or release of any of the contaminants of concern ("COCs") for OU2, as identified in the OU2 ROD."

As you may know, the proposed cash out settlement would be issued pursuant to Section 122(h) of CERLCA, which authorizes the Agency to "consider, compromise, and settle a claim under Section 9607" of CERCLA. The Agency is in the process of negotiating the proposed settlement with the "early out" parties, and a final settlement agreement has not been reached. If a proposed settlement agreement is reached, notice of the proposed settlement agreement will be published in the Federal Register and the public, including the potentially responsible parties, will have at least a 30-day period to comment on the proposed settlement. If any of the concerned parties have information, particularly information showing that a "early out" party is responsible for the release of a contaminant of concern with respect to the Lower 8.3 Miles, we encourage such person to provide EPA with that information.

An Administrative Record will be made available to the public along with the settlement agreement, assuming such an agreement is reached and entered into by EPA and approved by the U.S. Department of Justice.

EPA has carefully reviewed the information it has and will not be offering an early cash out settlement to any other party. That said, as stated in the Agency's March 30, 2017 letter, "[f]or parties that are not one of the 20 early cash out parties and are also not associated with the release of dioxins, furans, or PCBs into the Lower Passaic River, a cash out settlement might be appropriate." EPA is working on identifying those parties, and we encourage you, and the other parties listed in your letter, to wait until that process is completed since, as indicated in EPA's March 30 letter, there will be an "opportunity for OU2 PRPs to offer input on the factors that they think should be considered in the allocation process, and to provide feedback on the overall design of the allocation process.

Sincerely,

Juan M. Fajardo

Assistant Regional Counsel

212 637-3132

From: Linda Hall [mailto:LHall@coughlinduffy.com] **On Behalf Of** Timothy Duffy
Sent: Monday, April 10, 2017 4:21 PM
To: Wilson, Eric <Wilson.EricJ@epa.gov>; Fajardo, Juan <Fajardo.Juan@epa.gov>; Flanagan, Sarah <Flanagan.Sarah@epa.gov>
Cc: 'john.doherty@pseg.com' <john.doherty@pseg.com>; 'David Schneider' <DSchneider@bressler.com>; 'jklock@gibbonslaw.com' <jklock@gibbonslaw.com>; 'louis.destefano@bipc.com' <louis.destefano@bipc.com>; 'alipuma@saul.com' <alipuma@saul.com>; Peter.Simshauser@skadden.com; 'jstewart@lowenstein.com' <jstewart@lowenstein.com>; 'joshua.frank@bakerbotts.com' <joshua.frank@bakerbotts.com>; hbbennet@sbflawfirm.com;

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Subject: EPA March 30, 2017 Cash-Out Settlement Offers re Diamond Alkali Superfund Site, Lower 8.3 miles of the Lower Passaic River

Please see attached.

<image001.jpg>

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