Atlantic Richfield Company

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VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

June 19, 2017

Dana Barton
Section Chief
California Site Cleanup and Enforcement Branch
Superfund Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

RE: Response to EPA's Revised Remedial Investigation / Feasibility Study Schedule
Leviathan Mine Site, Alpine County, California
Administrative Order for RI/FS, CERCLA Docket No. 2008-18

Dear Ms. Barton:

Atlantic Richfield Company (Atlantic Richfield) is responding to EPA's May 17, 2017 letter, which (i) clarifies the Agency's position on a revised schedule for completing the Remedial Investigation/Feasibility Study (RI/FS) for the Leviathan Mine Site (the Site) under the above referenced unilateral Administrative Order (the UAO), and (ii) requests that Atlantic Richfield update its previously submitted Notice of Intent to Comply. EPA's letter transmits a revised "List of Major Submittals for the Leviathan Mine RI/FS," which is Attachment 2 to the UAO. Attachment 2 now includes the Draft Site Characterization Report and prescribes dates for the remaining RI/FS Major Submittals through June 30, 2019.

Atlantic Richfield acknowledges and appreciates EPA's efforts to clarify its position from its April 4, 2017 letter on the remaining key RI/FS deadlines and deliverables.

Update of Notice of Intent to Comply

On July 23, 2008, Atlantic Richfield notified EPA it intended to comply with the lawful requirements of the UAO, as required by Section VII thereof. Atlantic Richfield will continue to do so. We intend to submit the remaining RI/FS Major Submittals by the dates specified in the revised Attachment 2 to the UAO. Atlantic Richfield's ability to meet these deadlines, however, will depend on certain assumptions and qualifications, as set forth in our March 3, 2017 letter and discussed further below. If those assumptions and qualifications are not met, if there is a material change to the amount or scope of work needing to be performed to complete the RI/FS, or if unanticipated circumstances arise, sufficient cause may exist for extending one or more

deadlines in updated Attachment 2. In that case, we would expect EPA to modify any applicable deadlines under Paragraph 50 or pursuant to Section XIX of the UAO, and failure to submit any Major Submittal by the deadlines set forth in updated Attachment 2 would not be a violation of the UAO.

Major Submittals for the RI/FS

EPA prescribes the following schedule for the RI/FS Major Submittals: a Draft Site Characterization Report by December 31, 2017; a Draft RI Report, including the Revised Site Characterization Report, Draft Human Health Risk Assessment, and Draft Ecological Risk Assessment by June 30, 2018; a Draft FS Report by December 31, 2018; and a final RI/FS Report by June 30, 2019. This follows the schedule included with Atlantic Richfield's March 3, 2017 letter.

Atlantic Richfield is working diligently to comply with these deadlines. We remain on track to submit the Draft Site Characterization Report by December 31, 2017. As previously communicated, it will include all data collected through December 31, 2016. We can only achieve the year-end deadline if EPA does not require major additions to the current scope of planned RI/FS activities and if Atlantic Richfield is required to submit only the Technical Data Summary Reports, technical memoranda, and database updates described in later sections of this letter. If additional investigations or technical submittals are required, the December 31, 2017 submission date will not be achievable.

Other assumptions that underpin the schedule are documented in Attachment A of Atlantic Richfield's March 3, 2017 letter to EPA. Among these was the point that, if EPA takes more than 60 days to review any of the required documents, the time required for submitting subsequent Major Submittals will be proportionally delayed. Also, if EPA fails to confirm the adequacy of the data set and exposure point concentrations presented in the Draft Site Characterization Report, identifies major data gaps, requires substantial changes to a report, or requests additional analysis, the deadline for any one of the Major Submittals could slip. Requiring extensive modifications during the review process to technical approaches described in various planning documents previously submitted to EPA – for example, further modifications to work plans for the human health and ecological risk assessments or to the April 27, 2014 Feasibility Study Approach – will have a similar effect.

Technical Data Summary Reports (TDSRs)

Although not listed on Attachment 2, EPA requests that Atlantic Richfield also submit three TDSRs by July 15, 2017:

Stream Sediment and Floodplain Soil TDSR. Atlantic Richfield has been preparing the Stream Sediment TDSR and Floodplain Soil TDSR as separate documents. Re-writing and combining them now would be unnecessarily time consuming. Atlantic Richfield is on schedule to produce both the Stream Sediment and Floodplain Soil TDSRs by July 15, 2017. The two reports will be submitted with a joint cover letter.

Reference Areas TDSR. Atlantic Richfield is not able to submit a draft Reference Area TDSR by July 15, 2017. Validated data sets are still not available for all reference area sampling media. As a result, statistical tests have not yet been completed, and final reference threshold values (RTVs) have not been calculated. We will complete those analyses when the final validated data sets are received. All reference area data for each sampled media type, including final RTVs, will be reported in the media-specific TDSRs and corresponding chapters of the Draft Site Characterization Report to be submitted by December 31, 2017. In the meantime, Atlantic Richfield is preparing a Reference Area Technical Memorandum, which we intend to submit to EPA by July 15, 2017. This document will include sample location maps, raw data tables (based on non-validated, preliminary data), and preliminary RTVs. By providing the Technical Memorandum, EPA and other reviewers will be able to understand the scope and magnitude of the reference area sampling performed, the ranges of metals concentrations observed, and how the RTVS will be calculated, based on non-validated preliminary data and subject to revisions once final validated results are available.

Groundwater TDSR. Atlantic Richfield also is not able to submit a third-revised Groundwater TDSR by July 15, 2017. On May 18, 2017, EPA provided extensive comments on the second draft of the Groundwater TDSR, which had been submitted to EPA four months earlier (on January 25, 2017). Substantial revisions are now required to respond to the comments, address additional monitoring results from 2016, present groundwater-based RTV comparisons, and integrate recent investigations of groundwater-surface interactions. These changes cannot be finished by July 15, 2017. There is little point in rushing to submit another incomplete draft. Atlantic Richfield will submit a revised Groundwater TDSR incorporating EPA's comments with the Draft Site Characterization Report by December 31, 2017.

Other Data Summary Reports

EPA requests submission of three additional data summary reports – for River Ranch, fish tissue, and plant tissue sampling – by July 15, 2017. EPA's May 17, 2017 letter states that these reports are "prioritized because they are overdue and/or because they are related to current potential exposure pathways."

First, none of these reports are "overdue." EPA has requested data summary reports within 90 days of completing field work. But a blanket 90-day deadline is not reasonable, nor is it consistent with any reporting requirement in the UAO or the respective work plans. Sampling results cannot be reported to EPA and distributed to stakeholders before we receive them from the analytical laboratory and complete the validation process in accordance with the EPA-approved RI/FS QAPP. That is not possible within 90 days of field work completion.

Second, we fail to understand what EPA means by the phrase "related to current potential exposure pathways." Virtually all of the sampling performed as part of the RI generates results relevant to assessing the nature and extent of contaminant releases from the mine site and potential exposure to human or ecological receptors. It is unclear why EPA believes the River Ranch, fish tissue, and plant tissue results are any more relevant to evaluating exposure pathways that will be considered in the risk assessments than results for other media.

Atlantic Richfield is not able to submit these three reports by July 15, 2017. The data validation process will not be completed until at least the end of June 2017. We cannot prepare data summary reports within only two weeks after receiving the final, validated data sets. Instead, Atlantic Richfield will provide EPA with an annual (2016) database update by mid-to-late August 2017. Because we expect to receive the final validated data sets in the next few weeks, this database update will include all of the requested River Ranch, fish tissue, and plant tissue sampling results. As with prior updates, users can query the database for any number of media-specific, location-specific, or chemical-specific data and generate data summary tables organized by sampling location. Providing an annual database update is consistent with the reporting requirements in the UAO (see Paragraph 64).

Other Scheduling Items

Atlantic Richfield acknowledges EPA's statement that interim data summary reports for other RI sampling efforts and media types will not be required prior to submission of the Draft Site Characterization Report. As requested, reporting will continue in accordance with approved work plans for ongoing focused feasibility studies and the removal action.

Atlantic Richfield confirms that no additional work plans or task sampling and analysis plans still need to be submitted for 2017 RI/FS field activities. However, it may be necessary to amend one or more existing plans if EPA requires additional or supplemental investigations outside the scope of the current plans. In addition, Atlantic Richfield notes that we still have not received final approval of the human health risk assessment exposure assumptions and the final baseline human health risk assessment work plan submitted on February 28, 2017.

EPA's May 17, 2017 letter states that all sampling data collected through the 2017 field season shall be included in the June 2018 Draft RI Report. The letter also requests that results collected from any additional sampling conducted in 2018 "be included in the December 2018 Draft RI/FS." First, Attachment 2 only calls for a December 31, 2018 Draft FS Report, not a Draft RI/FS. Second, it will not be possible to update all calculations and interpretative results presented in the December 31, 2017 Draft Site Characterization Report to account for the complete set of 2017 sampling results by the time the Draft RI Report is due on June 30, 2018. Rather, 2017 data and 2018 data (if any) will be presented in one or more appendices or supplements to the Site Characterization Report, Draft RI Report, or Final RI/FS report, as applicable, if the data materially alter the findings of the RI/FS. Otherwise, the additional data will just be provided in the annual database updates.

Finally, Atlantic Richfield is proceeding with development of the FS and initial screening of potential remedial alternatives, as we discussed with EPA, the US Forest Service, and Lahontan Regional Water Quality Control Board staff during our recent May 23, 2017 meeting.

Once again, Atlantic Richfield appreciates EPA's continued cooperation in the development of an RI/FS schedule. We hope this letter adequately addresses all of the points raised in EPA's May 17, 2017 letter and charts an acceptable course for interim reporting and the timely completion of the RI/FS.

Sincerely,

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