To: Lyons, John[Lyons.John@epa.gov]
From: Manzanilla, Enrique
Sent: Mon 12/4/2017 9:22:54 PM
Subject: Fwd: Anaconda Copper Mine Site - ARC Comments on Draft Deferral Agreement
Draft Deferral Agreement with ARC Comments_12_4_2017.docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Cohen, Adam" <Adam.Cohen@dgslaw.com>
Date: December 4, 2017 at 1:10:48 PM PST
To: "glovato@ndep.nv.gov" <glovato@ndep.nv.gov>, "jrcollins@ndep.nv.gov" <jrcollins@ndep.nv.gov>, Frederick "Rick" J. Perdomo (fperdomo@ag.nv.gov) <fperdomo@ag.nv.gov>, "Quast.sylvia@Epa.gov" <Quast.sylvia@Epa.gov>, "Strauss.alexis@Epa.gov" <Strauss.alexis@Epa.gov>, "Manzanilla.enrique@Epa.gov" <Manzanilla.enrique@Epa.gov>
Cc: "Cohen, Adam" <Adam.Cohen@dgslaw.com>, "Genovese, Robert (BP)" <Robert.Genovese@bp.com>, "Brian.S.Johnson@bp.com" <Brian.S.Johnson@bp.com>, "Block, Nathan" <Nathan.Block@bp.com>, "Gallery, Patricia A (patricia.gallery@bp.com)" <patricia.gallery@bp.com>
Subject: Anaconda Copper Mine Site - ARC Comments on Draft Deferral Agreement

To NDEP and EPA:

Atlantic Richfield Company received an updated draft version of the Anaconda Copper Mine Site Deferral Agreement from NDEP on November 29, 2017. A satisfactory deferral agreement is key to Atlantic Richfield's commitment to performance of the remedial action selected in the July 2017 Interim ROD. We have carefully reviewed the document. Although our remaining concerns are few in number, they are material. Our principal points of disagreement with the current draft pertain to: (1) deleting text acknowledging compliance with the Deferral Guidance and EPA's deferral criteria; (2) requiring satisfaction of state or federal requirements for an ARARs waiver, "whichever is more stringent;" (3) providing for "substantial participation" by the tribes in off-reservation response actions; (4) not defining what "significant and valid concerns" may include; (5) allowing for termination of the agreement by EPA and NDEP at any time and for any "appropriate reason;" and (6) allowing EPA to take any action "notwithstanding any provision of this Deferral Agreement." Our requested revisions to the latest draft are shown in in the attached redline, including explanatory margin comments. These revisions and comments will need to be addressed before Atlantic Richfield proceeds with execution of

the IAOC.

Atlantic Richfield greatly appreciates all of the time and effort invested by NDEP and EPA thus far in advancing what we believe is an innovative, cost-effective, and fully protective strategy for the timely cleanup of this site. We look forward to discussing these remaining issues with NDEP's and EPA's principals during the meetings scheduled for the afternoon of December 6 and the morning of December 7. Atlantic Richfield's representatives, including senior management, have cleared their schedules for these meetings on both days, which we expect will be conducted as three-way discussions among the parties.

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