Subject: Re: Fw: WSDF Proposed Cooperative Audit
To: CN=Edward Kowalski/OU=R10/O=USEPA/C=US@EPA
Cc: Cox.Michael@epa.gov Fleming.Sheila@epa.gov Jennings.Marie@epa.gov macdonald.jennifer@epa.gov opalski.dan@epa.gov Stern.Allyn@epa.gov Winiecki.Eric@epa.gov
From: CN=Thomas Eaton/OU=R10/O=USEPA/C=US
Submit Time: 11/1/2012 17:38:48

Agree, will look for the meeting invitation

Tom Eaton
Director
Washington Operations Office
USEPA, Region 10
360-753-8086

Edward Kowalski---11/01/2012 10:34:17 AM---Tom, thanks for raising some great questions. Deliberative Process - Attorney Client/ Ex. 5 **Deliberative Process - Attorney Client/ Ex. 5**

From: Edward Kowalski/R10/USEPA/US
To: Thomas Eaton/R10/USEPA/US@EPA
Cc: Cox.Michael@epa.gov, Fleming.Sheila@epa.gov, Jennings.Marie@epa.gov, macdonald.jennifer@epa.gov, opalski.dan@epa.gov, Stern.Allyn@epa.gov, Winiecki.Eric@epa.gov
Date: 11/01/2012 10:34 AM
Subject: Re: Fw: WSDF Proposed Cooperative Audit

Tom, thanks for raising some great questions. Given the way this seems to be evolving, it is a good time to put some discipline on the process as we move forward. I would like to suggest that we set up some time to discuss these and other issues **Deliberative Process - Attorney Client/ Ex. 5** I will ask Creagh to try to get us some time.--Ed

Edward J. Kowalski, Director
Office of Compliance and Enforcement
USEPA Region 10
1200 Sixth Avenue, Ste. 900
Seattle, WA 98101

Phone: 206 553-6695
Fax: 206 553-7176

Thomas Eaton---11/01/2012 06:50:16 AM---I am forwarding this message from WSDF and a second message from Stu Turner, that lead me to believ

From: Thomas Eaton/R10/USEPA/US
To: kowalski.edward@epa.gov, opalski.dan@epa.gov, Stern.Allyn@epa.gov, macdonald.jennifer@epa.gov
Cc: Winiecki.Eric@epa.gov, Jennings.Marie@epa.gov, Cox.Michael@epa.gov, Fleming.Sheila@epa.gov
Date: 11/01/2012 06:50 AM
Subject: Fw: WSDF Proposed Cooperative Audit

I am forwarding this message from WSDF and a second message from Stu Turner, that lead me to believe that **Deliberative Process - Attorney Client/ Ex. 5** This raised a few questions:

Deliberative Process - Attorney Client/ Ex. 5

Let me know if you see things differently

Tom Eaton
Director
Washington Operations Office
USEPA, Region 10
360-753-8086

----- Forwarded by Thomas Eaton/R10/USEPA/US on 11/01/2012 06:26 AM -----

From: Washington State Dairy Federation -- <wsdf@msn.com>
To: Thomas Eaton/R10/USEPA/US@EPA
Date: 10/31/2012 04:57 PM
Subject: RE: WSDF Proposed Cooperative Audit

Tom, hummm.
I am new to most of this kind of thing...so I reserve the right to be off a bit. So here's my humble opinion.
First thing first.
Stu is working on our farmers behalf via a contract to produce a technical report both to inform us and to submit as comments to the report. His points and opinions are his.
How you want to respond to him is a process that you are best able to answer.

I do not know, cannot and will not speculate on what the four families and their lawyers are doing or thinking. That is their process and their lives at stake. I am not getting into the middle of that.

We tried to consolidate our requests for information that we knew several of the consultants wanted and I believe we have already sent that request in on a focused request for various data and correspondence.

On the specifics... We are waiting to respond until we have reports and opinions that give us a better understanding where this report contains accurate information and where it takes leaps unsupported by science or scientifically credible data.

Generally,
No surprise the more we learn the more disappointed we are in your folks running this operation... at all levels including the folks behind the curtain in DC.

I know you work for the agency and must support it but most folks from farmers to PhD's are not using very flattering words to describe the agency's choices - choices on process, choices in the science and the sad choice in tactics. I hope the lawyers that wanted this fight understand the destruction they are causing to get their ends. This obviously is very destructive to the named families but another lasting problem is the destruction in the trust our farmers have in your agency, it's gone. We (in the state and around the west and including the families named) have worked very hard for the past two decades to be responsive and responsible and work professionally with your agency. So much could be said about how wrong this action is on on so many layers. But I will leave it to this...the unilateral focus on gaining power under 1431 is coming at a high cost. I say that as nicely as I can, others use different words.

It really is too bad we could not have followed a different path, but the die is cast for now.
Sometime we should talk about what lemonade looks like.

Jay Gordon

Washington State Dairy Federation
Elma, Washington
360-482-3485

Subject: Re: WSDF Proposed Cooperative Audit
To: wsdf@msn.com
From: Eaton.Thomas@epamail.epa.gov
Date: Wed, 31 Oct 2012 16:01:42 -0700

Does his e-mail represent the views and opinions of the Dairy Federation and do you want me to respond to Stu' e-mail point by point ?

The report is pretty thorough, but if there is additional data that was not included that would assist in your review please request it. If you have several consultants reviewing the report it would be good to have those requests consolidated into one request through the Dairy Federation.

Stu also advised Karma verbally that the individual dairies have decided not to work toward a consent agreement, but to challenge the report conclusions instead. I checked with our attorney earlier today and she has not heard this from the attorneys representing the dairies, in fact, there is another negotiation meeting scheduled tomorrow. Do you know if what Stu said is accurate?

P.S. Hope you are continuing to enjoy yourself and this can wait until you get back if needed

Tom Eaton
Director
Washington Operations Office
USEPA, Region 10
360-753-8086

Washington State Dairy Federation -- ---10/31/2012 02:09:13 PM---Sorry Tom I wasn't quite finished before I hit send... There is a lot of material and information th

From: Washington State Dairy Federation -- <wsdf@msn.com>
To: Washington State Dairy Federation -- <wsdf@msn.com>
Cc: Thomas Eaton/R10/USEPA/US@EPA, "agforensic@aol.com" <agforensic@aol.com>, Karma Anderson/R10/USEPA/US@EPA,

Michael Cox/R10/USEPA/US@EPA, Sheila Fleming/R10/USEPA/US@EPA
Date: 10/31/2012 02:09 PM
Subject: Re: WSDF Proposed Cooperative Audit

Sorry Tom I wasn't quite finished before I hit send...
There is a lot of material and information the report contains,
Since the information and analysis and conclusions were not reviewed by outsiders other than the USDA fellow, we have lots of questions in numerous areas of this study, report and conclusions.
We have a very short time line to get a professional evaluation and response to this study, so we either need expedience or an extension on the comment period.

Jay Gordon
Washington State Dairy Federation

On Oct 31, 2012, at 2:04 PM, "Washington State Dairy Federation --" <wsdf@msn.com> wrote:

> Tom, S stu is one of several folks that are now working with us to prepare comments and evaluation of this report. Obviously the more information we all have the better and easier it will be to evaluate.
>
> Jay Gordon
> Washington State Dairy Federation
>
> On Oct 31, 2012, at 11:28 AM, Eaton.Thomas@epamail.epa.gov wrote:
>
>> Stu,
>>
>> Jay has not informed me that your role, as a private consultant, has changed relative to the Dairy Federation. Before I respond in any detail to your allegations, accusations and opinions, I would ask you to clarify your role in this matter. Is your e-mail sent on behalf of any client? If it is the Dairy Federation, I would ask Jay to confirm this.
>>
>> If I understand your comments correctly, you are also making general statements on behalf of the GWMA. Has the GWMA Advisory Committee or Yakima County authorized you to make these statements?
>>
>> Best Regards,
>>
>> Tom Eaton
>> Director
>> Washington Operations Office
>> USEPA, Region 10
>> 360-753-8086
>>
>> <graycol.gif>agforensic---10/31/2012 09:52:08 AM---Tom, Jay has since modified his views on this issue. Whether or not the DF is a co-sponsor a reply
>>
>> From: agforensic@aol.com

To: Thomas Eaton/R10/USEPA/US@EPA
Cc: wsdf@msn.com, Karma Anderson/R10/USEPA/US@EPA
Date: 10/31/2012 09:52 AM
Subject: Re: WSDF Proposed Cooperative Audit

Tom,
Jay has since modified his views on this issue. Whether or not the DF is a co-sponsor a reply is measure of professional respect, common sense and good manners. I am hopeful that EPA will be more forthcoming and provide public access to the large number of documents not posted to the web to allow a more thorough review if not a formal, outside audit. To fail to do so leads one to several unpleasant conclusions; First, EPA has something to hide; it seems obscene to me that with 100% taxpayer funding for this "study" we at this time do not have automatic FULL access; Second, EPA was not interested in a fair and balanced study dedicated to minimum standard of scientific reliability, but instead was on a politically driven task to target a specific industry, While ignoring thier own statutory responsibility for water quality on the Reservation (total control) or balance of lower Yakima basin where you delegate and pay for DOE as a surrogate on your behalf. As you know from our many discussions, it seems illogical to ignore documented, annual, repetitive violations of the CWA by the municipal plants which are dumping on average about 24 Million Gallons a day into the Yakima river, while targeting the most highly regulated industry in agriculture, with the named dairies inspected annually by WSDA and DOE and found to be in compliance with those regulations, and by extension all applicable NRCS Practice and Standards. In producing and publishing the limited data and summary report, you and EPA have taken a public stand based on the most questionable "science" I have reviewed in over 30 years. You and EPA have now by your actions created a situation where you must now take the public input as FORMAL COMMENT; I fully expect the agency to respond in writing to each written comment submitted within 90 days of the close of the comment period. Anything less than this would be proof of the agency's illegitamacy and would not only further erode any public consideration of the report, but essentially create an environment hostile to actually doing something constructive to resolve the historic nitrate problem in the lower Yakima Valley. This report, and the manner in which it was created represents the single greatest threat to the ultimate success of the newly formed GWMA. EPA is going to have to choose either it's radical environmental non science based agenda, or the recongnized and funded GWMA; the two are inherently incompatible. All parties associated with the GWMA agree; all stakeholders must be present and participate to move forward. Urban and suburban mini and septic must work with the production agricultural community have both legal and moral obligations with respect to the all important groundwater resource. After release and review of your report, any rational person in the production ag community considering the agency's motivations fully expressed in the design and execution of the "research" in this document cannot logically consider working with EPA for fear of economic ruin based on the positions and actions the agency has taken. In plain farming language, Mr. Eaton, you and EPA are going to harvest the bitter fruits, from this is indeed the crop you have sown. How you respond to the comments thoughful scientists and engineers and the public at large will determine whether this is set in stone or not. I cannot emphasize strongly enough the damage done, intentional or not, and I remind you again any redemption potential lies in how the agency responds to the comments submitted.

Best Regards,

Stuart Turner, CPAg
-----Original Message-----
From: Eaton.Thomas <Eaton.Thomas@epamail.epa.gov>
To: Stuart Turner <agforensic@aol.com>

Cc: Washington State Dairy Federation -- <wsdf@msn.com>; Anderson.Karma <Anderson.Karma@epamail.epa.gov>
Sent: Wed, Oct 31, 2012 8:43 am
Subject: RE: WSDF Proposed Cooperative Audit

Hello Stu,

I understand from Karma that you were expecting a reply to your September 28th e-mail. When Jay clarified that your proposal was not sent on behalf of the Washington State Dairy Federation, I felt that no response was necessary.

Tom Eaton
Director
Washington Operations Office
USEPA, Region 10
360-753-8086

<graycol.gif>Washington State Dairy Federation -- ---09/28/2012 12:07:19 PM---Stu, I should have listened a little closer last night when you were talking about your discussion

From: Washington State Dairy Federation -- <wsdf@msn.com>
To: Stuart Turner <agforensic@aol.com>
Cc: Personal Privacy/ Ex. 6
Date: 09/28/2012 12:07 PM
Subject: RE: WSDF Proposed Cooperative Audit

Stu,
I should have listened a little closer last night when you were talking about your discussion with Tom. I did not hear you ask and it never crossed my mind that you would offer anything in writing to EPA **on our behalf!?**
This creates several a rather large problems.
1. This is not your offer to make on our behalf, I did not approve it and
2. in fact I do not even have the authority to make this offer because...

I have not talked to our partners about their outline, concerns and objectives on IF and then HOW and TO WHAT EXTENT we do a science review during the 60 day public comment.

Your proposal is significantly outside our current budget and I need board approval for that.

I ask you to please convey this to Mr. Eaton.

Jay Gordon

Washington State Dairy Federation
Elma, Washington
360-482-3485

To: Eaton.Thomas@epamail.epa.gov
Subject: WSDF Proposed Cooperative Audit

From: agforensic@aol.com
CC: wsdf@msn.com
Date: Fri, 28 Sep 2012 14:37:36 -0400

Dear Tom,
I imagine you are back to a slightly less stressful and more enjoyable work day today, I know you faced some challenges yesterday from the industry at large, to be expected as you were the selected/volunteered EPA representative.

This is a followup to our several discussions, formalizing the request of the WSDF to form a small (4-5) group of highly qualified and independent experts to much more closely examine the actual raw data, and talk with the EPA and contract lab workers involved in the just published Lower Yakima Groundwater Study. We also would like to speak to the specific, As you and I agreed, small, peer to peer meetings on technical issues tend to be far more productive than public meetings; this is magnified by several orders when we have the actual data to examine and discuss rather than selected summaries. With the very tight timeline imposed by the formal public comment deadline of November 30, I would like a response from your group at EPA as soon as possible on this issue. If we have to take the alternate and less desireable route of FOIA, not only will it be more difficult and expensive for both parties, the lack of an opportunity to discuss matters face to face makes this a distinctly unloved option.
I anticipate that if all the data is available, the external audit/review can be completed in it's initial phase in just a few months; prior to generation of formal comments and public detailed comments, we would like to have a second meeting to exchange our views with EPA staff and scientists in hopes of finding the maximum amount of consensus on specific issues. Following that would be formal submission of comments and any attendant public statements; if you agree to the audit our end of the bargain is to refer all specic comments to a general statement that they are being witheld, pending a cooperative review of the raw data.
If there is some other specific terms you would like to impose, I am open to a discussion, but would like to get this process well underway as soon as possible. I look forward to the favor of your prompt response,

Best Regards,

Stuart Turner, CPAg
Turner & Co., Inc.[attachment "graycol.gif" deleted by Thomas Eaton/R10/USEPA/US]
[attachment "graycol.gif" deleted by Thomas Eaton/R10/USEPA/US]