UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

January 14, 2021

Devon Boyer, Chairman
Shoshone-Bannock Tribes
Fort. Hall Business Council
P.O. Box 306
Fort Hall, Idaho 83203

Dear Chairman Boyer:

This letter is in response to the questions raised in the January 7, 2021, letter from Marlene Skunkcap, Vice-Chair, Shoshone-Bannock Tribes.

1. Why are the Shoshone-Bannock Tribes not a party to the Administrative Settlement Agreement and Order on Consent (ASAOC)?

The U.S. Environmental Protection Agency is aware of the Shoshone-Bannock Tribes' claims regarding treaty-reserved rights in the area of the Stibnite Mine. EPA's goal is to ensure that the ASAOC in no way affects those claims

2. What changes were made since distribution of the December 11, 2020, ASAOC and SOW?

Revisions to the December 11, 2020, drafts are reflected in the January 8, 2021, draft that was sent to you and your staff on January 9, 2021.

3. How will EPA's decisions regarding the site impact the Shoshone-Bannock Tribes' rights to hunt, fish, and gather and perform cultural and customary activities in the area?

The actions taken under the ASAOC will improve water quality and fish habitat. EPA also revised the December 11, 2020, draft in paragraphs 60 and 61 to ensure that the ASAOC in no way purports to address tribal access to the area.

4. Will the ASAOC include a provision requiring documents be provided to the Shoshone-Bannock Tribes prior to EPA approval?

The ASAOC does not include such a provision but EPA intends to keep the Shoshone-Bannock Tribes informed of plans for and progress of any removal actions under the ASAOC.

5. Will EPA agree to consult with the Tribes prior to any changes of schedule in Phase 1 deliverables and prior to any amendments to the SOW?

EPA intends to keep the Shoshone-Bannock Tribes informed of plans for and progress of any removal actions under the ASAOC. This would include schedule changes and SOW amendments.

6. Request for technical information regarding water quality, past removal actions, and the basis for the revised tonnage of waste material and location of the on-site repository for Phase 1 removal actions.

The Region 10 technical staff will reach out to your technical staff regarding the water quality and past removal actions questions. The reason for the reduction of tonnage of material removed under Phase 1 is that, as noted in paragraph 9 of the ASAOC, Midas is a start-up entity without a large amount of assets. The original scope took into account available funds and the cost of Midas doing the work. Unfortunately, EPA requires a greater amount in financial assurance because it generally costs EPA more to do work in the case of a work take-over. That financial assurance consumed some of the available funding requiring a reduction in the scope of work for Phase 1. As EPA's technical staff can explain to your technical staff, the reason for the change in location of the on-site repository was to increase protectiveness.

7. Why did the financial assurance amount change?

As noted in response to question 6, EPA put in a financial assurance amount in an earlier draft ASAOC based on the cost to EPA of completing the work in case of a work take-over. When EPA learned of the limitations on available funds and the cost of the financial assurance, the scope of work changed, and the financial assurance changed accordingly.

Thank you for your letter and your questions and EPA looks forward to continuing engagement with the Shoshone-Bannock Tribes as this project moves forward.

Sincerely,

Susan Parker Bodine

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cc: Peter C. Wright, Assistant Administrator, Office of Land and Emergency Management
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