Message

From: Chesnutt, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E1CD369E94474C2C8A876FB16943320A-JCHESNUT]
Sent: 2/3/2021 7:23:13 PM
To: Huang, Judy [Huang.Judy@epa.gov]
Subject: RE: Montrose Superfund Site and the LA Times Article on Ocean Dumping

Great questions. Thanks

From: Huang, Judy <Huang.Judy@epa.gov>
Sent: Wednesday, February 3, 2021 11:18 AM
To: Nguyen, Ylan <nguyen.ylan@epa.gov>
Cc: Chesnutt, John <Chesnutt.John@epa.gov>
Subject: FW: Montrose Superfund Site and the LA Times Article on Ocean Dumping

Hi Ylan:

I sent you and Thomas a meeting invite for next Monday to discuss "Ocean Disposal" this morning.
The purpose of this meeting is to prepare Enrique for the upcoming (within next 30 days) multi agencies meeting (State and Fed) to discuss this issue.

I have a few questions regarding the Montrose Offshore CD that I hope you can help me with.
I will apologize ahead that my questions are just different variations on the same theme.
I posed them this way to help me get a better understanding the limitations of the CD/Special account.
I've attached Marie's interpretation of the Offshore CD below of your reference.

My questions:

Ex. 5 AC/DP

Thank you!

Judy

From: Chesnutt, John <Chesnutt.John@epa.gov>
Sent: Friday, October 30, 2020 1:01 PM
To: Huang, Judy <Huang.Judy@epa.gov>
Subject: FW: Montrose Superfund Site and the LA Times Article on Ocean Dumping

---

From: Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>
Sent: Friday, October 30, 2020 12:55 PM

To: Busterud, John <Busterud.John@epa.gov>
Cc: Munoz, Charles <munoz.charles@epa.gov>; Lyons, John <Lyons.John@epa.gov>; Rongone, Marie <Rongone.Marie@epa.gov>; Barton, Dana <Barton.Dana@epa.gov>; Herrera, Angeles <Herrera.Angeles@epa.gov>; Chesnutt, John <Chesnutt.John@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: FW: Montrose Superfund Site and the LA Times Article on Ocean Dumping

FYSA

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, October 30, 2020 12:51 PM
To: Rongone, Marie <Rongone.Marie@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Lyons, John <Lyons.John@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Kulpan, Bruce <Kulpan.Bruce@epa.gov>; Sciretta, Nicholas <sciretta.nicholas@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Tran, Victoria <tran.victoria@epa.gov>
Subject: RE: Montrose Superfund Site and the LA Times Article on Ocean Dumping

Ex. 5 AC/AWP/DP

From: Rongone, Marie <Rongone.Marie@epa.gov>
Sent: Friday, October 30, 2020 3:49 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Mackey, Cyndy <Mackey.Cyndy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Lyons, John <Lyons.John@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Kulpan, Bruce <Kulpan.Bruce@epa.gov>; Sciretta, Nicholas <sciretta.nicholas@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>
Subject: RE: Montrose Superfund Site and the LA Times Article on Ocean Dumping

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP We look forward to discussing these issues with you next week. Please let us know if you have questions in the interim, or we can be of other assistance.

https://19january2017snapshot.epa.gov/www3/region9/superfund/pvshelf/pdf/consent.pdf

Definition of Offshore Areas (pages 9-10 of attached Consent Decree)

H. "Offshore Areas" for purposes of this Decree shall mean all of the following areas to which hazardous substances, including without limitation DDT, originating from the Montrose Plant Property or the Stauffer Dominguez Plant Property have or may come to be located: the areas in and around Santa Catalina and the other Channel Islands, the Palos Verdes shelf including the Palos Verdes Slope, the San Pedro Channel, the White's Point Outfall, the Long Beach Harbor and the Los Angeles Harbor (excluding Consolidated Slip as defined in Paragraph 5.I below), Santa Monica Bay and San Pedro Bay, those offshore areas described in the February 6, 1990 draft Damage Assessment Plan and/or the March 8, 1991 draft Injury Determination Plan published by the Trustees (excluding Consolidated Slip as defined in Paragraph 5.I below), any ocean dumpsites used for disposing of wastes from the Montrose Plant Property and any offshore areas to which hazardous substances, including without limitation DDT, aerially or otherwise originating from the Montrose Plant Property or the Stauffer Dominguez Plant Property have or may come to be located.

COVENANT NOT TO SUE FOR RESPONSE ACTIVITIES AND COSTS RELATING TO THE OFFSHORE AREAS AND RESERVATION OF RIGHTS (pages 18-20 of attached consent decree)

12. Except as specifically provided in Paragraphs 13 and 14 of this Decree, the United States, the State, and agencies and instrumentalities thereof, each hereby covenants not to sue or to take any other civil or administrative action against the Released Parties to compel response activities relating to the Offshore Areas, to recover DOJ Costs, or to recover Response Costs, including but not limited to, costs for studies and evaluations of the area covered by response activities under CERCLA Sections 106 and 107, 42 U.S.C. §§ 9606 and 9607, or pursuant to the California Hazardous Substance Account Act, California Health and Safety Code §§ 25300, et seq., or any other state statute or state common law. In addition, the United States, the State, and agencies and instrumentalities thereof, each hereby covenants not to sue or take administrative action against the Released Parties to compel response activities with respect to the Offshore Areas, recover DOJ Costs, or recover Response Costs under the Resource Conservation and Recovery Act ("RCRA") Sections 3008(h), 3013, or 7003, 28 42 U.S.C. §§ 6928(h), 6934, or 6973, or California Health and Safety Code § 25187. The State, and agencies and instrumentalities thereof, each hereby further covenants not to sue or take administrative action against the Released Parties to compel response activities with respect to the Offshore Areas or to recover Response Costs under Section 7002 of RCRA, 42 U.S.C. § 6972.

13. The covenants set forth in Paragraph 12 pertain only to matters expressly specified therein, and extend only to the Released Parties. Any claim or defense which the United States or the State has against any other person or entity is expressly reserved. The United States and the State reserve, and this Decree is without prejudice to, all other rights and claims against Released Parties with respect to all other matters, including but not limited to, the following: A. any and all claims against the DDT Defendants based upon or resulting from a failure to meet a requirement of this Decree; B. claims for criminal liability; C. claims for violations of any other federal or state law; D. claims arising from the presence of a hazardous substance at any location outside of the Offshore Areas (as defined herein), including but not limited to the Onshore Areas (as defined herein), the Stauffer Dominguez Plant Property and the proposed Del Amo NPL Site, as it may be defined by EPA.

14. A. In addition to the reservations set out in Paragraph 13, the United States and the State reserve, and this Decree is without prejudice to, the right to institute proceedings in this action or in a new action seeking to compel the Released Parties to take a response action or reimburse the United States or the State for additional Response Costs if, subsequent to the Date of Lodging of this Decree, the United States or the State:

1. receives, in whole or in part, information unknown to EPA, DTSC or the Regional Board as of the Date of Lodging of this Decree, indicating that after the Date of Lodging of this Decree one or more of the Released Parties released one or more hazardous substances that come to be located at the Offshore Areas, and that EPA, DTSC or the Regional Board determines may be a threat to human health or the environment, provided that the foregoing shall not be deemed to apply to any re-exposure or resuspension on the Offshore Areas of the DDT- or PCB-contaminated sediments currently located there; including but not limited to, such re-exposure or resuspension of sediments resulting from: (a) LACSD's sampling activities (by coring, trawling or otherwise); (b) LACSD's institution of full secondary treatment of wastewater at the JWPCP and the discharge of such wastewater through the White's Point Outfall; (c) any response activity or similar activity performed by or at the direction of any Federal or State governmental body or any other person; (d) any act of God; or (e) an earthquake.

2. discovers a condition at the Offshore Areas, that EPA, DTSC or the Regional Board determines may be a threat to human health or welfare or the environment, and that was unknown to EPA, DTSC or the Regional Board prior to the Date of Lodging of this Decree.

Marie Rongone
Branch Chief
Region 9 Office of Regional Counsel
Hazardous Waste Branch
(415) 972-3891
Rongone.Marie@epa.gov

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Friday, October 30, 2020 11:48 AM

To: Mackey, Cyndy <Mackey.Cyndy@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Rongone, Marie <Rongone.Marie@epa.gov>; Lyons, John <Lyons.John@epa.gov>; DeLeon, Rafael <Deleon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Kulpan, Bruce <Kulpan.Bruce@epa.gov>; Sciretta, Nicholas <sciretta.nicholas@epa.gov>
Subject: Re: Montrose Superfund Site and the LA Times Article on Ocean Dumping

Ex. 5 AC/AWP/DP

Sent from my iPhone

On Oct 30, 2020, at 2:39 PM, Mackey, Cyndy <Mackey.Cyndy@epa.gov> wrote:

Susan and Larry

Ex. 5 AC/AWP/DP

Ex. 5 AC/AWP/DP Some the language is excerpted for you below and the entire CD is attached as a link in the below email from John Lyons.

PARTIAL CONSENT DECREE WITH MONTROSE CHEMICAL CORPORATION OF CALIFORNIA, MONTROSE CHEMICAL CORP., AVENTIS CROPSCIENCE USA, INC., OF CALIFORNIA, et al., CHRIS-CRAFT INDUSTRIES, INC., AND ATKEMIX THIRTY SEVEN, INC. (RELATING TO OFFSHORE MATTERS AND DEPARTMENT OF JUSTICE COSTS

DEFINITIONS

H. "Offshore Areas" for purposes of this Decree shall mean all of the following areas to which hazardous substances, including without limitation DDT, originating from the Montrose Plant Property or the Stauffer Dominguez Plant Property have or may come to be located: the areas in and around Santa Catalina and the other Channel Islands, the Palos Verdes shelf including the Palos Verdes Slope, the San Pedro Channel, the White's Point Outfall, the Long Beach Harbor and the Los Angeles Harbor (excluding Consolidated Slip as defined in Paragraph 5.I below), Santa Monica Bay and San Pedro Bay, those offshore areas described in the February 6, 1990 draft Damage Assessment Plan and/or the March 8, 1991 draft Injury Determination Plan published by the Trustees (excluding Consolidated Slip as defined in Paragraph 5.I below), any ocean dumpsites used for disposing of wastes from the Montrose Plant Property and any offshore areas to which hazardous substances, including without limitation DDT, aerially or otherwise originating from the Montrose Plant Property or the Stauffer Dominguez Plant Property have or may come to be located.

COVENANT NOT TO SUE FOR RESPONSE ACTIVITIES

AND COSTS RELATING TO THE OFFSHORE AREAS AND RESERVATION OF RIGHTS

Except as specifically provided in Paragraphs 13 and 14 of this Decree, the United States, the State, and agencies and instrumentalities thereof, each hereby covenants not to sue or to take any other civil or administrative action against the Released Parties to compel response activities relating to the Offshore Areas, to recover DOJ Costs, or to recover Response Costs, including but not limited to, costs for studies and evaluations of the area covered by response activities under CERCLA Sections 106 and 107, 42 U.S.C. §§ 9606 and 9607, or pursuant to the California Hazardous Substance Account Act, California Health and Safety Code §§ 25300, et seq., or any other state statute or state common law. In addition, the United States, the State, and agencies and instrumentalities thereof, each hereby covenants not to sue or take administrative action against the Released Parties to compel response activities with respect to the Offshore Areas, recover DOJ Costs, or recover Response Costs under the Resource Conservation and Recovery Act ("RCRA") Sections 3008(h), 3013, or 7003, 42 U.S.C. §§ 6928(h), 6934, or 6973, or California Health and Safety Code § 25187. The State, and agencies and instrumentalities thereof, each hereby further covenants not to sue or take administrative action against the Released Parties to compel response activities with respect to the Offshore Areas or to recover Response Costs under Section 7002 of RCRA, 42 U.S.C. § 6972.

We will work with Region 9 next week to provide additional information and analysis regarding this situation.

Cyndy Mackey
Director, Office of Site Remediation Enforcement
EPA-Office of Enforcement and Compliance Assurance (Mail Code-2271A)
1200 Pennsylvania Ave., N.W. (Room-WJC 5206) Washington, DC 20460
202 564-8206 (Direct Line)
202 564-5110 (Office Line)
202 591-6184(Office Cell)

This email is for the intended recipient only and may contain material that is privileged and/or confidential. If you believe you have received this email in error, please notify the sender. Thank you

---

From: Lyons, John <Lyons.John@epa.gov>
Sent: Friday, October 30, 2020 2:07 PM
To: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>; Rongone, Marie <Rongone.Marie@epa.gov>
Cc: DeLeon, Rafael <Deleon.Rafael@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Kulpan, Bruce <Kulpan.Bruce@epa.gov>; Sciretta, Nicholas <sciretta.nicholas@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>
Subject: RE: Montrose Superfund site and the LA Times Article on Ocean Dumping

Hi All,

Here is the link to the relevant Consent Decree. Marie and her folks have been reviewing it this week. The EPA Covenant is very broad, especially regarding the geographic areas covered.

https://19january2017snapshot.epa.gov/www3/region9/superfund/pvshelf/pdf/consent.pdf

Thanks
John

John Lyons
Acting Deputy Director
Region 9 Superfund and Emergency Management Division
(415) 972-3889
(415) 265-0908(cell)