Ayres, Donald

From: Guevara, David [DGuevara@taftlaw.com]
Sent: Tuesday, March 05, 2013 1:05 PM
To: Gonzalez, Maria
Cc: Jansen, Sally; Lam, Shelly
Subject: RE: Kokomo Dixon Road

Maria,

I am following up on the e-mail below. Have you had an opportunity to review?

Please advise.

Thank you.

Taft /

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From: Guevara, David
Sent: Monday, February 25, 2013 9:59 AM
To: 'Gonzalez.Maria@epamail.epa.gov'
Cc: Jansen.Sally@epamail.epa.gov; Lam.Shelly@epamail.epa.gov
Subject: RE: Kokomo Dixon Road

Maria,

I am appreciative of the revisions to the proposed agreement. However, § IV(9)(p) is not accurate.

Section IV(9)(p)

Section IV(9)(p) states that "[d]rums and wastes could be located beyond the property boundaries." However, according to the February 17, 2012 Site Assessment Report and the August 13, 2012 Action Memorandum, both drums and waste are, in fact, located beyond the property boundaries.

First, the Site Assessment documented "[s]everal partially buried drums . . . on the banks of the swale [that] appeared to be in deteriorated condition."

Second, the Site Assessment stated that "[d]umping was observed out of the boundary of the city property all the way to the Wildcat Creek on the north side and on the Sutton Towing property to the north." In fact, the Site Assessment documented "[a]uto parts, gasoline tanks, tires and metal slags . . . between the property fence and the rail road and on the Sutton Towing property."

Third, surface soil sample KD-SS-01 is offsite. The Site Assessment documented that KD-SS-01 "exceeded EPA's industrial RSL for lead of 800 mg/Kg." Similarly, KD-SS-01 "exceeded the TCLP criteria of 5 mg/L for lead."

Fourth, subsurface soil sample KD-SB-3 is offsite. The Site Assessment documented that KD-SB-3, at 10 to 12 feet, "exceeded EPA RSLs for arsenic in industrial soil of 1.6 mg/Kg."

Fifth, the Action Memorandum noted that the "OSC observed that one of the drums was close to a child's swing set on a neighboring residential property."

Accordingly, can § IV(9)(p) be revised as follows:

"Drums and waste are located beyond the property boundaries. Lead in the surface soil beyond the property boundaries exceeds EPA's industrial RSL and TCLP criteria. Arsenic in the subsurface soil beyond the property boundaries exceeds EPA RSLs for arsenic in industrial soil."

Please advise.

Thank you.

From: Gonzalez.Maria@epamail.epa.gov [mailto:Gonzalez.Maria@epamail.epa.gov]
Sent: Friday, February 15, 2013 7:55 PM
To: Guevara, David
Cc: Jansen.Sally@epamail.epa.gov; Lam.Shelly@epamail.epa.gov
Subject: RE: Kokomo Dixon Road

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I am attaching a markup of the draft AOC, to reflect the changes we have been discussing, including the items discussed at our meeting, the language about potential off-site threats, the language in the activity description about notice of sampling, and the updated costs.

(See attached file: AOCmarkupsent021513.pdf)
The language and terms of the attached draft are subject to Agency review.

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