Message

From: wright.peter@epa.gov [wright.peter@epa.gov]
Sent: 8/15/2018 1:43:49 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: metrics; abandoned mines, rulemakings

Veronica

Thank you for the information and suggestions. I look forward to further discussions.

Peter

Sent from my iPad

On Aug 15, 2018, at 5:57 AM, Darwin, Veronica <darwin.veronica@epa.gov> wrote:

> Good Morning,
> As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. On a separate but related
>
> Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5 If you haven't already, could you please discuss with Administrator Wheeler to determine if this is still a priority?
>
> Steven, we also talked about tracking progress on rulemakings. I have learned OP is tracking rule development for Tier 1 and Tier 2 actions that are active in the reg agenda and any actions included in the reg plan that are active in the reg agenda. Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5 Thanks. Happy to discuss.
> Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

<Tracking Priority Actions OLEM.XLSX>

Appointment

From: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Sent: 7/24/2018 2:20:11 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Lloyd, David [Lloyd.DavidR@epa.gov]; Overmeyer, Patricia [Overmeyer.Patricia@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]

Subject: Brownfields Coordinator Meeting
Location: PY South First Floor Conf. Room (S1204/06)

Start: 7/31/2018 12:30:00 PM
End: 7/31/2018 12:45:00 PM
Show Time As: Busy

Contact

Full Name: Lloyd, David
Last Name: Lloyd
First Name: David
Company: OLEM

Business Phone: 202-566-2731

IM Address: sip:lloyd.davidr@epa.gov

E-mail: Lloyd.DavidR@epa.gov

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 9:56:50 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Levine, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=468b48e304cf4c54a52bb7c83a54fd21-CLevin02]; Morgan, Ashley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4acef44653d440e3baab09958ffc24ea-Morgan, Ash]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: OLEM's INPUT --Administrator Cheat Sheets
Attachments: OLEM-1 CCR rule.AdminTPsfinal.docx; OLEM-4 Chem Facility RMP.Admin.TPsfinal.docx

Importance: High

Attached are OLEM's one-page talking points for the Acting Administrator on CCR and RMP.

Please let us know if you have any questions or need anything else.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
Subject: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

Team—the Administrator would like a single paged cheat sheet on the top issues most likely to be asked. To accommodate this request, please provide 1-2 talking points that the Administrator could read verbatim, if needed. **This needs to be completed by COB today so he can review this evening.** Let me know if I have missed any topics.

Please let me know if you have any questions.

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- Methylene Chloride
- Formaldehyde

OLEM

- CCR
- Risk Management Plan

ORD

- Secret Science
- Science Advisory Boards—Conflicts of Interest

OW

- PFAS
- Lead

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Cell phone/Ex. 6 cell)

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 9:47:43 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets

Got it. Thanks Steven.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Cook, Steven
Sent: Monday, July 30, 2018 5:39 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: RE: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets

Ok except for one minor edit on third RMP bullet. I think "on" is needed before "regulated" near the end of the sentence.

From: Harwood, Jackie
Sent: Monday, July 30, 2018 5:04 PM
To: Cook, Steven <cook.steven@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets
Importance: High

Hi Steven,

Attached a draft talking points on CCR and RMP. Peter has reviewed them and provided input.

Please let me know if you have any changes/edits. Thanks.

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Monday, July 30, 2018 3:04 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>

Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets

Sorry I just realized these need to be 1-2 talking points per topic. I'll redo and send you revised versions to review.

Thanks.
Jackie

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U.S. Environmental Protection Agency
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From: Harwood, Jackie
Sent: Monday, July 30, 2018 2:57 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets
Importance: High

Hi Peter and Steven,

In response to Troy's request below, attached are two single-paged cheat sheets on CCR and RMP that I prepared based on the latest talking points Peter put together – **for your review.**

Let me know if you have any comments or edits. Once I hear back from you, I'll send these on to Troy et. al. before COB today.

Thanks.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
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From: Hilosky, Nick
Sent: Monday, July 30, 2018 2:17 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Manges, Ellen <Manges.Ellen@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

URGENT!

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin

<chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
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Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Cell number/Ex. 6 cell)

Message

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Sent: 7/30/2018 9:04:07 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: ASAP For Steven's Review--Due COB Today: Administrator Cheat Sheets
Attachments: OLEM-1 CCR rule.AdminTPs.v2.docx; OLEM-4 Chem Facility RMP.Admin.TPsv2.docx

Importance: High

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Please let me know if you have any changes/edits. Thanks.

Jackie

Jackie Harwood
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Sent: Monday, July 30, 2018 2:17 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Manges, Ellen <Manges.Ellen@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

URGENT!

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
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OLEM

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ORD

- Secret Science
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OW

- PFAS
- Lead

_____

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 Personal Privacy (PP) cell)

Message

From: Chancellor, Erin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AE6AEABECA754643BDB01C9F5B653CA6-CHANCELLOR,]
Sent: 7/30/2018 7:19:52 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: INPUT NEEDED--Administrator Cheat Sheet

Y'all need anything from me on this? Happy to help.

OLEM

- CCR
- Risk Management Plan

Erin E. Chancellor

From: Lyons, Troy
Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
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Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 Personal Privacy (PP) (cell)

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 6:57:21 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: For Peter/Steven Review--Due COB Today: Administrator Cheat Sheets
Attachments: OLEM-4 Chem Facility RMP.Admin.TPs.docx; OLEM-1 CCR rule.AdminTPs.docx

Importance: High

Hi Peter and Steven,

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Jackie

Jackie Harwood
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From: Hilosky, Nick
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To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Manges, Ellen <Manges.Ellen@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: INPUT NEEDED--Administrator Cheat Sheet
Importance: High

URGENT!

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Sent: Monday, July 30, 2018 2:14 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>
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Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Ex. 6 Personal Privacy (PP) (cell)

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:19:38 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Follow-up Information from EPA re: Peter Wright

As discussed

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 5:13 PM
To: Rowan, Anne <rowan.anne@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Kaplan, Robert <kaplan.robert@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: Follow-up Information from EPA re: Peter Wright

Hi –

Please see below -- reporter wants to include this additional quote.

Please let me know if ok

Thanks much ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
Sent: Friday, July 27, 2018 4:51 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>
Subject: Re: Follow-up Information from EPA re: Peter Wright

Hi Nancy, I'd like to push to include these quotes. I think it shows an openness to acknowledge the earlier concerns raised by E.P.A., which were ultimately resolved -- thanks partly to Peter Wright's efforts.

"There was a time early on where the relationship between Dow and the EPA for a whole number of reasons was frayed, and became very contentious. The matter itself was very controversial."

"It was EPA's position at the time that the cleanup should proceed more expeditiously, and Dow had been doing an inadequate job."

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 4:42 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:

Hiroko: Thank you for taking the time to speak with us earlier. Below are quotes from your call with EPA Region 5 career staff as well as some additional on-the-record quotes we would encourage you to use in your article.

Additionally, attached are three important documents for your reference: July 2106 letter from the Michigan DEQ on Midland; February 28 letter from John Milner, Chair of the ABA's Section on Environment, Energy, and Resources, supporting Mr. Wright's nomination; Mr. Wright's recusal statement.

Finally, below the quotes is background material to answer your other questions.

Quotes to use on the record:

"During Mr. Wright's tenure as Dow's in-house counsel, the company ultimately reached agreement with EPA to use CERCLA/Superfund authority to clean up the rivers and bay. Mr. Wright's work was critical in reaching these agreements with EPA that accelerated work at the site." – Jeff Kelley, EPA Region 5, Office of External Communications

Leverett Nelson (current Regional Counsel):

"Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."

On Denney allegations:

"I don't recall a correlation between that event and the course of negotiations."

"I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."

"If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."

Additional quote from Leveret Nelson: **"EPA Region 5 has been working for many years on Superfund and other hazardous waste cleanups at Dow sites in Michigan, including the Midland plant and the Tittabawassee River. In my experience, the working relationship between EPA's legal team and Dow's legal team headed by Mr. Wright has been a positive one – professional, cordial and largely productive."**

Robert Kaplan (former Regional Counsel) (current Special Policy Advisor)

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

"In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial superheated negotiation came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."

On earlier EPA concerns over Dow actions: **"The record speaks for itself. The EPA took action to take it from state lead to Superfund. And from 2007 or so we decided to take a different path."**

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Over the past several years EPA has worked to reduce emissions from all of the major industrial sources of dioxins. As a result of efforts by EPA, state governments and industry, known and measurable air emissions of dioxins in the United States have been reduced by 90 percent from 1987 levels. The largest remaining source of dioxin emissions is backyard burning of household trash. Most Americans have low-level exposure to dioxins. The non-cancer health assessment for dioxin could be considered in a range of agency activities, from establishing cleanup levels at Superfund sites, to reviewing the dioxin drinking water standard as part of EPA's regularly scheduled review process, to evaluating whether additional Clean Air Act limits on dioxin emissions are warranted.

Background on Peter Wright:

Peter Wright was born in Connecticut and raised in Los Angeles, CA. Before Dow, he worked as an attorney at Bryan Cave LLP and the Monsanto Company. He began his legal career with the environmental practice group of Baker & Daniels (now Fagre Baker and Daniels).

Background on Peter Wright's work:

The Dow Chemical Company's Midland Plant is a manufacturing facility that began operations in 1897. The facility is located on 1,900 acres abutting the Tittabawassee River. The past disposal of various chemicals at the facility resulted in high levels of dioxins and furans in the Tittabawassee River and downstream in the Saginaw River and Bay, as well as on the facility and in the City of Midland.

Pursuant to a Resource Conservation and Recovery Act (RCRA) permit issued by the Michigan Department of Environmental Quality (MDEQ), Dow had been conducting corrective actions, including extensive facility investigations and interim response activities to address the dioxins and furans at the Midland Plant and off-site. As the MDEQ-supervised RCRA corrective action remedial investigations progressed, EPA and MDEQ recognized that investigations and early actions to protect public health would benefit from federal resources, in addition to MDEQ's RCRA resources. After evaluating the facility, EPA and MDEQ agreed that CERCLA authority could be used to complete off-site cleanup work on the river systems and floodplains, while the RCRA corrective action program focused on off-site corrective action in the City of Midland and on-site corrective action for the Midland Plant site. Splitting the lead agency responsibilities allowed more work to occur concurrently.

Between 2007 and 2009, Dow conducted six time-critical removals under CERCLA authority, with EPA oversight. Mr. Peter Wright was Dow's lead counsel in the negotiation of the six settlements under which these cleanups were performed. EPA, MDEQ, and Dow entered into a settlement in 2010 for Remedial Investigation, Feasibility Study and/or Engineering Evaluation and Cost Analysis, and Response Design work (2010 ASAOC) which has provided the basis for further settlements to conduct non-time critical removal actions in the Tittabawassee River and its floodplain. Mr. Wright was Dow's lead counsel in the negotiation of the 2010 ASAOC. Between 2010 and 2017, EPA and Dow entered into seven separate CERCLA settlements under which Dow performed non-time-critical CERCLA removal actions at the site. Mr. Wright was Dow's lead counsel in the negotiation of the seven settlements under which these

cleanups were performed. During this same timeframe, off-site cleanup was completed in the City of Midland under the RCRA permit and Mr. Wright was also legal counsel for this work.

More information about the CERCLA cleanup at the Tittabawassee River, Saginaw River & Bay Site is available on EPA's website at https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250.

Nancy Grantham

Office of Public Affairs

US Environmental Protection Agency

202-564-6879 (desk)

Ex. 6 **(mobile)**

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:19:21 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Follow-up Information from EPA re: Peter Wright
Attachments: deq-owmrp-hws_2016-07-21_Dow_724_MAS_CA_Report_Approval_Letter_CA_539484_7.pdf; Peter_Wright.pdf; Peter Wright.pdf

Importance: High

As discussed

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 4:42 PM
To: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Follow-up Information from EPA re: Peter Wright
Importance: High

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Additional quote from Leveret Nelson: **"EPA Region 5 has been working for many years on Superfund and other hazardous waste cleanups at Dow sites in Michigan, including the Midland plant and the Tittabawassee River. In my experience, the working relationship between EPA's legal team and Dow's legal team headed by Mr. Wright has been a positive one – professional, cordial and largely productive."**

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Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

July 21, 2016

Mr. Steven C. Lucas
Senior Remediation Leader
The Dow Chemical Company
1790 Building
Midland, Michigan 48674

Dear Mr. Lucas:

SUBJECT: Approval of Revised Corrective Action Report, Midland Area Soils; The Dow Chemical Company, Michigan Operations, Midland Plant; Midland, Michigan; MID 000 724 724

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), has completed a review of the Corrective Action Report, Midland Area Soils (Report). The Report was submitted by The Dow Chemical Company (Dow) on January 8, 2016, and was most recently revised on May 6, 2016, in response to review comments from the DEQ. The Report was submitted as part of corrective action work required under Condition XI.B. of the Hazardous Waste Management Facility Operating License (License) renewal issued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976.

This Report was designed to be an important and major part of a final remedial action intended to represent the response action for direct contact to soils for Dow's off-site corrective action obligations under Conditions XI.B. and XI.J. of the License. Therefore, the DEQ conducted public participation pursuant to Condition XI.B.2. of the License and R 299.9511 of the Part 111 administrative rules, including a public comment period held from May 6, 2016, to June 20, 2016, and two public open houses held on June 6, 2016. No significant comments were submitted during the public comment period, and therefore, no significant changes were made to the draft Report. The DEQ will be sending the enclosed notice of this final decision to all persons on the facility mailing list and to the appropriate units of state and local government.

Based on the DEQ's review of the revised Report submitted on May 6, 2016, and since no significant public comments were obtained during the public comment period, the revised Report is hereby approved. In accordance with Condition XI.B.2. of the License, the approved Report becomes an enforceable condition of, and Attachment 18 to, the License. This approval constitutes a CA800 Ready for Anticipated Use Determination for Midland Area Soils.

The DEQ reserves its rights in regard to hazardous substances, as defined in Section 20101 of Part 201, Environmental Remediation, of Act 451, beyond those identified and addressed as a part of the revised Report. This approval does not convey any rights regarding unknown environmental conditions or compliance with other environmental laws and regulations.

Should you have any questions regarding this approval, please contact Mr. Al Taylor, of my staff, at 517-614-7335; taylora@michigan.gov; or DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741; or you may contact me.

Sincerely,

DeLores Montgomery, Chief
Hazardous Waste Section
Office of Waste Management and
Radiological Protection
517-284-6565

Enclosure
cc: Mr. Jose Cisneros, U.S. Environmental Protection Agency
Ms. Virginia Himich, DEQ
cc/enc: Mr. Greg Rudloff, U.S. Environmental Protection Agency
Mr. Jim Sygo, DEQ
Mr. Steve Sliver, DEQ
Mr. Phil Roycraft, DEQ
Ms. Trisha Confer, DEQ
Mr. Al Taylor, DEQ
Dr. Deb MacKenzie-Taylor, DEQ
Mr. Art Ostaszewski, DEQ
Mr. Dan Dailey, DEQ
Corrective Action File – Midland Area Soils

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

Michigan Department of Environmental Quality
Office of Waste Management and Radiological Protection

NOTICE OF FINAL DECISION

Midland Area Soils, Corrective Action Report
The Dow Chemical Company, Michigan Operations, Midland Plant
MID 000 724 724
July 21, 2016

On June 6, 2016, the Michigan Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), held two public open houses to receive comments on the Revised Corrective Action Report, Midland Area Soils (Report) submitted by The Dow Chemical Company (Dow), Michigan Operations, Midland Plant, located at 1790 Building, Midland, Michigan 48674, on May 6, 2016, as part of corrective action work required under the Hazardous Waste Management Facility Operating License Renewal (License) reissued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976 (RCRA). The DEQ approved the Report on July 21, 2016.

A public comment period on the draft Report was announced in the Midland Daily News on May 6, 2016. Two public open houses were also held on June 6, 2016, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 9:00 p.m. The public comment period extended from May 6, 2016 to June 20, 2016. On May 30, 2016, a notice regarding the two public open houses on the proposed Report also appeared in the DEQ Environmental Calendar, which is published every two weeks to provide public notice of pending public hearings, DEQ decisions, etc.

In accordance with Condition XI.B. of the License and R 299.9511 of the Part 111 administrative rules, the DEQ is required to respond to significant comments submitted during the public comment period and to describe any significant changes made to the draft Report. No significant public comments were received during the public comment period or at the public open houses. Therefore, no changes were made to the draft Report prior to approval.

The approved Report and Notice of Final Decision may be reviewed at the Reference Desk of the Grace A. Dow Memorial Library, 1710 West St. Andrews Street, Midland, Michigan, and the DEQ, Saginaw Bay District Office, 401 Ketchum Street, Suite B, Bay City, Michigan (contact Ms. Trisha Confer at 989-225-7968). The approved Report and related materials are also available at the DEQ, OWMRP, Constitution Hall, Atrium North, 525 West Allegan Street, Lansing, Michigan (contact Mr. Al Taylor at 517-614-7335) and at http://www.michigan.gov/deqdioxin under "Midland Area Soil Cleanup". Copies of the documents may be obtained for the cost of reproduction by sending your request to Mr. Al Taylor, DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741 or taylora@michigan.gov. Depending upon the items requested, there may be a charge for reproduction and mailing costs.

This Notice of Final Decision is being sent to the individuals on the DEQ's Dow facility mailing list. To have your name added to or removed from the DEQ's Dow facility mailing list, please contact Ms. Amy Nevison at nevisona@michigan.gov or at 517-284-6562.

June 19, 2018

RECUSAL STATEMENT OF PETER WRIGHT

To: E. Scott Pruitt, EPA Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This recusal statement formally notifies you of my continuing obligations to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I will sign upon entering federal service, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

As stated in my ethics agreement sent to the Senate Environment and Public Works Committee, I agreed to forfeit all DowDuPont, Inc. stock options that are unvested at the time of my resignation from DowDuPont and to divest of my vested stock options and stock in DowDuPont, Inc. within 90 days of my confirmation. If I enter federal service prior to confirmation, then I will sell the stock within 90 days of joining EPA. Until I sell the stock, I understand that I am recused from participating personally and substantially in any particular matter, including sector-specific policies and regulations, that would have a direct and predictable effect on the following:

Name of Entity	Date when recusal ends
DowDuPont, Inc.	My financial conflict of interest continues for as long as I own stock in this company. Upon divestiture, I understand that I am still subject to additional restrictions pursuant to Executive Order 13770.
Chemical industry sector	continues for as long as I own stock in the chemical industry sector

Once I have sold the stock, I will update this recusal statement.

OBLIGATIONS UNDER EXECUTIVE ORDER 13,770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to any former employer during the preceding two years, as well as any organization in which I held a fiduciary duty. For purposes of this restriction, the entities that fall within the prohibition are DowDuPont Inc., the National Association of Wabash Men, and the Lambda Chi Alpha Home Association of Wabash College.

I understand that I am prohibited from participating in any particular matter involving specific parties in which any of the entities listed below is a party or represents a party. My recusal lasts for two years from the date that I join federal service. I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term "open to all interested parties" means five or more parties who represent a diversity of interests rather than one shared perspective. I understand that such meetings do not have to be open to every comer, but should include a multiplicity of parties[1].

NAME OF ENTITY	DATE WHEN RECUSAL ENDS
DowDuPont Inc.	[two years from date of appointment], 2020
National Association of Wabash Men, Board of Directors	[two years from date of appointment], 2020
Lambda Chi Alpha Home Association of Wabash College, Board of Directors	[two years from date of appointment], 2020

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

SUPERFUND SITES

To avoid any concerns about my ethical obligations, I want to state clearly that I will not participate in any of the Superfund sites at which DowDuPont is a potentially responsible party (PRP). *See* attached lists generated by the Office of Site Remediation and Enforcement.

[1] As explained by the Office of Government Ethics, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, I could attend such a meeting even if one of the stakeholders is a former employer or former client. *See* Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

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Consistent with my bar rules, while at EPA, I will not participate in any site on the attached lists that I previously worked on personally and substantially. Consistent with my obligations under ethics regulations and the Executive Order, for any of the sites on the attached list that I did not work on personally and substantially, I will not participate on that site until after [two years from date of appointment], 2020.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in the matters relating to any of the entities listed above, I will instruct Barry Breen or Steven Cook, Deputy Assistant Administrators, to assist in screening EPA matters directed at my attention that involve these entities. All inquiries and comments involving the entities on my recusal list should be directed to Barry or Steven without my knowledge and involvement until after my recusal period ends.

If Barry or Steven determine that a particular matter will directly involve any of the entities listed on my "specific party" recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

Sincerely,

Peter Wright

Attachments

cc: Ryan Jackson, Chief of Staff
Steven Cook, Deputy Assistant Administrator
Barry Breen, Principal Deputy Assistant Administrator
Justina Fugh, Senior Counsel for Ethics

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Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/27/2018 9:17:55 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Quotes to move on the record

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

-----Original Message-----
From: Tabuchi, Hiroko [mailto:hiroko.tabuchi@nytimes.com]
Sent: Friday, July 27, 2018 4:25 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
Subject: Re: Quotes to move on the record

One other thing we wanted to confirm -- We were looking to include something about Mr. Wright's personality/hobbies/background. We have found from our reporting that he grew up in Los Angeles, majored in religion at Wabash College in Indiana before going to law school at Indiana University.

And we noticed that on his Facebook page, Mr. Wright frequently posts about cocktails. And according to a post he made on Oct 5, 2016, he once fashioned an environmentally inspired gin-based blend in honor of his fellow environmental lawyers. He says the Green Chartreuse's "natural green color and the herbal, earthy flavor.. reminds one of the earth."

Let us know if there is anything you'd like to add or clarify

Many thanks,
Hiroko

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

On Fri, Jul 27, 2018 at 2:29 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com> wrote:
> Many thanks. And did you also say you were preparing written responses
> to our emailed questions?
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 |
> hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
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>> Will do
>>
>> Nancy Grantham
>> Office of Public Affairs
>> US Environmental Protection Agency
>> 202-564-6879 (desk)
>> Ex. 6 (mobile)
>>
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>> Sent: Friday, July 27, 2018 1:25 PM
>> To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John
>> <konkus.john@epa.gov>
>> Subject: Quotes to move on the record
>>
>> Hi John, Nancy,
>>
>> Thanks again for arranging that call. Here are the quotes I'd like to move on the record. I likely will not be able to get all of them in the story, but I'd like to have that option.
>>

>> And if you are able to confirm that I've attributed the quotes to the right people, that would be much appreciated. And could you please confirm their titles?
>>
>> All best, Hiroko 212-556-2642
>>
>> Rhett Nelson:
>>
>> "Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."
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>> "I don't recall a correlation between that event and the course of negotiations."
>>
>> "I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."
>>
>> "If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."
>>
>>
>> Bob Kaplan:
>>
>> "There was a time early on where the relationship between Dow and the EPA for a whole number of reasons was frayed, and became very contentious. The matter itself was very controversial."
>>
>> "It was EPA's position at the time that the cleanup should proceed more expeditiously, and Dow was doing an inadequate job at the time."
>>
>> "Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."
>>
>> "In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial super heated negotiations came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."
>>
>> (On earlier EPA concerns over Dow actions) "The record speaks for itself. The EPA took action to take it from state lead to Superfund.
>> And from 2007 or so we decided to take a different path."

Message

From: Simon, Nigel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E2F1084D32324DCD965683A9D2F09764-SIMON, NIGEL]
Sent: 8/10/2018 8:00:48 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Smith, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c1a62ca9f6e24d83a94288b6b2d2f7a0-SCSmith]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Thanks Peter.

From: Wright, Peter
Sent: Friday, August 10, 2018 12:59 PM
To: Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Smith, Susan <Smith.Susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Nigel

I have one comment. I think OEM's response sounded more negative then needed. On page 5 in the OEM section I would have the first sentence read as follows:

Deliberative Process / Ex. 5

Peter

From: Simon, Nigel
Sent: Friday, August 10, 2018 12:32 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Smith, Susan <Smith.Susan@epa.gov>
Subject: FW: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Hi Peter/Steven:

This is due by COB today to the IG, do you have any comments or edits?

Nigel

From: Smith, Susan
Sent: Thursday, August 09, 2018 11:41 AM
To: Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Thornton, Kecia <Thornton.Kecia@epa.gov>; Shropshire, Doris <Shropshire.Doris@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Nigel –

In response to the OIGs request for risk communications materials, attached are the collated comments and several reference documents received from the individual offices. Let me know if you have comments. Otherwise I will plan to send to OIG. Thanks!!

Susan

Susan Smith, Director/ PMO
Organizational Management and Integrity Staff
Office of Land and Emergency Management/U.S. EPA
1301 Constitution Ave., NW, Washington, DC 20460
4139 WJC West/MC: 5101T

202-564-6656 (office)
202-834-8239 (cell)

Follow OLEM **on Twitter @EPALand**

From: Simon, Nigel
Sent: Monday, August 06, 2018 5:40 PM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Duteau, Helen <Duteau.Helen@EPA.GOV>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>; Shropshire, Doris <Shropshire.Doris@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>
Subject: Action Item Due COB 8/8: Risk Communication Meeting with OIG

ODs/Deputies:

Per our meeting today with the OIG, thanks for your input and feedback on the upcoming OIG assignment in the area of risk communication for OLEM programs. If you have any program criteria (Superfund, RCRA, Brownfields, LUST, Emergency Response) that identify any risk communication goals and those that relate to the effectiveness and timeliness of the risk communication and human health protection, please send to both Susan Smith and Kecia Thornton by **COB Wed., August 8.**

Thanks,

Nigel

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 8/3/2018 3:05:23 PM
To: Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]; Parker, Robin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b450f56aa4ba4a6aa6b41ab637aef49c-Parker, Robin]; Connors, Sandra [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cc4f8f838be74de797ba9f894a0bc7b5-SCONNORS]; Frazer, Brian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=572986d047624669891da90708433da1-Brian Frazer]; Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Benson, Bob [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ccd3c8d2700447d2a9cc695b9a73340a-Benson, Bob]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Lentz, Rachel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=df7bc2606f35406db2b534c4ab8de17c-rlentz]; Storm, Aimee [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b97e810bec6461a926f7d1897e519ab-AStorm]; Quinn, Megan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d17b7cdfa23541c292902d7f8bb56668-Quinn, Megan]; Congdon, Rachel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15715928a9094edcb56ee80768af4b2d-Congdon, Rachel]
Subject: OLEM Environmental Workforce Development and Job Training Grantee Meeting
Attachments: Detailed Agenda 2018.final.pdf

Good Morning John,

I wanted to take a moment to again thank you and your staff, and the Office of Water, for your continued support to OLEM's Environmental Workforce Development and Job Training Program. OLEM's partnership with the Office of Water over the years has allowed our grantees to offer broader, more-holistic environmental training, and has advanced the broader environmental outcome goals of both of our Offices. The broader training opportunities give graduates the ability to earn additional certificates and licenses, which in turn increases the graduates' prospects of obtaining sustainable and long-term employment.

With the Office of Water's contributions to this program, 2,761 individuals were trained and 2,093 of those individuals obtained employment in the environmental field with an average starting wage of over $15 an hour, this translates into a 76% placement success rate! OBLR is grateful for the support and continued partnership with OW.

On August 8th and 9th, OBLR is co-sponsoring our annual All-Grantee meeting that brings together all of our EWDJT grantees, regional Job Training Coordinators, and partner offices here at EPA. I am sharing this information in case you or any of your staff would like to take advantage of this fantastic opportunity to hear firsthand from our grantees on the work that they do and to hear from their successful graduates who now have careers in the environmental field. I have attached the agenda for those who may be interested in attending, and look forward to continuing to work with OW and Urban Waters. With Sincere Thanks -

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

ANNUAL
ENVIRONMENTAL JOB DEVELOPMENT
ALL-GRANTEE MEETING

SPONSORED BY: Hazardous Materials Training and Research Institute (HMTRI) under a Cooperative Agreement with the U.S. Environmental Protection Agency

FACILITATORS: Heather Ballou, Linda Baxley, and Mike Senew—HMTRI

LOCATION: Crowne Plaza Old Town Alexandria

Tuesday, August 7, 2018
6:00 p.m.–8:00 p.m.

CHECK-IN ONLY (NO MEETING)
Receive name badge and meeting materials.

LOCATION
Foyer outside Jefferson Room

HMTRI
Heather Ballou, Linda Baxley, and Mike Senew

The meeting will start at 8:00 a.m. on Wednesday, August 8th and Thursday, August 9th in Jefferson.

Breakout sessions will be held in Kennedy, Roosevelt East, and Roosevelt West.
Room locations are noted in parentheses after the title of each session.

Continental breakfast and check-in will be available at 7:15 a.m.

ED_002087_00000859-00001

WEDNESDAY, AUGUST 8, 2018

7:15 a.m. **SIGN-IN / CONTINENTAL BREAKFAST / NETWORKING**

8:00 a.m. **WELCOME / OVERVIEW OF THE DAY** (Jefferson) - Heather Ballou & Mike Senew, HMTRI
Meeting goals and objectives • Networking and breakout sessions

8:15 a.m. **RECOGNITION BY GROUPS** (Jefferson)
Recognition of new grantees • Recognition of experienced grantees • Recognition of those new to the All-Grantee Meeting • Regional Offices • Brownfields Job Training Coordinators • EPA staff introductions

8:30 a.m. **GROUP NETWORKING** (Jefferson)
Meet and greet • 5 minute "speed" introductions and mixer

9:00 a.m. **WELCOME / UPDATES FROM EPA HEADQUARTERS** (Jefferson)
Agency overview • OBLR history, organization, and activities • The BUILD Act as it may impact EWDJT • EWDJT program plans and RFP schedules • ACRES - purpose and use • ARC grants and the EWDJT program • Goals and objectives of the EWDJT program

- *David Lloyd, Director, Office of Brownfields & Land Revitalization, EPA HQ*
- *Rachel Congdon, EWDJT Program Lead, Office of Brownfields & Land Revitalization, EPA HQ*

9:30 a.m. **EWDJT STUDENT AND ALUMNI PANEL** (Jefferson)
An informal introduction and discussion of environmental training programs and careers from EWDJT program graduates.

- *Corey Mayo, St. Louis Community College*
- *Frank Hardy, Groundworks Rhode Island*
- *Kashmira Diaz, Groundworks Rhode Island*
- *Ricardo Loza, formerly TCB Industrial, City of Tacoma*
- *VaShawn Wade, RichmondBUILD*
- *Walt Yakabosky, Energy Coordinating Agency*

10:30 a.m. **BREAK & MOVE TO REGIONAL MEETINGS**

10:45 a.m. **EPA REGIONAL MEETINGS**
Grantee introductions and experience • Core curriculum and program emphasis • Regional expectations • Regional contacts • Social media and webinars • Conference calls • Grant administration from a regional perspective • Quarterly reporting • Past issues with grantees • Budget issues • Work plan approval • Changes in work plans, instruction or staff • Open discussion and questions

- ✓ Regions 1 & 2—(Jefferson)
- ✓ Regions 3 & 4—(Kennedy)
- ✓ Regions 5-7—(Roosevelt West)
- ✓ Regions 9 & 10—(Roosevelt East)

11:30 a.m. **BREAK & MOVE TO NEXT SESSION**

11:45 a.m. **CONCURRENT SESSIONS**

- ✓ **ACRES – Program reporting** (Roosevelt West)
  Reporting requirements • Introduction to ACRES • ACRES demonstration • Refresher for existing grantees • EPA overview • New developments
  - *Presenter - TBA*

✓ **Selling your program** (Roosevelt East)
Working with elected officials • Networking • Public meetings • Working with community leaders • Finding potential employers • Marketing methodologies • Setting up and using advisory boards • Making your program known to employers • Media tools for increasing program awareness

- *Discussion Starter - Rene Dulle, St. Louis Community College*
- *Session Facilitator - Alma Moreno Lahm (R7)*

✓ **Ensuring your program is gender neutral** (Kennedy)
Women in nontraditional jobs • Recruitment methodologies • Harassment policies • Bullying issues • Female instructors • Supporting women in non-traditional jobs • Marketing materials • Female role models and mentors • Tools and working attire • Physical limitations

- *Discussion Starter - Amy James Neel, Oregon Tradeswomen*
- *Discussion Starter - Debra Love, Lawson State Community College*
- *Session Facilitator - Christine Lombard (R1)*

12:30 p.m. **WORKING LUNCH / NETWORKING** (Jefferson)
SIT ANYWHERE & network with others outside your region.

1:30 p.m. **WORKFORCE TRAINING PROGRAMS & RESOURCES PANEL** (Jefferson)

- **NIEHS -** The Environmental Career Worker Training Program (ECWTP)-*Sharon Beard - NIEHS*
- **EPA -** Superfund Job Training Initiative - *Melissa Friedland - USEPA*
- **NSF -** Advanced Technology Environmental and Energy Center- *Linda Baxley - ATEEC*
- **HMTRI -** Environmental Workforce Development Resources – *Heather Ballou - HMTRI*

2:15 p.m. **BREAK & MOVE TO NEXT SESSION**

2:30 p.m. **CONCURRENT SESSIONS**

✓ **Retention strategies that work** (Kennedy)
Strategies that increase retention rates • Ways of relating to students • Student services offered • Retaining individuals overcome by drug and alcohol addiction • Transportation, child care, and legal assistance • Life skills training • Employing case workers to resolve student issues • Social networks • The importance of family nights to retain participants • Maximizing retention – minimizing dropouts • Caseworkers, mentors, and personal counselors • Preparing graduates for employment • Leveraging student support services • Policies that allow applicants to "drop out" • Work study programs

- *Discussion Starter - Eric Shanks, Cypress Mandela Training Center*
- *Session Facilitator - Craig Mankowski (R5)*

✓ **Using technology effectively** (Roosevelt East)
Computers in the classroom • Using smartphones for communications, tracking, and scheduling • Using tablets to deliver curriculum • Announcements and communications • Social media strategies • Use of visual media • Virtual reality • Keeping in touch with graduates • The "digital divide" as a headwind to advancement • Using digital games for team building • Digital administrative tools

- *Discussion Starter - Elizabeth Cornell, Limitless Vistas, Inc.*
- *Session Facilitator - Gianna Rosati (R3)*

✓ **Environmental Justice** (Roosevelt West)
EJ Small Grants program • Community assessment and environmental justice • Using Environmental Justice mapping tools • Selecting EWDJT target communities • Working with community groups and neighborhood organizers • Using EJSCREEN to characterize target communities

- *Presenter - Simone Walter, USEPA*
- *Presenter - Tai Lung, USEPA*

3:15 p.m. **BREAK & MOVE TO NEXT SESSION**

3:30 p.m. **CONCURRENT SESSIONS**

✓ **Chemical safety, lead, and asbestos training** (Kennedy)
EPA renovation • Repair and painting regulations (RRP) • Asbestos abatement • Lead based paint inspector certification • Asbestos inspector certification • Clandestine drug lab cleanup

- *Discussion Starter - Fred* Lucero, City of Richmond
- *Session Facilitator - Jeff Barnett (R3)*

✓ **Curriculum and training – where the jobs are** (Roosevelt East)
Mandatory curriculum • Popular courses • Balancing curriculum and EPA funding constraints • Health and safety curriculum • Courses in most demand • Training tools • Digital vs print materials • Training schedules (day vs night) • Training cycles and optimal class sizes • Essential training • Best training to insure employment opportunities • Gaining traction with potential employers and contractors • Environmental job trends • Untraditional environmental occupations

- *Discussion Starter - Janet Kerley, Santa FE CC*
- *Session Facilitator - Nova Blazej (R9)*

✓ **Solid waste management** (Roosevelt West)
Recycling • Deconstruction • Solid waste occupations • Career opportunities • Landfill operators • Solid waste management and remediation • Urban agriculture/composting • Flagger certification • Solid waste remediation technician • Forklift training • Solid waste disposal training • Storing hazardous materials • Hazardous materials spills and clean-up

- *Discussion Starter - Ken Alexander, Recycle Force*
- *Session Facilitator - Deborah Burgess (R10)*

4:15 p.m. **BREAK & MOVE TO JEFFERSON ROOM**

4:30 p.m. **RECRUITMENT AND SCREENING STRATEGIES** (Jefferson)
Tryouts and pre-training • Recruitment timelines • Student assessment strategies • Student contracts • Pre-admission drug testing • Class size vs applicant pool • Testing methods

- *Presenters - Montgomery Profitt, OAI*
- *Presenters - Cleophus Lee, OAI*

5:15 p.m. **QUESTIONS / ANNOUNCEMENT / ADJOURN**

The meeting will continue on Thursday morning at 8:00 a.m. in Jefferson.

Continental breakfast will be available at 7:15 a.m.
Casual dress

PLEASE WEAR YOUR NAME TAG.

THURSDAY, AUGUST 9, 2018

7:15 a.m. **CONTINENTAL BREAKFAST / NETWORKING**

8:00 a.m. **OVERVIEW OF THE DAY** (Jefferson)—*Heather Ballou & Mike Senew, HMTRI*

8:15 a.m. **REGIONAL COORDINATORS – CRITICAL ISSUES PANEL** (Jefferson)

Summary of regional breakout sessions • Quarterly reports • Grant preparation • Issues to avoid • Critical issues • Positives and negatives during grant reviews • Relationships between grantees, the regional office, and grants administration • Work plan changes • Problems with work plans or administration • Staff changes • Common mistakes grantees make • Mistakes new applicants make when writing proposals • Mistakes experienced grantees make when developing proposals for program continuation

- *Panel member - Schenine Mitchell (R2)*
- *Panel member - Linda Morgan (R5)*
- *Panel member - Nova Blazej (R9)*
- *Panel member – Alma Moreno Lahm (R7)*

9:00 a.m. **BREAK & MOVE TO NEXT SESSION**

9:15 a.m. **CONCURRENT SESSIONS**

✓ **Water and stormwater management** (Roosevelt East)

Water stormwater occupations • Water gardens • Wastewater operator • Base level water operator stormwater management and green infrastructure • Trenching and shoring • Wastewater operator • Water operator for distribution • Water operator for ground water • Safety technician • Example core curriculum

- *Discussion Starter - Bill Clark, Rose State College*
- *Session Facilitator - Rita Ware (R6)*

✓ **Placement and tracking strategies that work** (Kennedy)

Revisiting labor market assessments • Potential employers as trainers • Potential employers as advisors • Alumni nights • Working with human resource organizations • Working with temp and manpower firms • Acquiring bonds for new hires • Using first hire and project labor agreements • Establishing and maintaining union relationships • Pre apprentice programs • Partnering with organized labor • Social networks • Keeping in "touch" • Example job titles • Internships, work study, and pre-apprentice programs • Digital tracking tools

- *Discussion Starter - April Reed-McCoy, Zender Environmental*
- *Session Facilitator - Linda Morgan (R5)*

✓ **Are you OSHA compliant?** (Roosevelt West)

Training records • Regulatory updates • New regulations • Proposed regulations • Participant physicals • Instructor credentials • OSHA basics • Certifications that might blend well with OSHA 10 and HAZWOPER • What does "certification" mean for a course • Frequently made mistakes • How to choose good OSHA trainers • What qualities, experience, and education levels are necessary for instructors

- *Presenter - John Morgan, HMTRI,CCCHST*

10:00 a.m. **BREAK & MOVE TO NEXT SESSION**

10:15 a.m. **CONCURRENT SESSIONS**

✓ **Employer engagement** (Roosevelt West)
Developing relationships with potential employers • Employers as instructors • Employers as mentors • Corporate partnerships • Participation in social events • Requests for donations • Bonding to the EWDJT program • Using labor market assessments to find employer support • Setting up internships and work study programs with potential employers • Employer meetings • Working with city hall purchasing to identify potential employers

- *Discussion Starter - Jake Markosky, Pauline Auberle Foundation*
- *Discussion Starter - Ricardo Loza, formerly TCB Industrial, City of Tacoma*
- *Session Facilitator - Donnie Williams (R4)*

✓ **Using advisory committees effectively** (Roosevelt East)
Purpose and reasons for having advisory boards • Composition of the advisory board • Frequency of meetings • Meeting topics • Employers as advisors • Retiring nonperforming advisors • Duties of the advisory board • Recruiting advisory boards

- *Discussion Starter - Paul McFadden, City of Rochester*
- *Session Facilitator - Jeff Barnett (R3)*

✓ **Health and safety basics for EWDJT managers** (Kennedy)
Finding trainers • Vetting trainers • Student safety • Certifications vs training without certification • Mandatory courses (1910.120) • Recommended courses (OSHA 10) • Popular courses (Confined Space Entry, First Aid/CPR/AED, OSHA 7405 Fall Protection, OSHA 7410 Excavation and Trenching, OSHA 7300, Confined Spaces) • Spills and emergency response

- *Presenter - John Morgan, HMTRI,CCCHST*

11:00 a.m. **BREAK & MOVE TO NEXT SESSION**

11:15 a.m. **GRANT ADMINISTRATION** (Jefferson)
Hints & Tips on working with partners, subcontractors, and consultants • Allowable costs and potential "land mines" for grant managers • EPA grantee procurement process guidelines • Contractor guidelines and regulations • Sub grantee guidelines and regulations • Contractor/consultants vs partnerships and sub-grantees • Record keeping • The BUILD Act

- *Presenter - Jim Drummond, USEPA*

12:00 p.m. **WORKING LUNCH / NETWORKING** (Jefferson)
SIT ANYWHERE

1:00 p.m. **DRUG ISSUES PANEL – SCREENING AND PLACEMENT** (Jefferson)

- *Panel member - Jake Markosky, Pauline Auberle*
- *Panel member - Jeffrey Lewis, PathStone Corporation*
- *Panel member - Amy Bell, City of Tacoma*
- *Panel member - Kathy Stiller, West End Neighborhood House*
- *Panel member - Janet Kerley, Santa Fe Community College*

1:45 p.m. **BREAK & MOVE TO NEXT SESSION**

2:00 p.m. **CONCURRENT SESSIONS**

- ✓ **Program sustainability** (Kennedy)
  Backstop supporters • Importance of partnerships • State appropriations • Court awards • Private funding • Corporate partnerships • Program merging • Synergistic grant awards • Resource leveraging • Reduction of services offered
  - *Discussion Starter - Merl Craft, City of Pittsburg*
  - *Discussion Starter - Eric Shanks, Cypress Mandela Training Center*
  - *Session Facilitator - Schenine Mitchell (R2)*

- ✓ **Support services** (Roosevelt East)
  Interviewing Skills • Life skills and remedial education • Case workers • Daycare • On-the-job Training • Paid Apprenticeship • Behavior modification • Restoration justice • Drug rehabilitation • Working with WIBS • Participant qualification for support services • Leveraged sources of support • Transportation, city, and state support
  - *Discussion Starter - Laury McIntyre, Employment Skills Center*
  - *Session Facilitator - Christine Lombard (R1)*

- ✓ **Filling funding gaps – program leveraging** (Roosevelt West)
  Partners who backstop programs • Using advisory committees to seek support • Sharing resources with other programs • Finding leveraged resources • Offering student services not supported with EPA funds • Locating funding opportunities • Sources of leveraged support • Grants.gov
  - *Discussion Starter - Isaac Weber, City of Springfield*
  - *Session Facilitator - Craig Mankowski (R5)*

2:45 p.m. **BREAK & MOVE TO NEXT SESSION**

3:00 p.m. **CONCURRENT SESSIONS**

- ✓ **Partnerships and community involvement** (Kennedy)
  Finding leveraged resources • Private sponsors • Equipment donations • Community events • Supplemental grants • Working with City Council • Working with faith based organizations • establishing fund raising organizations for support
  - *Discussion Starter - Marilyn Wynn, Coalfield Development*
  - *Session Facilitator - Rita Ware (R6)*

- ✓ **Hiring barriers and successful placement** (Roosevelt East)
  Criminal records • Addictions • Employability curriculum • Remedial training • Anger management • Team building strategies • Placing ex-offenders • Federal and state bonding • Using labor market assessments to identify potential employers • Entrepreneurship as an option to direct employment • Resume making/updating • Job retention
  - *Discussion Starter - Susan Almono, Merrimac Valley WIB*
  - *Session Facilitator - Stan Walker (R7)*

- ✓ **Best practices and proposal development** (Roosevelt West)
  Revisiting community and labor market assessments • Update your curriculum • Engage your partners • Engage the community • Grant writing basics • Investing in comprehensive program plans • Organizing your team • Learning from other program – successful strategies • Information exchange • Networking with other grantees • Responding to Requests for Proposals
  - *Discussion Starter - Matthias Bohler, Merrimac Valley WIB*
  - *Session Facilitator - Nova Blazej (R9)*

3:45 p.m. **MOVE TO JEFFERSON ROOM**

4:00 p.m. **FREESTYLE DISCUSSIONS – ROUNDTABLE** (Jefferson)
Topics selected by session participants • As a team select topics for discussion • Open discussion about issues of concern • Technical assistance and mentoring

- *All Participants*

4:45 p.m. **RESOURCES, ANNOUNCEMENTS, QUESTIONS, MEETING EVALUATION** (Jefferson)
Post meeting notes • PowerPoints • Post meeting evaluation and feedback

5:00 p.m. **ADJOURN - Thank you for coming! Have a safe trip home.**

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Message

From: Simon, Nigel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E2F1084D32324DCD965683A9D2F09764-SIMON, NIGEL]
Sent: 8/10/2018 4:31:35 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Smith, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c1a62ca9f6e24d83a94288b6b2d2f7a0-SCSmith]
Subject: FW: Action Item Due COB 8/8: Risk Communication Meeting with OIG
Attachments: Comments for OIG on Risk Communcations.docx; Formatted Risk Based Factsheet 6-23-16.pdf; FINAL_RCRA PPM_010917_FSPB.DOCX

Hi Peter/Steven:

This is due by COB today to the IG, do you have any comments or edits?

Nigel

From: Smith, Susan
Sent: Thursday, August 09, 2018 11:41 AM
To: Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Thornton, Kecia <Thornton.Kecia@epa.gov>; Shropshire, Doris <Shropshire.Doris@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: Action Item Due COB 8/8: Risk Communication Meeting with OIG

Nigel –

In response to the OIGs request for risk communications materials, attached are the collated comments and several reference documents received from the individual offices. Let me know if you have comments. Otherwise I will plan to send to OIG. Thanks!!

Susan

Susan Smith, Director/ PMO
Organizational Management and Integrity Staff
Office of Land and Emergency Management/U.S. EPA
1301 Constitution Ave., NW, Washington, DC 20460
4139 WJC West/MC: 5101T

202-564-6656 (office)
202-834-8239 (cell)

Follow OLEM **on Twitter @EPALand**

From: Simon, Nigel
Sent: Monday, August 06, 2018 5:40 PM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Duteau, Helen <Duteau.Helen@EPA.GOV>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>;

Shropshire, Doris <Shropshire.Doris@epa.gov>; Thornton, Kecia <Thornton.Kecia@epa.gov>
Subject: Action Item Due COB 8/8: Risk Communication Meeting with OIG

ODs/Deputies:

Per our meeting today with the OIG, thanks for your input and feedback on the upcoming OIG assignment in the area of risk communication for OLEM programs. If you have any program criteria (Superfund, RCRA, Brownfields, LUST, Emergency Response) that identify any risk communication goals and those that relate to the effectiveness and timeliness of the risk communication and human health protection, please send to both Susan Smith and Kecia Thornton by **COB Wed., August 8.**

Thanks,

Nigel

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/30/2018 4:41:56 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Metals US
Attachments: Environmental Cleanup White Paper.pdf; Solid Phase Extraction Technology Presentation - EPA April 2018.pdf

Any thoughts on this?

From: Chancellor, Erin
Sent: Monday, July 16, 2018 12:27 PM
To: Cook, Steven <cook.steven@epa.gov>
Subject: FW: Metals US

This is an outstanding item from the last CHEJ meeting. Seems like we need to decide if we want to set up a meeting and hear more about this technology.

Erin E. Chancellor

From: Chancellor, Erin
Sent: Monday, May 14, 2018 9:18 AM
To: Steven Cook (Cook.steven@Epa.gov) <Cook.steven@Epa.gov>; Silvina Fonseca (Fonseca.Silvina@epa.gov) <Fonseca.Silvina@epa.gov>; Veronica Darwin (darwin.veronica@epa.gov) <darwin.veronica@epa.gov>; Nick Falvo <falvo.nicholas@epa.gov>
Subject: FW: Metals US

Info Kell referred to in the Lois Gibbs follow ups.

Erin E. Chancellor

From: Kelly, Albert
Sent: Friday, April 27, 2018 9:52 AM
To: Chancellor, Erin <chancellor.erin@epa.gov>
Subject: FW: Metals US

East Chicago and Dupont

Albert Kelly
Senior Advisor to the Administrator
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202 306 8830

From: John Hammen [mailto:john.hammen@metalsus.com]
Sent: Friday, April 27, 2018 4:34 AM
To: Larry Davis <lad@netnitco.net>
Cc: Kelly, Albert <kelly.albert@epa.gov>
Subject: Re: Metals US

Hello Mr. Davis,

It is good to be introduced to you via e-mail, and I appreciate Mr. Kelly bringing us together. From the bit that I have heard from Mr. Kelly and your own description, it sounds like this project could be an ideal application for our technology to bring about a better outcome than that possible through other processes. I would look forward to discussing further with you to understand the project better and confirm this, and if so, begin envisioning a path towards verification and implementation. I would also be pleased and honored to present to your group and community. As far as the politics go, I will leave that up to you and Mr. Kelly to discuss as you are far more knowledgeable about it than I. However, on our end, I know myself and my team would very much look forward to a chance to meet with you.

You have my email here. My phone is 406-370-3869. I have also attached a couple of documents with more information about the technology. Feel free to give me a call any time to discuss further. Best Regards,

-John

On Thu, Apr 26, 2018 at 5:51 PM, Larry Davis <lad@netnitco.net> wrote:

> Hello Mr. Kelly, This looks like it could be very promising for the remaining 25% concentrate once the 75% by weight Quartz sand in local soils is separated out using hydrocyclone technology or some other means of clean physical separation with high throughput...
>
> Of course it would require convincing both U.S. EPA Staff and the Responsible Parties that a permanent solution is better than the current plans for both the USS Lead Superfund Site and the DuPont Facility in East Chicago, Indiana.
>
> I remain convinced that the best thing in the long-term for both the companies and communities is to fully eliminate the toxic liabilities by reclaiming the valuable chemicals and metals rather than leave massive amounts of them on-site or in the on-site landfill of questionable integrity that cannot meet minimum technical requirements for Resource Conservation and Recovery Act land disposal of solid wastes.
>
> Paying millions to throw away (land dispose) valuable, rare, and strategic minerals and metals just doesn't seem like a good idea no matter who is paying for it... It only ensures a long-term toxic threat to surrounding communities and drinking water supplies like Lake Michigan will go on forever.
>
> Ideally a successful demonstration in East Chicago, Indiana could be applied elsewhere at other clean-up sites and Brownfield sites with similar circumstances.
>
> Sincerely;

Larry Davis

268 South 600 West

Hebron, Indiana 46341

(219) 488-6052

< lad@netnitco.net >

From: Kelly, Albert [mailto:kelly.albert@epa.gov]
Sent: Thursday, April 26, 2018 12:59 PM
To: lad@netnitco.net
Cc: john.hammen@MetalsUS.com
Subject: Metals US

Hello Mr. Davis, I wanted to introduce you to John Hammen who is copied on this email. He is the CEO of Metals US and has a process that he believes will timely and properly separate and purify high value metals from water or soil or otherwise. Given you suggestion of the high minerals levels in East Chicago and Dupont, I thought an introduction of the two of you was in order. I did explain the circumstance regarding the 127,000 tons of arsenic there. I would appreciate your letting me know if this has any application there in your opinion.

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

--

John Hammen | Chief Executive Officer

Metals US

(406) 370-3869
www.metalsus.com

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 7/25/2018 3:04:29 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Re: OBLR Meeting Next week

Thank you Peter.

David R. Lloyd
202-680-4205

On Jul 25, 2018, at 9:55 AM, Wright, Peter <wright.peter@epa.gov> wrote:

> David
>
> Please accept my condolences.
>
> It is my pleasure to speak at the meeting and getting to know these leaders.
>
> Peter
>
> ---
>
> **From:** Lloyd, David
> **Sent:** Wednesday, July 25, 2018 9:43 AM
> **To:** Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
> **Cc:** Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Quinn, Megan <Quinn.Megan@epa.gov>; Storm, Aimee <storm.aimee@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>
> **Subject:** OBLR Meeting Next week
>
> Steve, Peter – Thank you for agreeing to speak to our BF Coordinators and Regional Leadership next Tuesday. I need to travel out west **Personal Matters / Ex. 6** so I will not be at the meeting on Tuesday. Patricia and our Team Leaders will be at the meeting. We appreciate you taking the time to welcome our Regional BF Teams. David
>
> David R. Lloyd, Director
> Office of Brownfields and Land Revitalization
> U.S. Environmental Protection Agency
> Washington, DC
> 202-566-2731

Message

From: Darwin, Veronica [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC98AAF2F15A466BAEDE3DAB0E27A35E-DARWIN, VER]
Sent: 8/23/2018 6:47:24 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: Ash Recycling
Attachments: Restore C2P2 FACT SHEET - rev 3-14-17.pdf

For tomorrow's meeting.
Veronica

From: Lovell, Will (William)
Sent: Thursday, August 23, 2018 2:43 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Subject: Ash Recycling

Please see attached handout. Attendees will be:

Tom Adams, American Coal Ash Association Executive Director
John Ward, American Coal Ash Association Government Relations Committee Chairman

Will Lovell
Policy Advisor, Office of Policy
U.S. Environmental Protection Agency
(202) 564-5713
Lovell.William@epa.gov

C2P2 (2.0)

COAL COMBUSTION PRODUCTS PARTNERSHIP

C2P2 – What was it?

The **Coal Combustion Products Partnership** was a cooperative effort between U.S. Environmental Protection Agency (EPA), American Coal Ash Association (ACAA), Utility Solid Waste Activities Group (USWAG), U.S. Department of Energy (DOE), Federal Highway Administration (FHWA), Electric Power Research Institute (EPRI), and U.S. Department of Agriculture Agricultural Research Service (USDA-ARS) to promote **beneficial use of coal ash** as an environmentally preferable alternative to disposal. The initiative included three primary activities:

• A Challenge Program • Barrier Breaking Activities • Development of CCP-Utilization Workshops

C2P2 engaged the entire coal ash value chain – utilities, marketers, highway engineers, product manufacturers, and state environmental regulators – in identifying and implementing best practices for coal ash beneficial use.

C2P2 – What did it accomplish?

The C2P2 program was active during the **most significant growth period for coal ash beneficial use** in history. In 2000, EPA issued a Final Regulatory Determination that coal ash should be regulated under "non-hazardous" RCRA Subtitle D and subsequently initiated the C2P2 program. The results were dramatic:

- 2000 – Beneficial use volume **32.1 million tons**
- 2008 – Beneficial use volume **60.6 million tons**

Following the Kingston coal ash spill in December 2008, EPA commenced a six-year coal ash disposal rulemaking that included the possibility of a "hazardous" RCRA Subtitle C determination. EPA also terminated the C2P2 program. Beneficial use volumes subsequently declined.

If annual beneficial use from 2009-2013 had simply remained level with 2008's utilization, ***26.4 million tons*** *less coal ash would have been deposited in landfills and impoundments.*

C2P2 – Where did it go?

Early in EPA's lengthy coal ash disposal rulemaking, the Agency unilaterally terminated the C2P2 program without notifying any of its 200+ partners. Later, the EPA Inspector General conducted an investigation of the program and concluded that EPA should have done more to evaluate risks of beneficial uses before promoting them.

EPA subsequently addressed the IG's criticism by developing a comprehensive "Risk Evaluation Methodology" and applying that methodology to the two largest beneficial uses – fly ash concrete and synthetic gypsum wallboard. Both evaluations passed with flying colors. **But the C2P2 program was not reinstated.**

C2P2 – Why it is needed again...

The United States still disposes of **more than 56 million tons** of coal ash annually. Additionally, compliance with EPA's 2014 coal ash disposal regulations presents a host of issues and opportunities for beneficial use, including the potential for reclamation of an estimated **1.5 billion tons** of previously disposed ash.

Reinstatement of the C2P2 program would be a meaningful, common sense, cooperative step toward improving our nation's environment. EPA's leadership in coal ash beneficial use is missed and would be welcomed again by a wide range of interested partners.

CONTACT: American Coal Ash Association – Thomas Adams, Executive Director 720-375-2998 thadams@acaa-usa.org
or John Ward, Government Relations Committee Chairman 801-560-9801 wardo@wardo.com

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/25/2018 2:23:03 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Johnson, Barnes [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c39e9338cbf04dc3b4b29f78e5213303-Johnson, Barnes]; Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Stalcup, Dana [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=70b76eb4c1c54ae585333e7fbcc83fed-Stalcup, Dana]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Woolford, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9a70358e7660435cbe6afa87b7b9b71b-Woolford, James]; Salyer, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d78fb62f65cd4cd8be1c87c7e4c4ccde-KSALYER]; Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]
CC: Belke, Jim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c32df961c274152b3ba2873b03ae555-jbelke]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: Agenda & materials for 11:00
Attachments: Pre-briefAgenda.docx; OBLR.Brownfields.docx; OEM.Chem Facility RMP.v2.docx; OEM-CERCLA-EPCRA Reporting.docx; ORCR.CCR.docx; OSRTI.LeadExposureSFSites.docx; QUESTIONSforWheelerBriefing.docx

Importance: High

Hi All,

Attached are the materials for our 11:00 pre-brief. They include:

- Agenda
- Latest draft fact sheets (OCIR approved versions. Barry, Steven, and Peter are reviewing now.)
- List of questions and answers your offices' submitted

How the briefing will go:

- For each topic on the agenda, the IO person identified (Peter or Steven) will ask any questions they have on the main messages in the fact sheets. The ODs will not be asked to go through the fact sheets.
- For the Superfund sites, Jim Woolford will go through the main messages on each site. [NOTE: Barry, Peter, and Steven have not reviewed the site fact sheets because Jim will be covering those.]
- After that, the group with go through the suggested questions and talk through whether the questions are the right ones, and whether the answers are what we'd like Wheeler to say.

Hope this helps. Let me know if you have any questions.

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

-----Original Appointment-----
From: Breen, Barry
Sent: Friday, July 20, 2018 1:41 PM
To: Breen, Barry; Benjamin, Kent; Clark, Becki; Hilosky, Nick; Johnson, Barnes; Lloyd, David; Manges, Ellen; Simon, Nigel; Stalcup, Dana; Cook, Steven; Wright, Peter; Harwood, Jackie; Brooks, Becky; Cheatham, Reggie; Woolford, James; Salyer, Kathleen; Overmeyer, Patricia
Cc: Belke, Jim; Jennings, Kim; Indermark, Michele
Subject: OLEM Pre-meet for Acting Administrator's Hearing
When: Wednesday, July 25, 2018 11:00 AM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: DCRoomWest4144GCIVTCPolycom/OLEM

Poc:	**Nick Hilosky**	**202-566-1942**
	Teresa Hill	**202-566-0184**

ODs at PY can call in on VTC.

OLEM Pre-Brief for Acting Administrator Hearing

AGENDA

7/25/18

- Coal Ash – Steven
- Brownfields – Peter
- Risk Management Plan – Peter
- CERCLA/EPCRA Reporting & Recent Vacatur Rule – Steven
- Lead Exposure at Superfund Sites – Jim Woolford
- Superfund Program Sites below – Jim Woolford
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

    Note: Peter will not participate in these site discussions:
    - American Cyanamid Company—Booker ***
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - Berry's Creek—Booker ***
    - Portland Harbor—Merkley ***
- Questions (and answers) on topics above to use at Wheeler briefing

Message

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 8/23/2018 6:46:23 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

We're checking with ORCR and OGC.

From: Cook, Steven
Sent: Thursday, August 23, 2018 2:12 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Deliberative Process / Ex. 5

From: Cogliano, Gerain
Sent: Thursday, August 23, 2018 2:10 PM
To: Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

No. **Deliberative Process / Ex. 5**
OMB is not expecting us to address it now.

From: Cook, Steven
Sent: Thursday, August 23, 2018 12:38 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Do we need to specifically mention the two court decisions that came out this week on RMP and CCR?

From: Cogliano, Gerain
Sent: Thursday, August 23, 2018 11:04 AM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Need response today! OK with Reg Plan revisions? New entry for Reg Agenda

Hi all,
OP is asking by COB our responses to OMB's edits to the Reg Plan and Agenda. Attached are our responses to the Reg Plan and an addition to the Reg Agenda (the CCR conforming change rule entry). Please let me know if these are okay to send forward. If not, let me know what needs to change.

Thanks.

Gerain Cogliano
OLEM's Regulatory Steering Committee Representative

Policy and Regulatory Management Team Leader
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

WJC West Room 4130
Phone Number: 202-566-1929
Fax Number: 202-566-1934
Mail Code: 5103T
cogliano.gerain@epa.gov

For ADP information:
http://intranet.epa.gov/adpilibrary
http://intranet.epa.gov/olem/policy/index.htm

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 8/10/2018 2:53:34 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]
Subject: FW: ELMS Deployment Status
Attachments: OBLR LEAN Activities and Next Steps-FINAL.docx

FYI. Thanks

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

From: Gorini, Kelly
Sent: Thursday, August 09, 2018 5:16 PM
To: Dawes, Katherine <Dawes.Katherine@epa.gov>
Cc: Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>
Subject: ELMS Deployment Status

Hi Katherine-

Attached is OBLR's ELMS Deployment Status.

Thank you!

Kelly Gorini |Office of Brownfields & Land Revitalization | U.S. EPA | 202.566.1702| gorini.kelly@epa.gov
EPA Brownfields Program: http://www.epa.gov/brownfields

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/24/2018 2:03:57 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Ash Recycling

As promised, links to the C2P2 coal ash beneficial reuse items.

From: Cook, Steven
Sent: Thursday, August 23, 2018 6:51 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Cc: Lovell, Will (William) <lovell.william@epa.gov>
Subject: RE: Ash Recycling

The link below is to an EPA webpage that discusses reuse.

https://www.epa.gov/coalash/coal-ash-reuse

On the OIG webpage there are links to reports they did in 2010-11 on the issues they had with the C2P2 program.

https://www.epa.gov/office-inspector-general/report-website-coal-combustion-products-partnership-conflicts-agency
https://www.epa.gov/office-inspector-general/report-epa-promoted-use-coal-ash-products-incomplete-risk-information

---

From: Darwin, Veronica
Sent: Thursday, August 23, 2018 3:24 PM
To: Cook, Steven <cook.steven@epa.gov>
Subject: FW: Ash Recycling

Hi there,
Do you know of any handouts on CCR beneficial use? OP would very much appreciate them ahead of tomorrow's meeting, if we have them. No need to create anything new. Thanks.
V.

From: Lovell, Will (William)
Sent: Thursday, August 23, 2018 3:16 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Subject: RE: Ash Recycling

I should ask – do y'all have any handouts that could be helpful for us?

From: Lovell, Will (William)
Sent: Thursday, August 23, 2018 2:43 PM
To: Darwin, Veronica <darwin.veronica@epa.gov>
Subject: Ash Recycling

Please see attached handout. Attendees will be:

Tom Adams, American Coal Ash Association Executive Director
John Ward, American Coal Ash Association Government Relations Committee Chairman

Will Lovell
Policy Advisor, Office of Policy
U.S. Environmental Protection Agency
(202) 564-5713
Lovell.William@epa.gov

Message

From: Woolford, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9A70358E7660435CBE6AFA87B7B9B71B-WOOLFORD, JAMES]
Sent: 7/17/2018 3:04:53 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Fwd: FYI: Tittabawassee River - NYT Reporters attended the CAG Meeting last night

Sent from my iPhone

Begin forwarded message:

From: "Harwood, Jackie" <Harwood.Jackie@epa.gov>
Date: July 17, 2018 at 9:44:06 AM CDT
To: "Woolford, James" <Woolford.James@epa.gov>, "Stalcup, Dana" <Stalcup.Dana@epa.gov>, "Lowery, Brigid" <Lowery.Brigid@epa.gov>, "Fitz-James, Schatzi" <Fitz-James.Schatzi@epa.gov>, "Duteau, Helen" <Duteau.Helen@EPA.GOV>, "Keller, Melanie" <Keller.Melanie@epa.gov>
Cc: "Benjamin, Kent" <Benjamin.Kent@epa.gov>, "Manges, Ellen" <Manges.Ellen@epa.gov>, "Colip, Matthew" <colip.matthew@epa.gov>, "Taylor, Trish" <Taylor.Trish@epa.gov>
Subject: FYI: Tittabawassee River - NYT Reporters attended the CAG Meeting last night

FYI

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bassler, Rachel
Sent: Tuesday, July 17, 2018 10:22 AM
To: Kelley, Jeff <kelley.jeff@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Tittabawassee River - NYT Reporters attended the CAG Meeting last night

I just wanted to give you a heads up, last night at the CAG meeting for the Tittabawassee River Superfund site, two reporters and a photographer from the New York Times came and asked questions during the Q&A. They did not interview the RPM after. Their questions largely related to how soon EPA would be done with the entire site. The RPM explained that **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) The reporter did call about a week ago and said she would send questions but never did.

Here's a link to the Superfund site:
https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250

Thanks,
Rachel

Rachel Bassler
Press Officer
U.S. EPA Region 5
bassler.rachel@epa.gov
p: 312-886-7159
c: 312-914-3393

Appointment

From: Hilosky, Nick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=39E1182AC8CD4709AE0787CA4A068D2D-NHILOSKY]
Sent: 7/30/2018 3:03:20 PM
To: Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]; Overmeyer, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8236f45371ec42739627e3735c87503c-povermey]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]

Subject: Brownfields Coordinator Meeting
Location: PY South First Floor Conf. Room (S1204/06)

Start: 7/31/2018 12:30:00 PM
End: 7/31/2018 12:45:00 PM
Show Time As: Tentative

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/23/2018 6:12:41 PM
To: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: CCR- Notice of Intent to Sue

Excellent – that will work.

From: Fotouhi, David
Sent: Thursday, August 23, 2018 2:11 PM
To: Cook, Steven <cook.steven@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: RE: CCR- Notice of Intent to Sue

We would be glad to talk briefly about those decisions; however, I think meeting separately sometime over the next week or so makes sense for RMP and CCR given the breadth of those issues. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 I will ask the air law office (for RMP) and SWERLO (for CCR) to coordinate with your staff on setting up meetings, if that works for you.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Cook, Steven
Sent: Thursday, August 23, 2018 1:47 PM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Wright, Peter <wright.peter@epa.gov>
Subject: RE: CCR- Notice of Intent to Sue

David – good to see you in person earlier today. Have a question about the meeting tomorrow. It was originally set up to cover the NGO notice concerning public participation guidelines under RCRA as applied to CCR permit programs. We have since had two court decisions (RMP and CCR) that also need discussion. Will we be prepared to discuss either of these cases as part of tomorrow's discussion or do we need to set up additional meetings?

Steven

-----Original Appointment-----
From: Jones, Knolyn **On Behalf Of** Cook, Steven
Sent: Thursday, August 23, 2018 8:13 AM
To: Cook, Steven; Wright, Peter; Barry Breen (Breen.Barry@epa.gov); Betsy Devlin (Devlin.Betsy@epa.gov); Celeste, Laurel; Stachowiak, Robert; John Michaud; Hostage, Barbara; Hilosky, Nick; Brooks, Becky; Johnson, Barnes
Cc: Lewis, Jen; Fotouhi, David
Subject: CCR- Notice of Intent to Sue
When: Friday, August 24, 2018 11:30 AM-12:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3146 West

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 12:46:17 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: CCR and RMP Talking Point

Thanks Steven, will get this in ASAP too.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Cook, Steven
Sent: Monday, July 30, 2018 8:06 AM
To: Wright, Peter <wright.peter@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: CCR and RMP Talking Point

Jackie – We also need to update the last bullet in the CCR talking points as follows:

Deliberative Process / Ex. 5

From: Wright, Peter
Sent: Monday, July 30, 2018 6:29 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>
Subject: Fwd: RMP Talking Point

Jackie

We need to update this talking point paper as apparently the one included in the Administrator's book for the weekend did not include the highlighted bullet below.

In rereading the bullet point I would make a couple of further edits. First I would add an "s" after the word "believe." **Deliberative Process / Ex. 5**

Friday was a hectic day and I think you and others did a great job.

Peter

Sent from my iPad

Begin forwarded message:

From: "Wright, Peter" <wright.peter@epa.gov>
Date: July 27, 2018 at 1:42:49 PM EDT
To: "Harwood, Jackie" <Harwood.Jackie@epa.gov>
Cc: "Breen, Barry" <Breen.Barry@epa.gov>
Subject: RMP Talking Point

Jackie

Here is the draft of the RMP talking point that I send you with an additional bullet for inclusion. The new bullet is highlighted and uses language from the Fed Reg.

Peter

Risk Management Plan (RMP) Rulemaking

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/30/2018 12:45:04 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: RMP Talking Point

Will get this in first thing this morning Peter. Sorry I missed this on Friday!

Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Wright, Peter
Sent: Monday, July 30, 2018 6:29 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>
Subject: Fwd: RMP Talking Point

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We need to update this talking point paper as apparently the one included in the Administrator's book for the weekend did not include the highlighted bullet below.

In rereading the bullet point I would make a couple of further edits. First I would add an "s" after the word "believe." **Deliberative Process / Ex. 5**

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Peter

Sent from my iPad

Begin forwarded message:

> **From:** "Wright, Peter" <wright.peter@epa.gov>
> **Date:** July 27, 2018 at 1:42:49 PM EDT
> **To:** "Harwood, Jackie" <Harwood.Jackie@epa.gov>
> **Cc:** "Breen, Barry" <Breen.Barry@epa.gov>
> **Subject: RMP Talking Point**
>
> Jackie
>
> Here is the draft of the RMP talking point that I send you with an additional bullet for inclusion. The new bullet is highlighted and uses language from the Fed Reg.

Peter

Risk Management Plan (RMP) Rulemaking

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/25/2018 1:05:32 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions

Thanks Peter – sounds good, I'll revise the fact sheet.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Wright, Peter
Sent: Wednesday, July 25, 2018 9:04 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions

Jackie

On the Brownfields write up Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Peter

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 10:36 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Importance: High

Hi Barry, Steven, and Peter,

Attached for your review are the additional Wheeler briefing materials. **Fact sheets are due to OCIR by noon Weds. If you don't have time to review all of them, I recommend focusing on the five OLEM Tier 2 fact sheets only**:

1. **Superfund site fact sheets for Wheeler's briefing, reviewed by OSRTI and Jim Woolford:**
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst *** [NOTE: Not available for review yet, Region still working on it]
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Centredale Manor Restoration Projects—Whitehouse *** [NOTE: Not available for review yet, Region still working on it]
    - Mississippi Phosphate—Wicker ***
    - American Cyanamid Company—Booker ***
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - Berry's Creek—Booker ***
    - Portland Harbor—Merkley *** [Attached, Jim Woolford reviewing Weds am]

2. **2nd Tier Fact Sheets – NOTE: These will go in Wheeler's background book. OCIR shortened OLEM's original tier 2 list because they have too many fact sheets.**
    - Hurricane preparedness
    - Hot Topics/Issues at Fed Facility Sites
    - UST Compliance deadline
    - Addressing Extreme Weather at Superfund Sites
    - Role of States in SF Program
    - Superfund Task Force (Not attached, providing press release instead of fact sheet)

3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 5:35 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

    NOTE: Peter will not participate in these site discussions:

    - American Cyanamid Company—Booker ***
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - Berry's Creek—Booker ***
    - Portland Harbor—Merkley ***
3. Second tier fact sheets. They will include the following topics:
    - SPCC
    - Hurricane preparedness
    - Spill Prevention Rule
    - 108(b)
    - PFAS at Fed Facility Sites
    - Hot Topics/Issues at Fed Facility Sites
    - Compliance deadline
    - Abandoned Minds and Mineral Processing Sites
    - Addressing Extreme Weather at Superfund Sites
    - Superfund Remedial Cleanup Program
    - Superfund Special Accounts
    - Superfund Task Force
    - Role of States in SF Program
    - Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
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Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
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To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Attachments: FFRRO-FedFacilitySF.docx; OEM-Preparationfor2018 HurricaneSeason.docx; ORCR-E-Manifest.docx; OSRTI-AddressingExtremeWeatheratSFSites.docx; OSRTI-RoleofStatesinSFProgram.docx; OUST-USTRegulationandCompliance.docx; Final Site Fact Sheets.zip; QUESTIONSforWheelerBriefing.docx

Importance: High

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    - American Cyanamid Company—Booker ***
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - Berry's Creek—Booker ***
    - Portland Harbor—Merkley *** [Attached, Jim Woolford reviewing Weds am]

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    - Role of States in SF Program
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3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
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U.S. Environmental Protection Agency
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To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

    NOTE: Peter will not participate in these site discussions:

    - American Cyanamid Company—Booker ***
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - Berry's Creek—Booker ***
    - Portland Harbor—Merkley ***
3. Second tier fact sheets. They will include the following topics:
    - SPCC

- Hurricane preparedness
- Spill Prevention Rule
- 108(b)
- PFAS at Fed Facility Sites
- Hot Topics/Issues at Fed Facility Sites
- Compliance deadline
- Abandoned Minds and Mineral Processing Sites
- Addressing Extreme Weather at Superfund Sites
- Superfund Remedial Cleanup Program
- Superfund Special Accounts
- Superfund Task Force
- Role of States in SF Program
- Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 8/13/2018 3:17:32 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Noggle, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=24084230d263442f84dacc362c096c11-WNOGGLE]; Mattick, Richard [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0e8c40b64ab94f29a31d5654299a2935-RMATTI02]
Subject: RE: Update--- info for OLEM Actions Status Meeting with Brittany

Will do. Thanks for all the feedback! Very helpful

From: Darwin, Veronica
Sent: Monday, August 13, 2018 10:42 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Mattick, Richard <Mattick.Richard@epa.gov>
Subject: RE: Update--- info for OLEM Actions Status Meeting with Brittany

Hi again. I forgot to mention Brittany asked about the RMP proposed rule, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 r

Veronica

From: Darwin, Veronica
Sent: Monday, August 13, 2018 10:28 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Mattick, Richard <Mattick.Richard@epa.gov>
Subject: RE: Update--- info for OLEM Actions Status Meeting with Brittany

Good Morning,
Find below notes (green text) from Friday's meeting with OP. Peter – please add anything I missed or got wrong. Let me know if you have any questions.
Have a great day!
Veronica

OLEM Actions Status Meeting

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Cogliano, Gerain
Sent: Friday, August 10, 2018 8:03 AM
To: Darwin, Veronica <darwin.veronica@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Update--- info for OLEM Actions Status Meeting with Brittany

Hi all,

Just in case the following comes up in the meeting with Brittany today.

Deliberative Process / Ex. 5

Let me know if you have any questions or concerns.

Thanks,

Gerain

202-566-1929

From: Cogliano, Gerain
Sent: Wednesday, August 8, 2018 12:16 PM
To: Darwin, Veronica; Wright, Peter; Cook, Steven
Cc: Hostage, Barbara
Subject: info for OLEM Actions Status Meeting with Brittany

Deliberative Process / Ex. 5

If you have any questions, contact me. Thanks.

Gerain Cogliano
OLEM's Regulatory Steering Committee Representative

Policy and Regulatory Management Team Leader

Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

WJC West Room 4130
Phone Number: 202-566-1929
Fax Number: 202-566-1934
Mail Code: 5103T
cogliano.gerald@epa.gov

For ADP information:
http://intranet.epa.gov/adplibrary
http://intranet.epa.gov/olem/policy/index.htm

Message

From: Lyons, Troy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=15E4881C95044AB49C6C35A0F5EEF67E-LYONS, TROY]
Sent: 7/27/2018 2:22:17 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Levine, Carolyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=468b48e304cf4c54a52bb7c83a54fd21-CLevin02]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Rodrick, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6515dbe46dae466da53c8a3aa3be8cc2-Rodrick, Ch]; Richardson, RobinH [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fa5c9eb65dc497c81a8dc9ccdb1ffa7-Richardson, RobinH]; Shimmin, Kaitlyn [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=becb3f33f9a14acd8112d898cc7853c6-Shimmin, Ka]; Morgan, Ashley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4acef44653d440e3baab09958ffc24ea-Morgan, Ash]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: OLEM Action Items

Importance: High

OLEM—thank you for your help with this morning's briefing. Please find below the action items from today's briefing. As I mentioned, we will need to get these turned around by COB today so the Administrator can review this weekend.

- Updated Talking Points—CERCLA/EPCRA

  Deliberative Process / Ex. 5

- Updated Lead at Superfund Sites

  Deliberative Process / Ex. 5

- Updated Talking Points--Coal Combustion Residuals

  Deliberative Process / Ex. 5

- Brownfields—6 Deliberative Process / Ex. 5

- Deliberative Process / Ex. 5

Troy M. Lyons
Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
Personal Phone / Ex. 6 cell)

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 8/17/2018 5:31:24 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: Fwd: Adverse decision on RMP delay rule
Attachments: ENV_DEFENSE-#850627-v1-admin_su_aah_opinion.pdf; ATT00001.htm

I believe you all received this already from David...we are hoping to meet with OGC on Monday to discuss further. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Reggie Cheatham, Director
Office of Emergency Management
202/564-8003(w) 202/689-9400(c)
cheatham.reggie @epa.gov
Doris Williams, Executive Assistant
202/564-0053

Begin forwarded message:

From: "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>
Date: August 17, 2018 at 10:29:13 AM EDT
To: "Cheatham, Reggie" <cheatham.reggie@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>, "Jennings, Kim" <Jennings.Kim@epa.gov>, "Belke, Jim" <Belke.Jim@epa.gov>, "Franklin, Kathy" <Franklin.Kathy@epa.gov>
Subject: Adverse decision on RMP delay rule

All- The DC Cir has issued the attached opinion vacating EPA's rulemaking to delay the effectiveness of amendments to the Risk Management Program. The summary from the opinion states:

"We hold that where EPA has exercised its Section 7607(d)(7)(B) authority to delay the effectiveness of a final rule, it cannot avoid that statute's express limitations by invoking general rulemaking authority under a different statutory provision. EPA's action was arbitrary and capricious in any event. Accordingly, we vacate the Delay Rule of June 14, 2017."

Please forward this as appropriate (I apologize for not knowing the full list). I have not had a chance to read the opinion yet but will send any additional thoughts once I do. Jon Averback and Brian Doster are both out today, so please direct any follow up to me. Thanks.

++++++++++++++++++++++++++++
(202) 564-5647 (o)
Personal Phone / Ex. 6

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/19/2018 9:36:58 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]
CC: Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]; Thomas, Latosha [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a405bd473fff4b80b3065d03d9b48eb9-LaThomas]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: NEW: Senate EPW Letter on RMP
Attachments: 07.19.18 - EPA Letter on RMP Proposed Rule.pdf

Hi All,

Passing on a letter that came in today from all the Democrats on the Senate EPW Committee asking the Acting Administrator to withdraw the proposed RMP Rule.

This will likely come up at Wheeler's hearing on 8/1, so I'll work with OEM to make sure we have a draft fact sheet for the Acting Administrator responding to this.

Please let me know if you have any questions.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 7/12/2018 10:57:17 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: RE: TPs for Barry Breen for Administrator's Staff Meeting on Monday

David – suggest that we have a couple of specific details Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Wright, Peter
Sent: Thursday, July 12, 2018 6:49 PM
To: Lloyd, David <Lloyd.DavidR@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>
Subject: RE: TPs for Barry Breen for Administrator's Staff Meeting on Monday

David and Barry

I do not have any comments.

Peter

From: Lloyd, David
Sent: Thursday, July 12, 2018 4:20 PM
To: Breen, Barry <Breen.Barry@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Quinn, Megan <Quinn.Megan@epa.gov>; Gorini, Kelly <Gorini.Kelly@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Macula, Joseph <macula.joseph@epa.gov>; Storm, Aimee <storm.aimee@epa.gov>
Subject: TPs for Barry Breen for Administrator's Staff Meeting on Monday

Barry – I haven't discussed with Jim and Dana yet, but at the end of the Kaizen Progress meeting with Henry Darwin this morning, Kevin DeBell asked if we could provide you with some talking points you could deliver at the Administrator's Senior Staff Meeting Monday regarding Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Konkus, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=555471B2BAA6419E8E141696F4577062-KONKUS, JOH]
Sent: 8/17/2018 2:45:28 PM
To: Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Adverse decision in Air Alliance Houston v. EPA

Thanks. Press questions coming in -- "We are reviewing the decision" going out.

From: Fotouhi, David
Sent: Friday, August 17, 2018 10:25 AM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Importance: High

The D.C. Circuit has just issued an opinion vacating EPA's rule delaying the effective date of the RMP Amendments rule, holding that it was arbitrary and capricious. The opinion is attached to this e-mail; we are reviewing it in detail and will follow up.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam
Sent: Friday, August 17, 2018 10:17 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Importance: High

Have not read but looks like a loss on the statutory authority question (as well as A&C).

++++++++++++++++++++++++++++

(202) 564-5647 (o)
(202) 695-6287 (c)

From: Lipshultz, Jon (ENRD) [mailto:Jon.Lipshultz@usdoj.gov]
Sent: Friday, August 17, 2018 10:09 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>
Cc: Talbert, Stephanie (ENRD) <Stephanie.Talbert@usdoj.gov>
Subject: Adverse decision in Air Alliance Houston v. EPA

All – I have not read it yet, but the DC Circuit just issued an adverse decision in the Air Alliance Houston matter, involving the postponement of compliance dates for the accidental release Clean Air Act rule. A copy of the decision is attached. It is a per curiam decision by Judges Rogers and Wilkins. Judge Kavanaugh was on the panel but did not participate in the decision. Jack

Jack Lipshultz
Assistant Section Chief
Environmental Defense Section
202-514-2191

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 8/17/2018 2:25:10 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Attachments: ENV_DEFENSE-#850627-v1-admin_su_aah_opinion.PDF

Importance: High

The D.C. Circuit has just issued an opinion vacating EPA's rule delaying the effective date of the RMP Amendments rule, holding that it was arbitrary and capricious. The opinion is attached to this e-mail; we are reviewing it in detail and will follow up.

Best,

David

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Srinivasan, Gautam
Sent: Friday, August 17, 2018 10:17 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>
Subject: FW: Adverse decision in Air Alliance Houston v. EPA
Importance: High

Have not read but looks like a loss on the statutory authority question (as well as A&C).

++++++++++++++++++++++++++++++
(202) 564-5647 (o)
(202) 695-6287 (c)

From: Lipshultz, Jon (ENRD) [mailto:Jon.Lipshultz@usdoj.gov]
Sent: Friday, August 17, 2018 10:09 AM
To: Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>

Cc: Talbert, Stephanie (ENRD) <Stephanie.Talbert@usdoj.gov>
Subject: Adverse decision in Air Alliance Houston v. EPA

All – I have not read it yet, but the DC Circuit just issued an adverse decision in the Air Alliance Houston matter, involving the postponement of compliance dates for the accidental release Clean Air Act rule. A copy of the decision is attached. It is a per curiam decision by Judges Rogers and Wilkins. Judge Kavanaugh was on the panel but did not participate in the decision. Jack

Jack Lipshultz
Assistant Section Chief
Environmental Defense Section
202-514-2191

Message

From: Simon, Nigel [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E2F1084D32324DCD965683A9D2F09764-SIMON, NIGEL]
Sent: 7/12/2018 10:19:15 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FYSA: Monthly Kaizen Projects Meeting Slide Deck - Thursday, July 12.
Attachments: Monthly Project Meeting Report_071218.pptx

For Your Situational Awareness (FYSA) - I just sent this to the ODs/Deputies.

==========

-----Original Message-----
From: Simon, Nigel
Sent: Thursday, July 12, 2018 6:17 PM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>; Nicholas, David <Nicholas.David@epa.gov>; Dawes, Katherine <Dawes.Katherine@epa.gov>; Sullivan, Karen <Sullivan.Karen@epa.gov>
Subject: Monthly Kaizen Projects Meeting Slide Deck - Thursday, July 12.

ODs/Deputies:

FYI. Attached is the slide deck from today's monthly Kaizen projects meeting. Each process owner had to provide an update/status of his or her project. Some to pay particular attention to are:

Slide # 4 - Tailoring State Oversight
Slide # 5 - Examining EPA Field Presence Slide # 7 - Speeding Up the EPA Acquisition Process Slide #11 - Reducing Unnecessary Industry Reporting Burden Slide #12 - Speeding Up Environmental Permitting Slide #13 - Sitewide Ready for Anticipated Use Slide #14 - Brownfields Ready for Anticipated Use Slide #18 - Improving Management of EPA Laboratories

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 8/21/2018 3:38:08 PM
To: Abboud, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6f5af791a1842f1adcc088cbf9ed3ce-Abboud, Mic]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Beach, Christopher [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6b124299bb6f46a39aa5d84519f25d5d-Beach, Chri]; Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]
Subject: RE: Court sends part of coal ash rule back for EPA rewrite

This is coal ash... Taking off OAR and adding OLEM

From: Abboud, Michael
Sent: Tuesday, August 21, 2018 11:35 AM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: Fwd: Court sends part of coal ash rule back for EPA rewrite

We expected this to happen correct?

Sent from my iPad

Begin forwarded message:

> **From:** "POLITICO Pro Energy Whiteboard" <politicoemail@politicopro.com>
> **Date:** August 21, 2018 at 11:31:58 AM EDT
> **To:** <abboud.michael@epa.gov>
> **Subject: Court sends part of coal ash rule back for EPA rewrite**
> **Reply-To:** "POLITICO subscriptions" <reply-fe8b13767661017c7c-1158573_HTML-820854487-1376319-0@politicoemail.com>
>
> By Eric Wolff
>
> 08/21/2018 11:30 AM EDT
>
> The U.S. Court of Appeals for the D.C. Circuit handed environmentalists a partial victory today in a ruling that remanded parts of EPA's 2015 rule regulating coal ash ponds back to the agency.
>
> The three-judge panel, which included two Obama appointees and a George H. W. Bush appointee, rejected the administration's request to hold the case in abeyance while the agency reviewed provisions of the rule at utilities' request. The court agreed to EPA's request to allow it to rewrite parts of the rule, specifically provisions related to the definition of residual coal ash.

Greens scored a win in persuading the court to order EPA to redo parts of the rule that allowed utilities to keep using unlined coal ash ponds unless the ponds start leaking, and it said "clay lined" ponds did not qualify as lined.

The ruling comes as EPA works to ease rules on coal ash disposal. In one of his first acts in charge of the agency, acting EPA Administrator Andrew Wheeler signed changes to the 2015 rule that gave states more latitude to set their own requirements. EPA hopes to complete additional revisions by the end of next year.

Coal ash ponds, which utilities use to store waste from coal-burning power plants, have been a controversial issue in states like North Carolina, which suffered a major spill of coal ash into the Dan River in 2014.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2018/08/court-sends-part-of-coal-ash-rule-back-for-epa-rewrite-1785478

You received this POLITICO Pro content because your customized settings include: Energy: EPA; Energy: Regulations; Energy: Coal. To change your alert settings, please go to https://subscriber.politicopro.com/settings

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This email was sent to abboud.michael@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 7/19/2018 6:34:52 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: For Review -- LEAN Moment July 23

Below are draft bullet points for the LEAN Moment at the July 23 agency staff meeting. They were developed by OSRTI and OBLR and reviewed by OCPA. Please let us know if you have any comments. Do you know if these get passed out to folks or are they just for one of you to speak from at the meeting?

Deliberative Process / Ex. 5

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

Message

From: Cook, Steven [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=394F5DEDE6184BC083CF9390E49A192C-COOK, STEVE]
Sent: 8/15/2018 1:44:05 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: RE: metrics; abandoned mines, rulemakings

Deliberative Process / Ex. 5

From: Darwin, Veronica
Sent: Wednesday, August 15, 2018 8:58 AM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: metrics; abandoned mines, rulemakings

Good Morning,
As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thanks. Happy to discuss.
Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Darwin, Veronica [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC98AAF2F15A466BAEDE3DAB0E27A35E-DARWIN, VER]
Sent: 8/15/2018 12:57:33 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: metrics; abandoned mines, rulemakings
Attachments: Tracking Priority Actions OLEM.XLSX

Good Morning,
As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. (Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Thanks. Happy to discuss.
Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Wilbur, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=20F13C4294314508B1B2779E27EC4FE6-JWILBU02]
Sent: 7/19/2018 3:09:27 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]
Subject: FW: Passage of the House Interior Bill

From: Sebring, Meridith
Sent: Thursday, July 19, 2018 11:08 AM
To: Breen, Barry <Breen.Barry@epa.gov>
Cc: Wilbur, Jennifer <Wilbur.Jennifer@epa.gov>; Siegel, Kelly C. <Siegel.KellyC@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Passage of the House Interior Bill

Barry,

Just now, H.R. 6147, The Interior, Environment, Financial Services and General Government Appropriations Act, 2019, passed by a vote of 217 – 199. T Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Meridith Sebring
OLEM/ARMS
Office: 202-566-1909
Cell: Personal Phone / Ex. 6

Message

From: Johnson, Barnes [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C39E9338CBF04DC3B4B29F78E5213303-JOHNSON, BARNES]
Sent: 8/21/2018 3:09:16 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; ORCR IO [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=feb18e156b3547d1881d93c5893396f8-ORCR IO]; Devlin, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b76a4bf5afc84459a6bf2a6a4645f40f-BDEVLIN]; Elliott, Ross [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33cb08013cc94c21a3e3236dbad4c4a4-REELLIOT]
Subject: Recent DC Circuit Activity
Attachments: ENV_DEFENSE-#850820-v1-USWAG_v__EPA_Opinion.pdf; ENV_DEFENSE-#850811-v1-Cal__Comm__v___EPA_Petitioners__Brief.pdf

Dear Barry et al.,

I thought I would share a couple of actions that we just received today both of which we will need to engage on.

Deliberative Process / Ex. 5

2) I have also attached the 70+ page decision from the DC circuit on CCR. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Barnes Johnson
USEPA | Resource Conservation and Recovery | Tel 703-308-8895 |
johnson.barnes@epa.gov | @EPAland

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-1163

CALIFORNIA COMMUNITIES AGAINST TOXICS, *et al.*,
Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, *et al.*,
Respondents.

PETITION FOR REVIEW OF FINAL ADMINISTRATIVE ACTIONS OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

PROOF OPENING BRIEF OF PETITIONERS

Khushi Desai
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW
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Washington, DC 20036-2243
(202) 667-4500
kdesai@earthjustice.org
jpew@earthjustice.org

Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

DATED: August 20, 2018

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CALIFORNIA COMMUNITIES AGAINST TOXICS, *et al.*, *Petitioners*, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*, *Respondents*.	Case No. 18-1163

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to DC Circuit Rule 28(a)(1), Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services submit this certificate as to parties, rulings, and related cases.

(A) Parties and *Amici*

(i) Parties, Intervenors, and *Amici* Who Appeared in the District Court

This case is a petition for review of final agency action, not an appeal from the ruling of a district court.

(ii) Parties to This Case

Petitioners:

The petitioners in the above-captioned case are California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services.

Respondents:

The respondents in the above-captioned case are the United States Environmental Protection Agency and Andrew Wheeler, in his official capacity as Acting Administrator of the United States Environmental Protection Agency.

Intervenors:

Utility Solid Waste Activities Group, Edison Electronic Institute, National Rural Electric Cooperative Association, the American Gas Association, the American Public Power Association, the American Petroleum Institute, American Fuel & Petrochemical Manufacturers, Freeport-McMoRan Inc., Metals Industries Recycling Coalition, American Coke and Coal Chemicals Institute, American Forest & Paper Association, National Association of Manufacturers, the American Chemistry Council and the Society of Chemical Manufacturers and Affiliates have been granted leave to intervene in support of Respondents.

(iii) *Amici* in This Case

None at present.

(iv) Circuit Rule 26.1 Disclosures

See disclosure statement filed herewith.

(B) Rulings Under Review

Petitioners seek review of the following final actions taken by EPA: (1) "Revisions to the Definition of Solid Waste," 73 Fed. Reg. 64,668 (Oct. 30, 2008) ("2008 DSW Rule"), and (2) "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," 83 Fed. Reg. 24,664 (May 30, 2018) ("2018 DSW Rule").

(C) Related Cases

None.

DATED: August 20, 2018

Respectfully submitted,

/s/Khushi Desai

Khushi Desai
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kdesai@earthjustice.org
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Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association,

Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

CALIFORNIA COMMUNITIES AGAINST TOXICS, *et al.*, *Petitioners*, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, *et al.*, *Respondents*.	Case No. 18-1163

RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rule 26.1, Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services make the following disclosures:

California Communities Against Toxics

Non-Governmental Corporate Party to this Action: California Communities Against Toxics ("CCAT").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CCAT is a non-profit organization that is a project of a non-profit corporation (Del Amo Action Committee) that is organized and existing under the laws of the State of California. It is an environmental justice network that aims to reduce exposure to pollution, to expand knowledge about the effects of toxic chemicals on human health and the environment, and to protect the most vulnerable people from harm.

Clean Air Council

Non-Governmental Corporate Party to this Action: Clean Air Council ("CAC").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CAC, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, is a non-profit organization focused on protection of public health and the environment.

Coalition For A Safe Environment

Non-Governmental Corporate Party to this Action: Coalition For A Safe Environment ("CFASE").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CFASE is a non-profit organization based in Wilmington, California, dedicated to improving the environment, public health, public safety, and socio-economic justice through advocacy, community organizing, research, and public education.

Community In-Power and Development Association

Non-Governmental Corporate Party to this Action: Community In-Power and Development Association ("CIDA").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: CIDA is a nonprofit organization that empowers and assists residents of the low-income Port Arthur, Texas communities to promote and advocate for socially responsible industrial operations and the reduction of pollution, including toxic air releases.

Louisiana Bucket Brigade

Non-Governmental Corporate Party to this Action: Louisiana Bucket Brigade ("LABB").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: LABB is a non-profit environmental health and justice organization organized and existing under the laws of the State of

Louisiana. LABB works with communities that neighbor Louisiana's oil refineries and chemical plants and uses grassroots action to create an informed, healthy society with a culture that holds the petrochemical industry and government accountable for the true costs of pollution to create a healthy, prosperous, pollution-free, and just state where people and the environment are valued over profit.

Louisiana Environmental Action Network

Non-Governmental Corporate Party to this Action: Louisiana Environmental Action Network ("LEAN").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: LEAN is a corporation organized and existing under the laws of the State of Louisiana. LEAN is a non-profit organization that works with its members and citizens' groups throughout the State of Louisiana to develop, implement, protect, and enforce legislative and regulatory environmental safeguards.

Sierra Club

Non-Governmental Corporate Party to this Action: Sierra Club.

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: Sierra Club, a corporation organized and existing under the laws of the State of California, is a national nonprofit organization dedicated to the protection and enjoyment of the environment.

Texas Environmental Justice Advocacy Services

Non-Governmental Corporate Party to this Action: Texas Environmental Justice Advocacy Services ("t.e.j.a.s.").

Parent Corporations: None.

Publicly Held Company that Owns 10% or More of Party's Stock: None.

Party's General Nature and Purpose: t.e.j.a.s. is a non-profit corporation organized and existing under the laws of the state of Texas. t.e.j.a.s. promotes environmental protection through education, policy development, community awareness, and legal action to ensure that everyone, regardless of race or income, is entitled to live in a clean environment.

DATED: August 20, 2018

Respectfully submitted,

/s/Khushi Desai

Khushi Desai
James S. Pew
Earthjustice
1625 Massachusetts Ave., NW
Suite 702
Washington, DC 20036-2243
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Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

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GLOSSARY OF ACRONYMS AND ABBREVIATIONS

Pursuant to DC Circuit Rule 28(a)(3), the following is a glossary of acronyms and abbreviations used in this brief:

2008 DSW Rule	73 Fed. Reg. 64,668 (Oct. 30, 2008), "Revisions to the Definition of Solid Waste"
2015 DSW Rule	80 Fed. Reg. 1694 (Jan. 13, 2015), "Definition of Solid Waste"
2018 DSW Rule	83 Fed. Reg. 24,664 (May 30, 2008), "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule"
ABR	*Ass'n of Battery Recyclers v. EPA*, 208 F.3d 1047, 1054 (D.C. Cir. 2000)
AMC I	*Am. Min. Cong. v. EPA*, 824 F.2d 1177 (D.C. Cir. 1987)
AMC II	*Am. Min. Cong. v. EPA*, 907 F.2d 1179 (D.C. Cir. 1990)
API I	*Am. Petroleum Inst. v. EPA*, 906 F.2d 729 (D.C. Cir. 1990)
Petitioners	California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services
Decl.	Declaration
EPA	Respondents U.S. Environmental Protection Agency and Acting Administrator Andrew Wheeler
JA	Joint Appendix
PCBs	Polychlorinated biphenyls

RCRA	Resource Conservation and Recovery Act

JURISDICTIONAL STATEMENT

Agency. Respondents U.S. Environmental Protection Agency and Acting Administrator Andrew Wheeler (collectively, "EPA" or "the agency") have jurisdiction to issue rules under the Resource Conservation and Recovery Act ("RCRA"). 42 U.S.C. § 6912.

Court of Appeals. Pursuant to 42 U.S.C. § 6976(a)(1), this Court has jurisdiction to review the final regulations challenged in this case: "Revisions to the Definition of Solid Waste," 73 Fed. Reg. 64,668 (Oct. 30, 2008) ("2008 DSW Rule"), and "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule," 83 Fed. Reg. 24,664 (May 30, 2018) ("2018 DSW Rule").

Timeliness. This petition for review was timely filed on June 12, 2018, in accordance with 42 U.S.C. § 6976(a)(1). Petitioners' challenge to the 2018 DSW Rule is timely within that provision's 90-day review period, and their challenge to the 2008 DSW Rule is timely pursuant to the provision's allowance for challenges after the ninetieth day "if such petition for review is based solely on grounds arising after such ninetieth day." *See* 42 U.S.C. § 6976(a)(1). The after-arising grounds on which Petitioners' challenge to the 2008 DSW Rule are based are the 2018 DSW Rule and the Court's recent decisions in *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017) and *American Petroleum Institute v. EPA*, 883 F.3d 918 (D.C. Cir. 2018), which "changed the legal landscape" by reinstating

and broadening the part of the 2008 DSW Rule at issue in this case. *See Honeywell International v. EPA*, 705 F.3d 470, 473 (D.C. Cir. 2013) (holding that court decision constitutes after-arising grounds where it "changed the legal landscape"). *See also Alaska v. U.S. Dept. of Ag.*, 772 F.3d 899 (D.C. Cir. 2014) (holding that the court's reinstatement of a rule the agency previously repealed triggered a new right of action to challenge that rule).

STATEMENT OF ISSUES

EPA's Transfer-Based Exclusion is regulatory exclusion from RCRA's definition of solid waste. It excuses companies that manage hazardous wastes that are sent off-site for reclamation from RCRA's protective hazardous waste requirements provided certain minimal conditions are met.

1. Does EPA have authority to exclude hazardous wastes from RCRA's definition of solid waste when such wastes have been discarded by companies that have not only relinquished control of them, but have paid to get rid of them?
2. Is it unreasonable or arbitrary for EPA to assume that hazardous wastes are not "discarded" when generators pay to get rid of them?
3. Is EPA's failure to provide a reasoned explanation for its decision to treat hazardous wastes that are destined for reclamation under the Exclusion differently—and far less protectively—than hazardous wastes that are destined for treatment and disposal under Subtitle C arbitrary and capricious, particularly

where EPA admits that these materials pose the same human health and environmental risks?

STATUTES AND REGULATIONS

Pertinent statutes and regulations appear in an addendum to this brief.

STATEMENT OF FACTS

I. INTRODUCTION

This case challenges an unprecedented, sweeping regulatory exclusion from the statutory definition of solid waste, called the Transfer-Based Exclusion. Breaking from EPA's past practice, this Exclusion exempts a wide range of hazardous wastes that companies pay to get rid of from RCRA's protective hazardous waste management program so long as minimal conditions are met. Also, EPA itself has found that the Transfer-Based Exclusion fails to prevent dangerous releases of hazardous wastes, including the kinds of leaks, spills, fires, and explosions the agency knows occur when hazardous wastes are reclaimed.

II. HAZARDOUS WASTE AND THE RISKS IT PRESENTS TO HUMAN HEALTH AND THE ENVIRONMENT

From the earliest days of the RCRA program, EPA has recognized the "tragic consequences" that result from mismanagement of hazardous waste. EPA, Hazardous Waste Management System: Identification and Listing of Hazardous Waste, 45 Fed. Reg. 33,084, 33,084/3 (May 19, 1980), JA____. Even then, EPA cited "hundreds of cases of damage to human health or the environment resulting

from the indiscriminate dumping or other improper management of hazardous wastes." *Id.* at 33,084/3-33,085/1, JA____-__. They included pollution of groundwater with "toxic or cancer-causing chemicals and heavy metals"; pollution of surface waters that resulted in the "killing aquatic life, destroying wildlife, and denuding areas of vegetation"; "vaporization of volatile organic materials" that have been "linked to respiratory illnesses, skin diseases (including skin cancer) and elevated levels of toxic materials in the blood and tissues of human and domestic livestock"; and "fires, explosions or the generation of toxic gases which have killed or seriously injured workers and firemen." *Id.* at 33,085/1, JA____.

Over the years, these problems have persisted. In a 2007 study, EPA assessed more than 200 cases of environmental damage—all of them associated with hazardous waste recycling activities. EPA, *An Assessment of Environmental Problems Associated With Recycling of Hazardous Secondary Materials* (Jan. 11, 2007) (EPA-HQ-RCRA-2002-0031-0355), JA___. The study identifies major "leaks, spills, dumps or other types of releases of hazardous substances into the environment that were serious enough to require some type of cleanup action," including those that "required removal actions that were conducted by one or more government agencies, and involved expenditure of public funds." *Id.* at 5, JA____. It includes cases where the mismanagement of hazardous wastes intended for recycling resulted in releases of extremely toxic chemicals, like polychlorinated

biphenyls ("PCBs"), lead, arsenic, and cyanide, into air, soil, and water; fires and explosions; as well as serious bodily harm and even death. *See e.g.*, *id.* App. 2 at 115, 136, 207, 225, 243, JA____, ____, ____;,JA____.

Among the many disasters documented by EPA is a 2005 fire at the Advanced Magnesium Alloy Corporation's magnesium recycling facility in Indiana where 300,000 pounds of magnesium caught fire and burned for two days. *Id.* at 129, JA___. "The fire and smoke acted as a propellant for encapsulated asbestos insulation" in the facility, and more than 5,000 residents within one mile of the facility were evacuated. *Id.*, JA___. In a 2004 case, a four-alarm fire "fueled by the oil recycling activities" at the Thermo Fluids facility in Oregon "quickly engulfed the building despite the efforts of over 140 firefighters that responded to the fire." *Id.* at 266, JA___. The fire spread ash and soot into the air and downwind, and the water used in the attempts to contain the fire spread used oil and other potential hazardous chemicals into the nearby creek and river. *Id.*, JA___. In 2003, a fire at the CFF Recycling facility in Texas that emitted a "hazardous plume" could not be extinguished, so it was left to burn itself out. *Id.* at 311, JA___.

Improper storage and containment systems, and trucks leaking battery fluids at the Exide Technologies battery recycling plant in Georgia resulted "in significant soil and groundwater contamination by lead, chromium and battery

acid." *Id.* at 113, JA____. At another recycling facility, Missouri Electric Works, EPA found PCBs in the onsite and offsite air, groundwater, and soil—contamination so severe that the site was listed under the federal Superfund program with clean-up costs estimated at nearly $10 million. *Id.* at 171, JA____. In New Hampshire, a $48 million clean-up plan is in place to restore the Beede Waste Oil site where recycled waste oils have severely contaminated soil, sediment, surface water, and groundwater with PCBs and lead. *Id.* at 176-77, JA____-____.

In a prior case before this Court, EPA explained the risks presented by one of the many types of hazardous wastes that facilities generate and reclaim today, spent refinery catalysts. *See* Corrected Brief For Respondent at 35, *Am. Petroleum Inst. v. EPA*, No. 09-1038 (D.C. Cir. 2011), (Doc. #1320649), (citing 63 Fed. Reg. 42,110, 42,154/2 (Aug. 6, 1998)), JA____. Spent refinery catalysts are both toxic and "pyrophoric," meaning that they "can spontaneously combust simply by contact with air." *Id.*, JA____. EPA asserted it has "received reports of 'fires, building evacuations, and metals reclamation process disturbances attributed to the ignition of these spent catalysts." *Id.* at 10, JA____ (citing 60 Fed. Reg. 57,747, 57,767/1 (Nov. 20, 1995)). When assessing them, the agency has "observed smoke from catalyst storage areas at several reclaimers, and was told that fires occur 'every few months' despite careful monitoring and controls." *Id.* at 10-11, JA____-__ (quoting 63 Fed. Reg. at 42,154/3) (emphasis added). At times, it has even been

determined that "the risk associated with collecting catalyst samples from inert gas blanketed storage bins was too great to allow EPA to collect the samples directly." *Id.* at 10, JA____ (quoting 60 Fed. Reg. at 57,767/1). Indeed, "the danger posed by the spent catalysts was so great that one refinery asked EPA not collect a sample at all, due to the risks presented." *Id.*, JA____ (citing 60 Fed. Reg. at 57,767/1).

III. STATUTORY BACKGROUND

A. Cradle-To-Grave Regulatory System.

Realizing the grave risks associated with hazardous waste mismanagement, Congress enacted RCRA. Congress's "overriding concern" was "the effect on the population and the environment of the disposal of discarded hazardous wastes—those which by virtue of their composition or longevity are harmful, toxic or lethal." H.R. Rep. 94-1491, pt. I, at 3 (1976), *as reprinted in* 1976 U.S.C.C.A.N. 6238, 6241. *See Shell Oil Co. v. EPA*, 950 F.2d 741, 754 (D.C. Cir. 1991) ("'to insure the safe management of hazardous waste' was 'Congress' overriding concern in enacting RCRA.'") (quoting *Am. Min. Cong. v. EPA*, 824 F.2d 1177, 1179 (D.C. Cir. 1987) ("*AMC I*")). "Unless neutralized or otherwise properly managed in their disposal, hazardous wastes present a clear danger to the health and safety of the population and to the quality of the environment." H.R. Rep. 94-1491, pt. I, at 3, *as reprinted in* 1976 U.S.C.C.A.N. at 6241.

To prevent these harms, RCRA requires that all hazardous waste be subject to regulation as necessary to protect human health and the environment. Section 3002 of the statute requires RCRA regulation "applicable to generators of hazardous waste … as may be necessary to protect human health and the environment." 42 U.S.C. § 6922(a). Section 3003 requires such regulation for "transporters of hazardous waste," and § 3004 requires it for facilities that treat, store, or dispose of hazardous waste. *Id.* §§ 6923(a), 6924(a). Together, these provisions, referred to as the Subtitle C program, establish a "'cradle-to-grave' regulatory system," "for managing hazardous waste." *Shell Oil*, 950 F.2d at 754. "RCRA broadly defines 'hazardous waste management' as 'the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous wastes.'" *Id.* (quoting 42 U.S.C. § 6903(7)).

B. Definition of Solid Waste.

This Court has "made clear that the linchpins of the Subtitle C system are the definitions of 'hazardous waste' and 'solid waste.'" *Shell Oil*, 950 F.2d at 754. "Only materials that meet both definitions will come within the 'cradle-to-grave' regulatory scheme." *Id.* (quoting *AMC I*, 824 F.2d at 1179). RCRA defines "hazardous waste" as "a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may – (A) cause, or significantly contribute to an increase in

mortality or an increase in serious irreversible, or incapacitating reversible, illness; or (B) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed." 42 U.S.C. § 6903(5). "Solid waste" is defined as "any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities." *Id.* § 6903(27). If a material is "discarded," *id.*, it is a solid waste and "[a]t that point, if it is hazardous, it falls within the jurisdiction of EPA, which is then responsible for its management until such time as it ceases to pose a hazard to the public." *Shell Oil*, 950 F.2d at 754.

On several occasions, this Court has addressed the meaning of "discarded" and the circumstances in which a material has been discarded. *See AMC I*; *Am. Petroleum Inst. v. EPA*, 906 F.2d 729, 740 (D.C. Cir. 1990) ("*API I*"); *Shell Oil*; *Ass'n of Battery Recyclers v. EPA*, 208 F.3d 1047, 1054 (D.C. Cir. 2000) ("*ABR*"); *Am. Min. Cong. v. EPA*, 907 F.2d 1179, 1186 (D.C. Cir. 1990) ("*AMC II*"); *Safe Food and Fertilizer v. EPA*, 350 F.3d 1263, 1268 (D.C. Cir. 2003); *API v. EPA*, 862 F.3d 50 (D.C. Cir. 2017).

AMC I, the first of these cases, holds that the term "discarded" has its "ordinary, plain-English meaning," *i.e.*, "'disposed of,' 'thrown away,' or 'abandoned.'" *AMC I*, 824 F.2d at 1184.[1] Applying this interpretation, the Court found that materials "recycled and reused in an *ongoing* manufacturing or industrial process" have not been discarded. *Id.* at 1186 (emphasis in original).[2]

In a series of cases, the Court then addressed the status of hazardous wastes that are transferred by the generator to a reclaimer.

API I rejected an EPA argument that, under *AMC I*, a hazardous waste which had been discarded was "no longer 'discarded'" when it arrived at a reclamation facility. 906 F.2d at 740. The Court explained that, because the waste in question "is indisputably 'discarded' *before* being subject to [] reclamation," "it *has* 'become part of the waste disposal problem.'" *Id.* at 741 (quoting *AMC I*, 824 F.2d at 1193) (emphasis in original). *AMC II* rejected a similar argument from industry petitioners, holding that "[n]othing in *AMC [I]* prevents the agency from treating

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[1] *AMC I* also quotes "[t]he dictionary definition of 'discard' [which] is 'to drop, dismiss, let go, or get rid of as no longer useful, valuable or pleasurable.'" 824 F.2d at 1184 n.7 (quoting Webster's Third New International Dictionary (1981)).
[2] RCRA defines "hazardous waste management" to include "recovery," 42 U.S.C. § 6903(7). It then defines "resource recovery system" to include a system for the "recycling" of solid wastes. *Id.* § 6903(23). Although RCRA does not define "recycled," EPA's regulations define the term to mean "used, reused, or reclaimed." 40 C.F.R. § 261.1(c)(7). EPA uses the term "reclaimed" to mean a type of "recycling," *id.* § 261.2(c), (c)(3), in which a material is "processed to recover a usable product" or "regenerated," *id.* § 261.1(c)(4).

as 'discarded' the wastes at issue in this case, which are managed in land disposal units that *are* part of wastewater treatment systems, which *have* therefore become 'part of the waste disposal problem,' and which are *not* part of ongoing industrial processes." *AMC II*, 907 F.2d at 1186. *Shell Oil* confirmed that "*AMC I* does not affect in any way the EPA's ability to regulate hazardous materials after they have been discarded," and that "[i]f a hazardous material has been discarded, it becomes subject to Subtitle C regulation even if it is sent to a resource recovery facility." 950 F.2d at 756.

ABR rejected an argument that the cases subsequent to *AMC I* were inconsistent with *AMC I* or rendered the term "discarded" ambiguous. 208 F.3d at 1054-1056. The Court explained that "[t]he point of *AMC II*, and for that matter *API* [*I*], is that once a material qualifies as 'solid waste,' something derived from it retains that designation, even if it might be reclaimed and reused at some future time." *Id.* at 1056. Because *AMC I* recognizes this same point, the Court found that no conflict exists. *Id.* at 1054-55.

Finally, *Safe Food* holds that, although materials transferred to reclaimers "*may* be considered discarded," they are not "necessarily 'discarded.'" 350 F.3d at 1268. The Court accepted EPA's explanation that the specific materials at issue there—zinc fertilizers made from industrial by-products—were not discarded because: (1) "market participants treat the exempted materials more like valuable

products than like negatively-valued wastes" and (2) the resulting fertilizers were "chemically indistinguishable from analogous commercial products made from virgin materials." *Id.* at 1269.

IV. REGULATORY AND LITIGATION BACKGROUND

A. The Transfer-Based Exclusion.

In 2008, EPA promulgated the Transfer-Based Exclusion, a sweeping new exclusion from the definition of solid waste—and thus from RCRA regulation—for hazardous wastes that are transferred to third-party reclaimers. In a sharp break with its prior practice, EPA did not determine that any of the excluded wastes are actually not "discarded." EPA did not determine that all (or any) of the excluded wastes are treated "more like valuable products than like negatively-valued wastes," *Safe Food*, 350 F.3d at 1269. Nor did EPA determine that any of the materials reclaimed from the excluded wastes are "chemically indistinguishable from analogous commercial products made from virgin materials." *Id.* Instead, the sole criterion for the Transfer-Based Exclusion is that the generators and reclaimers of these wastes meet certain "conditions" set forth in the Transfer-Based Exclusion. 73 Fed. Reg. at 64,683/3, JA____.

EPA does not claim that the excluded hazardous wastes are any less dangerous than they were before they were excluded, or any less likely to spill, leak, catch fire, or explode. To the contrary, the agency admits that the excluded

wastes "have the potential to present the same types of threats to human health and the environment as hazardous wastes stored or transported prior to disposal." *Id.* at 64,671/1, JA____. Nonetheless, the conditions of the Transfer-Based Exclusion are substantially less protective than the requirements that would apply to the excluded wastes if they were sent to treatment or disposal facilities instead of reclaimers. EPA claims these minimal conditions "indicate" whether the excluded wastes have been discarded by reclaimers after generators have paid them to accept excluded hazardous wastes. 73 Fed. Reg. at 64,675/1, JA____.

For example, while Subtitle C requires generators to send their hazardous wastes to regulated facilities with RCRA permits to safely handle hazardous wastes, generators using the Exclusion for those same hazardous wastes need only "make reasonable efforts" to ensure that the reclamation facility receiving the excluded wastes "intends" to reclaim them. 40 C.F.R. § 261.4(a)(24)(v)(B). Similarly, whereas RCRA sets strict limits on how long and how much hazardous waste may be accumulated at a facility, and requires facilities to have hazardous waste storage permits, the Transfer-Based Exclusion allows facilities to accumulate as much waste as they want as long as they get rid of seventy-five percent of what they have accumulated over the year before the start of the next year. *Compare id.* §§ 262.16-.17 (RCRA requirements for generators that accumulate hazardous wastes); *id.* pt. 264 (RCRA standards for owners and

operators of facilities that store hazardous wastes); 42 U.S.C. § 6925 *with id.* § 261.4(a)(24)(i).[3] Moreover, whereas EPA's RCRA requirements include prescriptive design, operating, inspection, and air emissions standards for safe containment (*see, e.g., id.* pt. 264, subpart I, J, AA, BB, CC, and DD), the Transfer-Based Exclusion is available to facilities that meet only a loose requirement that the excluded wastes be "contained." *id.* § 261.4(a)(24)(i). EPA defines that term to mean, *inter alia*, "placed in or on the land," *id.* § 260.10, *i.e.*, not contained. In addition, while Subtitle C guarantees public notice and participation opportunities through the hazardous waste permitting process, the Exclusion does not. The Exclusion excuses facilities from critical RCRA requirements ensuring government and public oversight, including those for permitting.

B. Sierra Club's Challenge to the 2008 DSW Rule.

Sierra Club sought judicial review of the 2008 DSW Rule, including the Transfer-Based Exclusion in Sierra Club v. EPA, D.C. Cir. Case No. 09-1041, and petitioned EPA to repeal it administratively. The case was subsequently held in

[3] The Transfer-Based Exclusion allows facilities to accumulate hazardous wastes provided only that the accumulation is not "speculative." Under EPA's definition, this means that, during a calendar year, material "recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period." 40 C.F.R. § 261.1(c)(8).

abeyance pending EPA's consideration of Sierra Club's petition. *See* Case No. 09-1041, Unopposed Motion to Consolidate and to Hold in Abeyance (Feb. 20, 2009), JA____; Order, Doc. #01215541677 (Mar. 9, 2009), JA____.

In September 2010, Sierra Club and EPA entered a settlement agreement in Case No. 09-1041, pursuant to which EPA agreed to propose a new rule addressing all of the issues raised in Sierra Club's administrative petition, including those concerning the Transfer-Based Exclusion. Case No. 09-1041, Settlement Agreement, Doc. #1265157 (Sept. 10, 2010), JA____. In return, Sierra Club agreed to withdraw its administrative petition, and to dismiss its case with prejudice "[i]f EPA takes final agency action" that "revises the DSW Rule with respect to the issues raised in Sierra Club's administrative petition." *Id.*, JA____.

C. EPA's Voluntary Elimination of the Transfer-Based Exclusion.

EPA proposed revisions to the DSW Rule in July 2011. 76 Fed. Reg. 44,094, 44,109/3 (July 22, 2011), JA____. Describing significant flaws in the Transfer-Based Exclusion, EPA proposed to eliminate the Exclusion in its entirety, and replace it with hazardous waste regulation pursuant to RCRA Subtitle C. *Id.*, JA____.

EPA determined that the Transfer-Based Exclusion "may pose significant risk to human health and the environment from hazardous secondary material that may become discarded" and that, "in most cases, hazardous secondary materials

transferred to another party for reclamation are discarded and are best regulated under RCRA Subtitle C." *Id.* at 44,096/1-2, JA____.

Specifically, EPA explained:

> Because of the low commercial value and the high potential liability associated with most types of hazardous secondary materials (*i.e.*, spent materials and listed hazardous waste by-products and sludges), generators will typically pay the reclamation facility to accept these hazardous secondary materials or receive a salvage fee that only partially offsets the cost of transporting and managing them. In such situations, the generator has relinquished control of the hazardous secondary materials and the entity receiving such materials may not have the same incentive to manage them as a useful product.

Id. at 44,108/3, JA____. EPA further elaborated in its Regulatory Impact Assessment:

> Based on the evidence of EPA's 2007 industrial recycling historical damage case study and EPA's 2008 recycling market forces study, most transfers of hazardous secondary material for recycling do involve discard, and EPA's attempt to define such material as "not discarded" solely by setting additional management conditions poses the danger of circular reason. In other words, adding conditions, many of which resemble hazardous waste requirements, in order to attempt to prevent the discard of hazardous secondary materials that would otherwise be subject to full hazardous waste requirements, is potentially counter to the original intent of RCRA.

EPA, *Regulatory Impact Analysis: EPA's 2011 Proposed Revisions to the Industrial Recycling Exclusions of the RCRA Definition of Solid Waste* at 214 (June 30, 2011) (EPA-HQ-RCRA-2010-0742-0002) ("2011 RIA"), JA____.

In addition, EPA found that it "failed to take into account how the conditions of the 2008 transfer-based exclusion would work when actually implemented." 76 Fed. Reg. at 44,109/1, JA____; *see also* 80 Fed. Reg. 1694, 1707/3 (Jan. 13, 2015),

JA____. Instead, "EPA's analysis of the 2008 DSW final rule assumed that DSW conditions would operate with the same level of oversight as the Subtitle C hazardous waste regulations." 76 Fed. Reg. at 44,109/1, JA____; *see also* 80 Fed. Reg. at 1707/3, JA____.

EPA further explained that, whereas all of its prior conditional exclusions from the definition of solid waste "were developed based on EPA's knowledge of the specific hazardous secondary materials, the industries generating them, or the current recycling management practice for those hazardous secondary materials," 76 Fed. Reg. at 44,109/2, JA____, the Transfer-Based Exclusion "relied entirely on the conditions that were developed by EPA operating as the Agency anticipates they should," "without specific evidence that they would work as intended (*i.e.*, would not result in significant risk to human health and the environment from discarded materials)." *Id.*, JA____; 80 Fed. Reg. at 1708/1, JA____. Those conditions, EPA concluded, "lack several important implementation provisions" that Subtitle C hazardous waste regulations provide, and that this deficiency "could lead to the potential for an increased likelihood of environmental and public health hazards, including fires/explosions, soil and water contamination, air emissions, and abandoned hazardous secondary materials." 76 Fed. Reg. at 44,109/2-3, JA____; 80 Fed. Reg. at 1708/1-2, JA____. The "significant gaps in environmental protection" included the "incentives to accumulate larger volumes of hazardous

secondary materials, the reduction in oversight resulting from eliminating the permit requirement for storage, and the public's access to information and the opportunity for public participation." 76 Fed. Reg. at 44,104/2, JA____; 80 Fed. Reg. at 1740/1, JA____. Following an extensive environmental justice analysis, EPA found that those increased risks of human health and environmental harm disproportionately affect minority and low-income populations. 76 Fed. Reg. at 44,106/1-107/1, JA____-__.

EPA finalized the revised DSW Rule in 2015. 80 Fed. Reg. 1694 ("the 2015 DSW Rule"), JA____. The 2015 DSW Rule withdrew and eliminated the Transfer-Based Exclusion based on the findings discussed in the proposal. Because the Transfer-Based Exclusion no longer existed with the promulgation of the 2015 DSW Rule, Sierra Club dismissed its case challenging that Exclusion with prejudice, pursuant to the settlement agreement.

Instead of replacing the Transfer-Based Exclusion with RCRA Subtitle C regulation as proposed, however, the 2015 DSW Rule created a new exclusion called the Verified Recycler Exclusion. *Id.* at 1695/2, JA____. Like the Transfer-Based Exclusion, the Verified Recycler Exclusion excluded from RCRA regulation hazardous wastes that generators pay third party recyclers to take away. *Id.* at 1706-09, JA____-__. Sierra Club and other environmental groups therefore sought

judicial review of the 2015 DSW Rule. *Am. Petroleum Inst. v. EPA*, 862 F.3d 50 (D.C. Cir. 2017).

D. The Revival and Expansion of the Transfer-Based Exclusion.

In their challenge to the 2015 DSW Rule, environmental petitioners argued that: (1) EPA lacks authority to exclude hazardous wastes from RCRA requirements; (2) the hazardous wastes excluded by the Verified Recycler Exclusion are hazardous wastes because they are "discarded" under RCRA when the companies that generate and own them pay to get rid of them; and (3) the conditions imposed by the Verified Recycler Exclusion do not prevent this discard from occurring.

The Court expressly declined to consider the environmental petitioners' arguments. *API*, 862 F.3d at 72. Based on industry petitioners' challenges to the 2015 DSW Rule, the Court concluded that the Verified Recycler Exclusion was in some respects "unreasonable." *Id.* In particular, it found fault with the Verified Recycler Exclusion's new requirement that generators send their hazardous wastes only to those reclaimers with a RCRA hazardous waste management permit or a variance "to operate a third-party reclamation facility." *Id.* at 65, 68 (explaining that in promulgating the variance requirement "EPA fail[ed] to provide sufficient linkage between theory, reality, and the result reached"). "Having concluded that the Verified Recycler Exclusion is unreasonable," the Court decided that it "need

not address Environmental Petitioners' argument that the exclusion is too lenient." *Id.* at 72.[4]

With its unreasonableness finding, 862 F.3d at 72, the Court vacated the Verified Recycler Exclusion almost entirely, with the exception of its containment and emergency preparedness requirements. *Id.* at 74. The Court also reinstated the Transfer-Based Exclusion. *Id.* Because it considered only the reasonableness of EPA's rationale for promulgating the Verified Recycler Exclusion, the Court reinstated the Transfer-Based Exclusion without considering the agency's separate and independent rationale for the Transfer-Based Exclusion. In particular, the Court did not consider whether the Transfer-Based Exclusion allows the unlawful discard of hazardous waste or presents significant potential risks to human health and the environment.

On rehearing, API petitioned the Court to expand the Transfer-Based Exclusion so that it may be used for the unregulated management of self-combusting spent refinery catalysts. *See Am. Petroleum Inst. v. EPA*, 883 F.3d 918 (D.C. Cir. 2018). Despite EPA's refusal to exempt these exact hazardous wastes in the 2008 DSW Rule, 73 Fed. Reg. at 64,714, JA____, and the fact that EPA has

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[4] Environmental Petitioners' primary challenge to the Verified Recycler Exclusion was not that it was "too lenient," *id.*, but that it exceeded EPA's authority and was therefore flatly unlawful. *Am. Petroleum Inst. v. EPA*, D.C. Cir. No. 09-1038, Envtl. Br. (Doc. #1620536) at 30-39 (June 20, 2016), JA____; Envtl. Reply (Doc. #1620537) at 2-12 (June 20, 2016), JA____.

never determined that they can be lawfully and safely excluded under the Transfer-Based Exclusion, EPA's lawyers did not object to API's request. *Id.*[5] The Court found that, had EPA addressed the issue in rulemaking, the agency would have excluded spent refinery catalysts given the two conditions of the Verified Recycler Exclusion (emergency preparedness and containment) the Court left in place. *Id.* at 921.The Court entered its mandate on March 14, 2018.

On May 30, 2018, EPA issued the 2018 DSW Rule with an immediate effective date and without providing an opportunity for public comment. Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule, Final Rule, 83 Fed. Reg. 24,664 (May 30, 2018) ("the 2018 DSW Rule"). The 2018 DSW Rule, *inter alia*, revises EPA's regulations to reinstate the Transfer-Based Exclusion and broadens it so that it may be used to exempt spent refinery catalysts from RCRA. *Id.*

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[5] When it promulgated the Transfer-Based Exclusion, EPA concluded it could not be used to exempt regulation of spent refinery catalysts "on the basis of toxicity (i.e., these materials were shown to pose unacceptable risk to human health and the environment when mismanaged)" and because they can exhibit "pyrophoric or self-heating properties." 73 Fed. Reg. at 64,714/2. At that time, EPA stated that it would conduct a separate rulemaking to assess these wastes in the future. *Id.* Although EPA decided to exclude spent refinery catalysts under the more protective Verified Recycler Exclusion, the agency has never determined that it is safe to exclude them under the Transfer-Based Exclusion or provided any basis for doing so in the administrative record.

Petitioners filed this suit on June 12, 2018, seeking judicial review of the reinstated and broadened 2008 DSW Rule and the 2018 DSW Rule.

SUMMARY OF THE ARGUMENT

By EPA's own account, the Transfer-Based Exclusion excludes hazardous wastes that generators pay to get rid of. By using the transfer process to get rid of unwanted hazardous secondary materials, generators are discarding them. Such materials are hazardous waste within the ordinary meaning of the term, and EPA lacks authority to exclude them from RCRA requirements.

Even if the term "discarded" is ambiguous, or ambiguous with respect to some situations, excluding hazardous wastes that generators pay to get rid of is unreasonable. Whatever ambiguity might exist does not extend to materials that fall so easily into the ordinary meaning of discarded. And, in any event, EPA has never even claimed that the term is ambiguous with respect to such materials, let alone articulated a statutory interpretation that supports excluding them.

Nor has EPA provided any record basis to believe that hazardous wastes are not discarded when the companies that generate them pay to get rid of them. The only explanations EPA has provided for the Transfer-Based Exclusion go to different questions: whether already discarded hazardous wastes will be discarded again via spills, leaks, and other releases to the environment by reclaimers that have been paid to accept them. The possibility that EPA's conditions might make

such secondary discard less likely is irrelevant; because facilities pay to get rid of them, these materials are hazardous wastes and they do not cease to be hazardous waste just because they are sent to a reclamation facility.

Moreover, even if it could be overlooked that hazardous wastes are discarded when generators pay to get rid of them, EPA's assumption that the Transfer-Based Exclusion's conditions will prevent even the secondary discards EPA considered is arbitrary. EPA does not provide any reason to believe that the RCRA Subtitle C regulations that are necessary to protect human health and the environment against hazardous wastes are any less necessary for the excluded hazardous wastes. Indeed, as EPA itself has found, the excluded hazardous wastes are often similar if not identical to hazardous wastes that are not excluded. EPA's failure to explain treating these hazardous wastes differently based solely on whether they are sent to reclaimers (and thus excluded from RCRA) or sent to treatment and disposal facilities (and thus not excluded from RCRA) is especially arbitrary in light of the agency's own finding that the hazardous wastes are equally dangerous regardless of whether they are excluded and where they are sent. EPA itself has found that there is no basis for its assumption that the Exclusion will prevent harmful releases of hazardous wastes into the environment.

STANDARD OF REVIEW

When considering matters of statutory interpretation, "[i]f the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Chevron U.S.A. Inc. v. Nat. Res. Def. Council*, 467 U.S. 837, 842-43 (1984). If the statute is ambiguous, under the second step of *Chevron* analysis, the Court considers whether the agency's interpretation is reasonable. *Id.* The "range of permissible interpretations of a statute is limited by the extent of its ambiguity," *Massachusetts v. Dep't of Transp.*, 93 F.3d 890, 893 (D.C. Cir. 1996), and EPA's interpretation of an ambiguous statutory provision will be rejected as unreasonable if it goes beyond that range. EPA's interpretation will also be rejected as unreasonable if the agency has not articulated it in the rulemaking, *Public Citizen v. HHS*, 332 F.3d 654, 661 (D.C. Cir. 2003), or if the agency "offered a reasoned explanation for why it chose that interpretation," *Vill. of Barrington, Ill. v. Surface Transp. Bd.*, 636 F.3d 650, 660 (D.C. Cir. 2011).

EPA's action is reviewed under the "arbitrary and capricious" standard. *Motor Vehicle Mfrs. Ass'n. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). This Court will deem EPA action arbitrary and capricious if the agency has failed to "examine the relevant data and articulate a satisfactory explanation for its action" including a "'rational connection between the facts found and the choice

made.'" *Id.* (quoting *Burlington Truck Lines v. United States,* 371 U.S. 156, 168 (1962)). "Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Id.* Agency action is also arbitrary "when the agency offered insufficient reasons for treating similar situations differently." *Transactive Corp. v. United States*, 91 F.3d 232, 237 (D.C. Cir. 1996).

STANDING

Petitioners' members live, commute, work, and recreate near hazardous waste facilities that are eligible for the Transfer-Based Exclusion. *See* Declarations, DEC001-040. Several of these facilities used the Transfer-Based Exclusion before EPA eliminated it in 2015 and are therefore likely to do so again now that it has been reinstated. *See* Decls. of J. Kilgour, J. Rhodes, N. Feldman, C. Ford. Others generate or receive the dangerous spent refinery catalysts that are now eligible for the Transfer-Based Exclusion. *See* Decls. of E. Cheung, J. Parras, W. Fontenot, J. Marquez, J. Irwin, J. Williams; Addendum to Decls. at DEC041-100.

The Transfer-Based Exclusion deprives Petitioners' members of hazardous waste protections that would otherwise be required by RCRA to protect human

health and the environment, including prescriptive storage and accumulation limits, air emissions standards, and closure requirements. As described in their declarations, Petitioners' members are concerned that the loss of RCRA safeguards means they will experience the kind of health and environmental harms RCRA prevents. In particular, they worry about the increased risks of harm from catastrophic incidents, like fires, explosions, spills, and leaks, and releases of toxic pollution into the air, soil, and water in their communities. Several of Petitioners' members have already lived through major industrial fires, explosions, and leaks at facilities that are eligible for the Exclusion, and are worried that their use of the Exclusion will increase the likelihood that similar, or worse, incidents will happen again, and with more frequency. Decls. of J. Parras, W. Fontenot, and J. Marquez. Some members suffer from health problems they worry could be exacerbated by pollution resulting from use of the Exclusion. Decls. of E. Cheung, J. Parras, and J. Marquez. In addition, these concerns impair the ability of Petitioners' members to enjoy and feel safe in their everyday lives.

For example, Sierra Club member Janice Rhodes lives in Bristol, Pennsylvania, approximately 1.5 miles from the Dow Chemical (formerly Rohm & Haas) plastics plant that previously used the Transfer-Based Exclusion to manage hundreds of tons of hazardous wastes without complying with RCRA's hazardous waste requirements. Decl. of J. Rhodes. Ms. Rhodes is worried that Dow's use of

the Exclusion again will expose her to toxic chemicals, like xylene, toluene, and benzene, and increase her risk of being harmed during a fire or explosion, and from releases of toxic pollution into the air and water. *Id.* She is also concerned about the adverse impacts the Exclusion may have on her local park and lake, which she visits several times a week to walk her dogs, enjoy the outdoors, and observe different animal and plant species. *Id.*

Another Sierra Club member, Carl Ford, lives in West Deptford Township, New Jersey, approximately 2.5 miles from the Johnson Matthey facility that previously used the Transfer-Based Exclusion. Decl. of C. Ford. West Deptford has been called one of the most toxic towns in New Jersey and Mr. Ford is worried that Johnson Matthey will use the Transfer-Based Exclusion again to make matters worse. *Id.* Mr. Ford regularly smells strange chemical odors in the air outside his home that cause him to worry about what he and his wife are being exposed to, and diminish his ability to enjoy relaxing and gardening in his own home. *Id.* He worries that under the Transfer-Based Exclusion additional pollution will enter the air he breathes and pollute the Matua Creek and the Delaware River, both of which he enjoys visiting for recreational activities. *Id.*

William Fontenot, a LEAN and Sierra Club member, lives about 2 miles from the Exxon Mobil Baton Rouge Refinery, which generates the toxic and pyrophoric refinery spent catalysts that are now excluded under the Transfer-Based

Exclusion. Decl. of W. Fontenot. His home is also about 4 miles across the Mississippi River from a facility, Thermaldyne LLC, that has sought to reclaim refinery spent catalysts and other hazardous wastes without meeting RCRA's hazardous waste requirements. *Id.* Mr. Fontenot recalls explosions, spills, and pollution releases at facilities in Louisiana, including the major explosion at the Exxon Baton Rouge refinery on Christmas Eve in 1989. *Id.* Mr. Fontenot worries that use of the Exclusion at these facilities to manage dangerous spent refinery catalysts will increase the frequency and seriousness of these events. *Id.* He is also worried about his exposure to increased air and water pollution resulting from use of the Exclusion. *Id.*

Similarly, Juan Parras of t.e.j.a.s lives and works within just a few miles of the Houston Ship Channel, which hosts a large concentration of oil refineries. Decl. of J. Parras. Mr. Parras is extremely concerned that refineries and reclamation facilities will use the Transfer-Based Exclusion to mismanage their hazardous wastes, including refinery spent catalysts, to worsen the quality of the air he breathes, and increase the number of toxic fires, explosions, leaks, and spills that could harm him and other members of his community. *Id.* Having recently lived through Hurricane Harvey and the fires, explosions, and flooding that occurred in its aftermath, Mr. Parras is very worried that this Exclusion will lead to more disasters and contamination in the future. *Id.*

In addition, Petitioners and their members suffer informational injury because facilities that use the Exclusion are not required to obtain Subtitle C permits and comply with RCRA's reporting and inspection requirements for their management of hazardous wastes. *See* Decls. of J. Williams; W. Fontenot; E. Cheung. If excluded facilities were required to comply with RCRA's requirements, Petitioners and their members would get critical information about what, where, and how hazardous wastes are being managed. *Id*. Petitioners and their members would use this information to advocate for compliance with applicable requirements and ensure protection of human health and the environment. *Id*. By not requiring a permit and Subtitle C documentation, the Exclusion deprives Petitioners of information that is essential to their core missions to protect the public and environment from harmful pollution, and prevents them from educating their members and the public about hazardous waste management practices and the risks they pose. *Id*. It also impedes their ability to advocate for proper protections at hazardous waste sites and pursue enforcement actions where necessary. *Id*.

Relatedly, Petitioners and their members are injured procedurally by the Exclusion. But for the Exclusion, they could participate in RCRA permitting decisions to voice their concerns and advocate for strict hazardous waste management standards to protect human health and the environment. Decls. of W. Fontenot, E. Cheung, and J. Williams. By excusing hazardous waste facilities from

the permitting process, the Exclusion deprives Petitioners and their members of that opportunity.

ARGUMENT

I. THE TRANSFER-BASED EXCLUSION UNLAWFULLY EXCLUDES HAZARDOUS WASTE FROM RCRA REGULATION

A. The Transfer-Based Exclusion Contravenes RCRA.

Although RCRA provides no authority to exclude hazardous waste from the RCRA's cradle-to-grave management system, the Transfer-Based Exclusion does just that. It excludes all hazardous wastes that generators transfer to third-party reclaimers, so long as certain EPA-created conditions are met. 73 Fed. Reg. at 64,683/1-3, JA____. EPA does not claim those conditions satisfy RCRA's protectiveness requirements. Rather, it rests the Exclusion on a claim that "reclamation" conforming to them does not "involve discard" and, therefore, that the excluded materials are not solid waste. *Id.* at 64,683/3, JA____; 72 Fed. Reg. at 14,188/2, JA____. "Materials that are not solid wastes are not subject to regulation as hazardous waste under RCRA Subtitle C." 73 Fed. Reg. at 64,671/1, JA____.

Whether "reclamation" conforming to the Transfer-Based Exclusion's conditions involves discard is not the point. The Transfer-Based Exclusion excludes hazardous wastes that generators pay to get rid of. As EPA explains, generators "often ship these materials … to avoid the costs of disposing of the material[s]," and "typically pay the reclamation facility to accept [them.]" 80 Fed.

Reg. at 1707/2, JA____. *See also* 73 Fed. Reg. at 64,675/1, 64,677/3 JA____, ____. EPA concedes their objective "may be finding the least cost alternative for getting rid of the hazardous secondary material…." 72 Fed. Reg. at 14,201/1, JA____.[6]

When a company owns something that it cannot sell, use, or even give away, and is forced to pay to "get[] rid of" that item, *id.*, JA____, the company has "discarded" that item within the ordinary meaning of the term. Petitioners do not contend that either transfer or reclamation necessarily constitutes discard. *See API*, 862 F.3d at 64 (rejecting proposition that "reclamation-equals-discard"); *Safe Food*, 350 F.3d at 1268 ("we have never said that RCRA compels the conclusion that material destined for recycling in another industry is necessarily 'discarded.'"). But the transfer of hazardous materials undisputedly can constitute discard, *Safe Food*, 350 F.3d at 1268 (citing *API I*, 906 F.2d at 740-41; *AMC II*, 907 F.2d at 1186-87); *see* 73 Fed. Reg. at 64,671-72, JA____-___. And here, where the waste has negative value to the generator and transferring it to a reclaimer is a means of "getting rid of" it. 72 Fed. Reg. at 14,201/1, JA____, the

[6] The possibility that the Transfer-Based Exclusion may also exclude some materials that have not been discarded – *e.g.*, materials that generators can sell to reclaimers – does not make the exclusion any less unlawful. As this Court has held, a RCRA regulation that covered "at least some" materials that were not waste was a "contravention of Congress' intent." *ABR*, 208 F.3d at 1056 (quoting *AMC I*, 824 F.2d at 1193). By the same logic, a rule that excludes some materials that are waste from RCRA regulation also contravenes Congress' intent.

transfer does constitute discard. Because materials are "discarded" by the generator when the generator pays to get rid of them, they are hazardous waste before they reach a third-party reclamation facility and regardless of whether the subsequent reclamation process also involves discard. *See Shell Oil*, 950 F.2d at 756 ("If a hazardous material has been discarded, it becomes subject to Subtitle C regulation even if it is sent to a resource recovery facility.").

As EPA itself has pointed out repeatedly, "the DC Circuit has consistently cited a plain language definition of discard, as meaning 'disposing, abandoning or throwing away.'" 73 Fed. Reg. at 64,676/1, JA____; 72 Fed. Reg. at 14,178/2, JA____. *See AMC I*, 824 F.2d at 1184 (in RCRA, the term "discarded" unambiguously has its "ordinary, plain-English meaning" of "'disposed of,' 'thrown away,' or 'abandoned.'") (quoting Webster's Third New International Dictionary (1981)). Hazardous materials that generators pay to get rid of fall easily within the ordinary meaning of "'disposed of' 'thrown away' or abandoned'" —all terms that are themselves undefined in RCRA. *See Petit v. Dep't of Educ.*, 675 F.3d 769, 781 (D.C. Cir. 2012) ("In the absence of an express definition, [courts] must give a term its ordinary meaning."). "Even under the deferential *Chevron* standard of review, an agency cannot, absent strong structural or contextual evidence, exclude from coverage certain items that clearly fall within the plain

meaning of a statutory term." *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 592 (D.C. Cir. 2004).

Finally, EPA itself has effectively acknowledged that materials are discarded when generators pay to get rid of them. "In the 2008 DSW rule, EPA determined that, absent specific conditions, it is reasonable to conclude that transfers of hazardous secondary materials to third-party recyclers generally involve discard except for instances where EPA has evaluated and promulgated a case-specific exclusion that a hazardous secondary material is not a solid waste." 80 Fed. Reg. at 1707/1-2, JA____. One of the main reasons EPA gave for this conclusion is that "[b]ecause of the low commercial value and the high potential liability associated with most types of hazardous secondary materials (*i.e.*, spent materials and listed hazardous waste by-products and sludges), generators will typically pay the reclamation facility to accept these hazardous secondary materials or receive a salvage fee that only partially offsets the cost of transporting and managing them." *Id.* at 1707/2, JA____. *See also* 72 Fed. Reg. at 14,201/1, JA____.

B. The Transfer-Based Exclusion is Unreasonable and Arbitrary.

Even if the term "discarded" is ambiguous, or ambiguous as applied to some situations, excluding hazardous wastes that generators pay to get rid of is unreasonable and arbitrary. EPA has never provided any statutory or record basis on which the Court could conclude these wastes are anything but "discarded"

when, by paying reclaimers to accept them, generators use the transfer process to get rid of them.

"Because the range of permissible interpretations of a statute is limited by the extent of its ambiguity, an agency cannot exploit some minor unclarity to put forth a reading that diverges from any realistic meaning of the statute lest the agency's action be held unreasonable." *Massachusetts*, 93 F.3d at 893. Whatever ambiguity might exist in the term "discarded" does not extend to materials that generators pay to get rid of which, as shown above, fall easily within the ordinary meaning of the term.[7] Further, EPA has not identified even a "minor unclarity" in the term "discarded" on which it could rely to exclude these materials; the agency does not claim "discarded" is ambiguous, either generally or with respect to hazardous materials that a generator has paid to get rid of. To the contrary, EPA agrees that the term "discarded" has its "plain language" meaning and describes this Court's holdings to that effect as "a workable and logical definition of the

[7] In evaluating whether "the economics of the recycling activity may be relevant to legitimate recycling determinations," 72 Fed. Reg. at 14,200/1, JA____, EPA states that "[w]hile the generator's objective may be finding the least cost alternative for getting rid of the hazardous secondary material, the recycling may well be a legitimate recycling operation," *id.* at 14,201/1, JA____. Because "legitimate recycling operation[s]" recycle hazardous wastes, the possibility that a recycling operation may be legitimate does not mean the materials it recycles are not hazardous waste.

term." 72 Fed. Reg. at 14,178/2, JA____; 73 Fed. Reg. at 64,671/3, JA____ (citing *AMC I*, 824 F.2d at 1188-90), 64,676/1, JA____.

Nor has EPA ever articulated an interpretation of "discarded" that excludes materials that generators pay to get rid of. Courts can defer to agency interpretations "only if the agency has offered a reasoned explanation for why it chose that interpretation." *Vill. of Barrington, Ill.*, 636 F.3d at 660. They cannot defer where, as here, the agency has not provided an interpretation that the Court can review. *See Public Citizen*, 332 F.3d at 661 ("even if we were prepared to accord *Chevron* deference …, that document contains no interpretation … to which we might defer"); *ITT Indus. v. NLRB*, 413 F.3d 64, 69 (D.C. Cir. 2005) (Court could not "assess the reasonableness of the Board's decision" because it "had failed 'even to acknowledge that the question … was an open one.'") (citation omitted).

EPA has also failed to provide any record basis for believing that hazardous wastes are not discarded when generators pay to get rid of them. EPA does not claim such wastes have a positive value to either the generators (who must pay to get rid of them) or the reclaimers (who must be paid to accept them). *See Safe Food*, 350 F.3d at 1269. Nor does EPA claim that the materials reclaimed from these wastes "are chemically indistinguishable from analogous commercial products." *Id.* As the agency has observed, the Transfer-Based Exclusion differs

from all other exclusions from the definition of solid waste in that EPA made no attempt to evaluate any specific wastes or practices and, therefore, has no basis to make any such claim about them. *See* 76 Fed. Reg. 44,109/1, JA____; 80 Fed. Reg. 1708/1, JA____.

The only reasons EPA does give for excluding hazardous wastes that generators pay to get rid of are either irrelevant, incoherent, or both.

EPA claims the conditions in the Transfer-Based Exclusion will "indicate" whether the excluded wastes have been discarded by reclaimers after generators have paid them to accept excluded hazardous wastes. 73 Fed. Reg. at 64,675/1, JA____. But those conditions do not even address the discard that happens when generators pay to get rid of their wastes. Nor could EPA possibly claim they do: the whole point of the Transfer-Based Exclusion is to deregulate hazardous wastes that are discarded in this fashion. Without explaining why it apparently believes that paying to get rid of a hazardous waste is not discarding it—or even acknowledging the issue— EPA acts unreasonably and arbitrarily by failing to consider an important part of the problem. *See State Farm*, 463 U.S. at 43 (action is arbitrary where agency "entirely failed to consider an important aspect of the problem"); *Rettig v. Pension Benefit Guar. Corp.*, 744 F.2d 133, 151 (D.C. Cir. 1984) (interpretation fails under *Chevron* step two where agency fails to "'consider[] the matter in a detailed and reasoned fashion.'") (citation omitted).

EPA also argues that "[g]enerators may be willing to pay recyclers because they can save money if the recycling is less expensive than disposing of the hazardous secondary materials in landfills or incinerators." 72 Fed. Reg. at 14,201/1, JA____. *See also id.* at 14,178/2, JA____ ("it often may be a sound business decision to ship the material to be recycled … in order to avoid the costs of disposing of the material"); 73 Fed. Reg. at 64,675/1, 64,677/3 JA____, ____ (same). Such argument is "divorced from the statutory text," *UARG v. EPA*, 134 S. Ct. 2427, 2441 (2014). Whether the generator pays a reclaimer or a disposal facility to get rid of its hazardous wastes, the generator is discarding those wastes. That paying a reclaimer might be cheaper does not make the transaction any less a discard. *See Shell Oil*, 950 F.2d at 756 ("[i]f a hazardous material has been discarded, it becomes subject to Subtitle C regulation even if it is sent to a reclamation facility."); *API I*, 906 F.2d at 741 (where a material is "'discarded' *before* being subject to … reclamation," it "*has* 'become part of the waste disposal problem'") (emphasis in original) (quoting *AMC I*, 824 F.2d at 1186).

EPA further argues that the Exclusion serves its objectives of "encourag[ing] the reclamation of hazardous secondary materials and reduc[ing] unnecessary compliance costs to industry, while still maintaining protection of human health and the environment." 73 Fed. Reg. at 64,684/1, JA____. However laudable the first two objectives might be, they have nothing to do with whether the excluded

wastes are discarded, and cannot possibly give EPA authority to override RCRA by excluding hazardous wastes from RCRA regulation. *See UARG*, 134 S. Ct. at 2441. *See also State of New York v. EPA*, 443 F.3d 880, 889 (D.C. Cir. 2006) ("[a]bsent a showing that the policy demanded by the text borders on the irrational, EPA may not avoid the Congressional intent clearly expressed in the text simply by asserting that its preferred approach would be better policy") (citation and internal quotation marks omitted). Moreover, as shown by the record, the Exclusion does not "maintain[] protection of human health and the environment." 73 Fed. Reg. at 64,684/1, JA____. Rather, it exempts facilities handling the excluded wastes from meeting RCRA requirements that are necessary to protect human health and the environment, and allows the facilities instead to meet lesser conditions. *See State Farm*, 463 U.S. at 43 (agency action is arbitrary where it fails to "articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'").

It bears emphasis that EPA's failure to consider that hazardous wastes are discarded when generators pay to get rid of them is not an abstract one; it is a serious failure that transforms vast quantities of "hazardous wastes" into "hazardous secondary materials" that are not subject to RCRA protections. That purely regulatory transformation does not make these materials any less dangerous to human health and the environment in a real sense. EPA itself has found that

"[h]azardous secondary materials stored or transported prior to recycling have the potential to present the same types of threats to human health and the environment as hazardous wastes stored or transported prior to disposal." 73 Fed. Reg. at 64,671/1, JA____.

II. EPA'S RELIANCE ON THE CONDITIONS OF THE TRANSFER-BASED EXCLUSION IS ARBITRARY AND CAPRICIOUS

Even if the discard that occurs when a generator pays to get rid of its hazardous wastes could be ignored, EPA's assumption that the Transfer-Based Exclusion's conditions will prevent a second discard of those hazardous wastes—when reclaimers that have been paid to take them discard them by allowing them to spill, leak, set fire, or otherwise escape into the environment—is arbitrary and capricious. 73 Fed. Reg. at 64,677-78, JA____-____.

A. EPA Fails to Provide a Reasoned Basis for Treating the Same Hazardous Wastes Differently.

In response to Congress's mandate to regulate hazardous wastes "as necessary to protect human health and the environment," EPA has established comprehensive Subtitle C regulations for hazardous waste management. *See generally* 40 C.F.R. pts. 262-265; *Shell Oil*, 950 F.2d at 762 (noting that hazardous waste facilities must comply with the RCRA requirements "EPA deems 'necessary to protect human health and the environment'"). But for the Transfer-Based

Exclusion, the wide range of hazardous wastes it covers would be regulated under Subtitle C.

Having established RCRA Subtitle C regulation necessary for the safe management of hazardous wastes sent to storage, treatment, and disposal facilities, including recycling and reclamation facilities, EPA needed to explain why it is now not necessary for safe management of the same hazardous wastes when they are sent to reclaimers under the Transfer-Based Exclusion. "A long line of precedent [] establishe[s] that an agency action is arbitrary when the agency offered insufficient reasons for treating similar situations differently." *Transactive Corp. v. United States*, 91 F.3d 232, 237 (D.C. Cir. 1996).

It is not good enough to simply claim that, because the excluded wastes are excluded, they are no longer solid waste and no longer subject to RCRA regulation. To be sure, EPA also asserts that the individual conditions of the Exclusion are "critical," "crucial," and "necessary" to determine when hazardous wastes sent to third-party reclaimers are not subsequently discarded by them through environmental releases. *See* 73 Fed. Reg. 64,678/2-3, JA____. But in order to rationally rely on the Transfer-Based Exclusion's conditions to prevent even secondary discard by reclaimers, EPA would need to explain why it believes compliance with the Exclusion's conditions will be sufficient to do so when those conditions are less than Subtitle C requirements. *State Farm*, 463 U.S. at 43

(agency must provide a "rational connection between the facts found and the choice made"). EPA provides no such reasoned explanation.

Moreover, there is ample reason to conclude that the Exclusion's conditions are not sufficient for this purpose. As described above, compared to Subtitle C, the Exclusion is plainly less protective, and lacking in several significant respects. For instance, the Exclusion does not require compliance with RCRA's prescriptive containment requirements, which set design, operating, inspection, and closure standards, including limits on air pollution releases. *See, e.g.*, 40 C.F.R. § 262.17; 40 C.F.R. pt. 264, subpart I, J, AA, BB, CC, DD. Instead, the Exclusion only requires that the excluded wastes meet EPA's definition of "contained," which sets no such specific limits and allows the excluded hazardous wastes to be placed "in or on the land before recycling." 40 C.F.R. § 260.10. Nor does the Exclusion include strict accumulation limits or require storage permits as RCRA does. *See* 40 C.F.R. §§ 262.16-.17 (RCRA requirements for generators that accumulate hazardous wastes); 42 U.S.C. § 6925; 40 C.F.R. pt. 264 (RCRA standards for owners and operators of facilities that store hazardous wastes). Under the Exclusion, facilities may accumulate as much hazardous wastes as they want as long as they get rid of seventy-five percent of whatever amount they accumulate over the year by the start of the following year. 40 C.F.R. § 261.1(c)(8); 40 C.F.R. § 261.4(a)(24)(i).

In addition, rather than requiring generators to send their hazardous wastes to facilities that are permitted to manage them safely, *see* 42 U.S.C. § 6922, the Exclusion merely calls on generators to make "reasonable efforts" to ensure that the reclaimer "intends to" reclaim the hazardous wastes. 40 C.F.R. § 261.4(a)(24)(v)(B). By its own terms, this condition is satisfied even if, despite the generator's "reasonable efforts," the reclaimer does not actually intend to properly reclaim the hazardous wastes, or if the reclaimer does not do what the generator thinks the reclaimer "intends" to do. *Id.*

The Exclusion also lacks key oversight requirements, like permitting, that RCRA requires to allow the public and the government to ensure applicable protective requirements are met. *See* 42 U.S.C. § 6925 Instead, the users of the Exclusion are left to self-regulate with the assumption that they will properly implement the Exclusion's conditions.

Although the Subtitle C requirements are necessary to prevent hazardous wastes from being released into the environment when they are sent to storage, treatment, and disposal facilities, EPA never explains why it believes the Exclusion's minimal conditions are sufficient to prevent releases when the same hazardous wastes are sent to reclamation facilities under the Exclusion. Instead, EPA offers only a conclusory statement that it believes its Exclusion "will be no less protective of public health and the environment tha[n] restrictive command

and control hazardous waste regulations." *See* EPA, Revisions to the Definition of Solid Waste Final Rule, Response to Comments Document at 95 (October 1, 2008), JA____. EPA's remarkable conclusion that the lesser protections provided by the Exclusion's conditions "will be no less protective" than Subtitle C's requirements defies logic and has no basis whatsoever. *State Farm*, 463 U.S. at 43.

The agency's failure to explain its different treatment of similar or identical materials is especially egregious given the agency's admission that they pose the same risks to human health and the environment. Making clear that it does not matter whether hazardous materials are excluded and called "hazardous secondary materials" or fully regulated and called "hazardous wastes," EPA states that "[h]azardous secondary materials stored or transported prior to recycling have the potential to present the same types of threats to human health and the environment as hazardous wastes stored or transported prior to disposal." 73 Fed. Reg. 64,671/1, JA____; *see also* 76 Fed. Reg. 44,104/1, JA____ ("because hazardous secondary materials sent to recycling are physically and chemically similar, if not identical to many of the hazardous wastes sent for treatment and disposal, the potential risks from their management are similar, if not the same, as from hazardous wastes sent for treatment and disposal.").

Indeed, EPA has created a new version of the same system it previously rejected as "paradoxical," where the same wastes are treated differently based

solely on where they are sent. *Shell Oil,* 950 F.2d at 755. As EPA itself pointed out to this Court in *Shell Oil*:

> [T]o assert that hazardous materials may be removed from [RCRA's] "cradle-to-grave" regulatory system whenever resources are recovered from hazardous wastes, would create a paradoxical system. Such wastes would be subject to manifesting requirements and transportation restrictions, and could be subject to permitting requirement if sent to a treatment, disposal, or storage facility, but would not be subject to any regulatory safeguards if sent to a resource recovery facility. Yet, resource recovery and recycling activities pose the same kinds of dangers that treatment and storage do.

Shell Oil, 950 F.2d at 755 (describing EPA's position).

B. EPA Itself has Found the Transfer-Based Exclusion's Conditions Inadequate.

EPA itself found that its claim that the Exclusion's conditions would prevent a secondary discard by reclaimers is a mere assumption that has no basis. When eliminating the Exclusion in 2015, EPA admitted that it had "failed to take into account how the conditions of [the Transfer-Based Exclusion] would work when actually implemented," and instead based the Exclusion on "the assumption that [the] conditions would be implemented to the same degree as Subtitle C hazardous waste regulations." *See* 80 Fed. Reg. 1707/3-1708/1, JA____ -__.

EPA also found that unlike all of its other recycling exclusions, which "were developed based on EPA's knowledge of the specific hazardous secondary materials, the industries generating them, or the current recycling management practice for those hazardous secondary materials," the Transfer-Based Exclusion

"relied entirely on the conditions that were developed by EPA operating as the Agency anticipates they should … without evidence that they would work as intended (*i.e.*, would not result in significant risk to human health and the environment from discarded materials)." *Id.*, JA____.

EPA further pointed out that its attempt to define discarded material "as 'not discarded' solely by setting additional management conditions poses the danger of circular reason. In other words, adding conditions, many of which resemble hazardous waste requirements, in order to attempt to prevent the discard of hazardous secondary materials that would otherwise be subject to full hazardous waste requirements, is potentially counter to the original intent of RCRA." 2011 RIA at 214, JA____.

Recognizing that the Exclusion lacked several key provisions that Subtitle C mandates for safe management of hazardous wastes, EPA concluded that those differences "could lead to the potential for an increased likelihood of environmental and public health hazards, including fires/explosions, soil and water contamination, air emissions, and abandoned hazardous secondary materials." 80 Fed. Reg. 1707/3-1708/1-2, JA____. In particular,

> these gaps include the absence of measures to ensure compliance, incentives to accumulate larger volumes of hazardous secondary materials, the potential for increased releases, such as during storage and transportation of the hazardous secondary materials, the lack of prescriptive standards for storage and containment, potential issues associated with the interstate

> transport of hazardous secondary materials for recycling, and reduction in access to information and the opportunity for public participation.

Id. at 1740/1-2, JA___. As EPA explained, "RCRA is a preventative statute and by design seeks to prevent damage before it occurs; relying solely on enforcement without addressing the root causes of the damage could needlessly increase the frequency, severity, and cost of damage cases." *Id.* at 1740/2, JA____. EPA has never disavowed these findings.[8] By jettisoning RCRA protections in favor of conditions that do not provide the level of protection that EPA deems necessary to serve RCRA's preventative purpose, EPA acts arbitrarily.

CONCLUSION AND RELIEF REQUESTED

For the reasons give above, Petitioners respectfully request that this Court vacate the Transfer-Based Exclusion codified at 40 C.F.R. § 261.4(a)(24)-(25).

DATED: August 20, 2018

Respectfully submitted,

/s/Khushi Desai

Khushi Desai
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[8] Nor has the Court reviewed them. As explained above, the recent decisions addressed industry petitioners' challenges to certain conditions in the Verified Recycling Exclusion; they did not consider whether the Transfer-Based Exclusion itself is unlawful or arbitrary. *API*, 862 F.3d at 70.

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Counsel for Petitioners California Communities Against Toxics, Clean Air Council, Coalition for a Safe Environment, Community In-Power and Development Association, Louisiana Bucket Brigade, Louisiana Environmental Action Network, Sierra Club, and Texas Environmental Justice Advocacy Services

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

Counsel hereby certifies, in accordance with Federal Rules of Appellate Procedure 32(a)(7)(B) that the foregoing **Proof Opening Brief of Petitioners**, contains 10,788 words, as counted by counsel's word processing system, and thus complies with the 13,000 word limit.

Further, this document complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5) & (a)(6) because this document has been prepared in a proportionally spaced typeface using **Microsoft Word 2016** using **size 14 Times New Roman** font.

DATED: August 20, 2018

/s/ *Khushi Desai*
Khushi Desai

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August, 2018, I have served the foregoing **Proof Opening Brief of Petitioners**, including the Addendum thereto, on all registered counsel through the court's electronic filing system (ECF).

/s/ *Khushi Desai*
Khushi Desai

Message

From: Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]
Sent: 8/21/2018 2:33:45 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Bolen, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31e872a691114372b5a6a88482a66e48-Bolen, Brit]; Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
CC: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]
Subject: New decision: DC Cir. vacates part of 2015 CCR Rule
Attachments: ENV_DEFENSE-#850820-v1-USWAG_v__EPA_Opinion.PDF; ATT00001.htm

The DC circuit just issued a decision on the merits challenge by industry and environmental groups to the 2015 Coal Combustion Residuals rule. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

"On the claims raised by Environmental Petitioners, we hold that the EPA acted arbitrarily and capriciously and contrary to RCRA in failing to require the closure of unlined surface impoundments, in classifying so-called "clay-lined" impoundments as lined, and in exempting inactive surface impoundments at inactive power plants from regulation. We therefore vacate and remand the provisions of the Final Rule that permit unlined impoundments to continue receiving coal ash unless they leak, see id. § 257.101(a), classify "clay-lined" impoundments as lined, see 40 C.F.R. § 257.71(a)(1)(i), and exempt from regulation inactive impoundments at inactive facilities, see 40 C.F.R. § 257.50(e)."

We are reviewing the opinion closely and will follow up.

Best,

David

Sent from my iPhone

Begin forwarded message:

> **From:** "Celeste, Laurel" <celeste.laurel@epa.gov>
> **Date:** August 21, 2018 at 10:24:19 AM EDT
> **To:** "Fotouhi, David" <Fotouhi.David@epa.gov>, "Michaud, John" <Michaud.John@epa.gov>, "Lewis, Jen" <Lewis.Jen@epa.gov>
> **Subject: FW: 15-1219 Utility Solid Waste Activities, et al v. EPA "Judgment w/Opinion Filed (Complex Panel)" (EPA-80FR21302)**

I haven't read it yet

From: Rosen, Perry (ENRD) [mailto:Perry.Rosen@usdoj.gov]
Sent: Tuesday, August 21, 2018 10:17 AM
To: Celeste, Laurel <celeste.laurel@epa.gov>
Cc: O'Donnell, Jessica (ENRD) <Jessica.O'Donnell@usdoj.gov>
Subject: FW: 15-1219 Utility Solid Waste Activities, et al v. EPA "Judgment w/Opinion Filed (Complex Panel)" (EPA-80FR21302)

Laurel,

USWAG decision just came in. The opinion (over 70 pages), which I have not read yet, is attached. There is a quick summary below in the Judgment. Looks like a mixed bag, including denial of all Industry's petitions.

Perry

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From: ecfnoticing@cadc.uscourts.gov <ecfnoticing@cadc.uscourts.gov>
Sent: Tuesday, August 21, 2018 10:04 AM
To: Rosen, Perry (ENRD) <PRosen@ENRD.USDOJ.GOV>
Subject: 15-1219 Utility Solid Waste Activities, et al v. EPA "Judgment w/Opinion Filed (Complex Panel)" (EPA-80FR21302)

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United States Court of Appeals for District of Columbia Circuit

Notice of Docket Activity

The following transaction was entered on 08/21/2018 at 10:02:32 AM EDT and filed on 08/21/2018

Case Name: Utility Solid Waste Activities, et al v. EPA
Case Number: 15-1219
Document(s): Document(s)

Docket Text:
PER CURIAM JUDGMENT [1746576] filed it is ORDERED that the motion to hold in abeyance be denied. It is FURTHER ORDERED that the motion for voluntary remand be granted with respect to the provisions in the Final Rule pertaining to (i) the definition of "Coal Residuals Pile," see 40 C.F.R. § 257.53; and (ii) the 12,400-ton beneficial use threshold, see id.; and (iii) the alternative groundwater protection standard, see id. § 257.95(h)(2), and these matters be remanded to EPA; and be denied with respect to the provisions in the Final Rule pertaining to inactive surface impoundments and landfills at active power plants, see id. §§ 257.50 (c), 257.100, and inactive surface impoundments at inactive power plants, see id. § 257.50(e). It is FURTHER ORDERED and ADJUDGED that Environmental Petitioners' petition for review be granted in part, be denied in part, and the Final Rule be vacated and remanded with respect to the provisions that permit unlined impoundments to continue receiving coal ash unless they leak, see id. § 257.101(a), classify "clay-lined" impoundments as lined, see 40 C.F.R. § 257.71(a)(1)(i), and exempt from regulation inactive impoundments at inactive facilities, see 40 C.F.R. § 257.50(e); the Industry Petitioners' petitions for review be denied and the two accompanying notice challenges and the issue of risk-based compliance alternatives be dismissed as moot, for the reasons in the accompanying opinion . Before Judges: Henderson, Millett, and Pillard. [15-1219, 15-1221, 15-1222, 15-1223, 15-1227, 15-1228, 15-1229]

Notice will be electronically mailed to:

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3179@ecf.pacerpro.com

Document to be served by alternative means on:

Ms. Laurel M. Celeste
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Mr. John Charles Cruden
Beveridge & Diamond, PC
1350 I Street, NW
Suite 700
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The following document(s) are associated with this transaction:
Document Description: Document Sent
Original Filename: /opt/ACECF/live/forms/15-1219CHMJ.pdf
Electronic Document Stamp:
[STAMP acecfStamp_ID=1109186823 [Date=08/21/2018] [FileNumber=1746576-0] [8b36f433e28f3e209cdd8377da8fe1e164f85ea4bbf71cf9c1184ab5a63f4d9b0e25825e04e9db1ee a1afb6f73c80765a4a308122a99472ee42b121f65f44239]]
Recipients:

- Mr. Stephen John Bonebrake
- Samuel B. Boxerman
- Jennifer Cassel
- Ms. Laurel M. Celeste
- Mr. Thomas Joseph Cmar
- Mr. John F. Cooney, Attorney
- Mr. John Charles Cruden
- Lisa Evans
- Ms. Margaret Kuhn Fawal, Attorney
- Matthew Gerhart
- Mr. Douglas Haber Green
- Thomas James Grever, Attorney
- Makram B. Jaber
- Mr. Joshua Robert More, Attorney
- Mr. Raghav Murali
- Eric Murdock
- Mr. Brian H. Potts, Attorney
- Perry M. Rosen
- Jonathan Skinner-Thompson
- Mr. Aaron Joseph Wallisch
- Mr. Paul J. Zidlicky

Message

From: regionalpress [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2F78D3F76B64908B6BDBADCEC015396-REGIONALPRE]
Sent: 7/19/2018 11:49:15 AM
To: Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Fonseca, Silvina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d77d07be7386476380b9193170946863-Fonseca, Silvina]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: FW: FOR AWARENESS: press clip from NJ Superfund Site Reuse Event

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Kluesner, Dave
Sent: Wednesday, July 18, 2018 9:16 PM
To: regionalpress <regionalpress@epa.gov>
Cc: Mears, Mary <Mears.Mary@epa.gov>
Subject: FOR AWARENESS: press clip from NJ Superfund Site Reuse Event

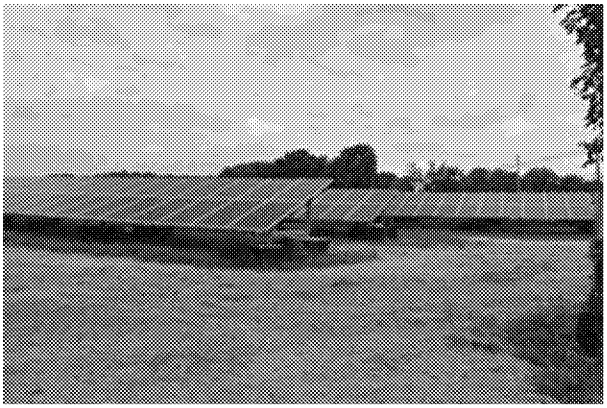
NJ SPOTLIGHT

It Was Once a Superfund Site, Now It's a Solar Farm

Transformation of former landfill in South Brunswick emblematic of governor's plan to greatly increase renewable energy in NJ. But, can more developers be enticed to invest in solar?

By Tom Johnson

July 18, 2018


Sixty-acre former Superfund site in South Brunswick is home to a new solar farm.

When Gov. Phil Murphy signed an ambitious law to ramp up the state's reliance on renewable energy this spring, he chose to do so at a former Superfund site that is being converted to a solar farm.

The 68-acre former South Brunswick Landfill project is now completed, the 34th commercial solar facility undertaken by NJR Clean Energy Ventures (CEV), an unregulated affiliate of New Jersey Resources.

For CEV, the project is getting to be old hat, with the company investing nearly $600 million in solar projects throughout New Jersey. It owns and operates 194 megawatts of capacity throughout the state, involving mostly commercial projects — although it has 61.5 MW in projects that cover 6,800 residential customers.

This administration has set lofty clean energy goals, aiming to having 100 percent of electricity produced by renewable energy by 2050, a target that will rely heavily on solar to achieve that level. And it will have to do so while figuring out a new way of incenting developers to invest in solar.

Current system to be scrapped

Because of worries about mounting costs to consumers, the legislation signed by Murphy will end up scrapping the current system of financing solar projects, which awards solar renewable energy credits to owners of the arrays for the electricity they produce.

The current financing system has been successful on one level — it has led to more than 90,000 solar installations statewide — but the expense has fallen on ratepayers to a large degree, costing more than $500 million a year.

Within three years, the New Jersey Board of Public Utilities must come up with a new, and presumably less costly, program to incent continued growth in the solar sector, which employs more than 7,000 people in the state. The agency is in the process of seeking input on how the new program should function.

"New Jersey has a thriving solar program and we fully expect that to continue,'' BPU president Joseph Fiordaliso said recently. CEV executives are equally optimistic.

"We don't know where it is going to shake out,'' said Mark Valori, vice president of CEV, referring to the overhaul of the solar program, "but we want to be a player in the state.''

Murphy's aggressive goals

To date, the company has invested more than $800 million in renewable energy, including four wind projects in Kansas, Iowa and Pennsylvania totaling 116.9 mw.

Solar and offshore wind are projected to be the primary technologies that will help the state achieve the Murphy administration's aggressive clean energy goals.

Larry Barth, director of corporate strategy for NJR, has few qualms about the solar sector. "It's going to be a good opportunity given the Murphy administration's commitment to clean energy. He wants to make New Jersey a national solar leader once again,'' he said.

The state already is moving to promote solar through a number of initiatives, Barth said, including establishing a new community solar program that could help bring the technology to low-income communities, a priority of the governor.

Barth is optimistic about the process. "It's got to work for the customer, the ratepayer and the business that wants to invest,'' he said, referring to the transition to the new solar financing program.

Brownfields and abandoned landfills

In South Brunswick, the 13-megawatt solar project will end up providing enough energy to power 1,360 homes. It is the third brownfield project that CEV has built. The state has put a priority on building solar farms on brownfields and abandoned landfills, instead of using existing farmland or open spaces.

The facility is built on about 60 acres of the former Superfund site, which had been capped and taken off the National Priority List in 1998. It had operated as a garbage dump for 20 years until it was closed in 1978.

"By all outward purposes, the landfill is a liability until it was turned into an asset,'' said South Brunswick Mayor Charlie Carley, referring to the conversion into a solar facility.

"This is one of the best things you can do with a closed landfill,'' said Walter Mugdan, a deputy regional administrator for the U.S. Environmental Protection Agency's Region II office in New York.

David Kluesner,
Deputy Director of Public Affairs
U.S. EPA, Region 2 (New York, New Jersey, Puerto Rico, the U.S. Virgin Islands and Eight Indian Nations)

Sent from my iPhone

Message

From: Block, Molly [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=60D0C681A16441A0B4FA16AA2DD4B9C5-BLOCK, MOLL]
Sent: 7/18/2018 10:28:23 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
CC: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
Subject: Re: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20

Thanks all!

Sent from my iPhone

On Jul 18, 2018, at 6:27 PM, Cook, Steven <cook.steven@epa.gov> wrote:

> No comments
>
> ---
>
> **From:** Block, Molly
> **Sent:** Wednesday, July 18, 2018 5:08 PM
> **To:** Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> **Subject:** FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20
>
> Please review the press release attached from Region 5 on the cleanup for the DuPont/Chemours RCRA site in East Chicago. Please let me know if you have any questions or edits. Thank you!

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/16/2018 2:06:03 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]; Taylor, Trish [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2bf5f5220f7144d380741509abaeecd7-Ptaylo03]
Subject: FYI: EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Emergency Responses in 2017

FYI – In case you haven't seen this. OPA put this together and ran it by OEM before finalizing it.

From: Lynn, Tricia
Sent: Friday, July 13, 2018 11:06 AM
To: Press <Press@epa.gov>; Comm Directors and Alternates <Comm_Directors_and_Alternates@epa.gov>; Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>; AO-OCIR Everyone <AOOCIR_Everyone@epa.gov>; AO OPA Internal Communications <AO_OPA_Internal_Communications@epa.gov>
Subject: FW: EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Emergency Responses in 2017

In the newsroom: https://www.epa.gov/newsreleases/epa-prepares-2018-hurricane-season-building-lessons-learned-sustained-emergency

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From: EPA Press Office [mailto:noreply-subscriptions@epa.gov]
Sent: Friday, July 13, 2018 11:01 AM
To: Lynn, Tricia <lynn.tricia@epa.gov>
Subject: EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Emergency Responses in 2017

U.S. ENVIRONMENTAL PROTECTION AGENCY

NEWS RELEASE

WWW.EPA.GOV/NEWSROOM

CONTACT: press@epa.gov

EPA Prepares for 2018 Hurricane Season, Building on Lessons Learned from Sustained Emergency Responses in 2017

WASHINGTON (July 13, 2018) — The U.S. Environmental Protection Agency (EPA) has joined partners across federal, tribal, state, and local governments in preparation for the 2018 Atlantic hurricane season. On June 5, EPA senior leaders gathered in New Orleans, Louisiana, to discuss the Agency's preparations for the 2018 hurricane season.

"EPA stands ready with our partners on every level to respond to the 2018 hurricane season," said EPA Acting Administrator Andrew Wheeler. **"Given the expert preparedness and rapid response efforts of our teams during last year's hurricanes, we are confident that we will respond swiftly to provide the necessary support and minimize impacts to public health and the environment."**

Just last week, Hurricane Beryl became the first major named storm in the Atlantic of the 2018 hurricane season. EPA REOC personnel closely monitored Hurricane Beryl in anticipation of potential landfall in Puerto Rico and the USVI. EPA and the Federal Emergency Management Agency (FEMA) worked closely with the government of Puerto Rico, the U.S. Virgin Islands (USVI), and municipalities over the past few months to address lessons learned from María and ensure the islands are better prepared for hurricane season at all levels.

Currently, EPA has approximately 60 personnel on the ground in Puerto Rico and USVI and in the Regional Emergency Operations Center in Edison, NJ dedicated to response, recovery, and readiness. Generators used to supply power to some public water supply systems in Puerto Rico are being maintained and re-fueled by EPA and remain on the island in case they are needed for future responses.

As last year's dynamic responses to Hurricanes Harvey, Maria, and Irma showed, EPA is prepared to respond to critical environmental and public health threats. The Agency's emergency response program mitigates the environmental and health effects of man-made and natural disasters. The Atlantic hurricane season officially runs from June 1 until November 30.

What We Do

EPA supports hurricane preparedness and response in many ways, including:

- Mobilizing Emergency Responders: EPA has approximately 230 emergency responders ready to deploy anywhere in the country to respond to emergencies. More than 1,500 EPA employees and contractors were deployed to impacted regions and EPA's Emergency Operations Centers to provide technical and response support during the 2017 hurricane response.
- Addressing Fuel Shortages: The Clean Air Act allows EPA, in consultation with the U.S. Department of Energy Secretary, to waive certain fuel requirements to address shortages that occur because of the storm. Temporary waivers can help ensure an adequate supply of gasoline is available in the affected area, particularly for emergency vehicles. During Hurricanes Harvey, Irma, and Maria, EPA issued 14 separate fuel waivers.

- Activating Mobile Assets: EPA has several assets to help gather data to assist emergency personnel with response activities. These include:
    - ASPECT - the nation's only airborne real-time chemical and radiological detection, infrared, and photographic imagery platform. EPA used the ASPECT aircraft to provide real-time chemical information to first responders after the Arkema Chemical Plant explosion during Hurricane Harvey
    - PHILIS - a mobile laboratory for on-site analysis of air, soil, and water samples
    - TAGA - a mobile laboratory capable of real-time ambient air monitoring, sampling, and analysis of outdoor air emissions
- Securing Superfund Sites: EPA assesses conditions at Superfund sites in the storm's pathway and tasks site managers with assessing conditions and preparing for high winds and heavy rainfall. Following the storm and receding floodwaters, EPA conducts assessments to identify damage and initiate cleanup plans, if necessary. Any on-site activities at sites located in the storm's path are ceased until the all clear is given and on-site equipment is secured. During Hurricanes Harvey, Irma, and Maria, EPA completed approximately 250 assessments of Superfund sites.
- Assessing Conditions at Major Industrial Facilities: EPA assesses conditions at major industrial facilities in the storm's pathway to identify potential impacts and countermeasures. The Agency conducts follow up inspections and damage assessments in response to reports within EPA jurisdiction. During the response to Hurricanes Harvey, Irma, and Maria, this included approximately:
    - 1,130 Risk Management Plan field assessments
    - 345 Facility Response Plan field assessments
    - 7,100 disaster debris management sites
    - 320 spills/discharges
    - 4,025 vessels assessed (vessels include tanks or containers at onshore oil and natural gas production facilities)
- Monitoring Public Water Systems: Water systems can be severely impacted during hurricanes due to storm surge, flooding, or loss of power from extreme winds. EPA uses its tracking system to identify systems in the storm's pathway. Following the storm, and if the state requests federal assistance, EPA conducts damage assessments of both drinking water and wastewater systems to identify impacts to critical assets and assist in the recovery. In response to Hurricanes Harvey, Irma, and Maria, EPA and partners assessed approximately:
    - 6,200 drinking water systems
    - 1,220 wastewater systems
- Managing Debris and Impacted Infrastructure: Additionally, EPA assesses contaminated debris, storm-impacted infrastructure, and threats to human health and the environment. The Agency is prepared to assess and clean up public and private properties, render properties safe from hazardous materials, and facilitate removing solid waste, ash, and debris.

Overall, EPA works with partners across federal, tribal, state, and local governments to respond to oil spills; chemical, biological, radiological releases; and large-scale national emergencies.

For additional information on EPA's emergency response capabilities, please visit: https://www.epa.gov/emergency-response

Visit the EPA's Newsroom

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking here.
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 8/7/2018 5:16:19 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: From today's BUILD Act Meeting
Attachments: Cleanup Grant Policy Recommendation.docx; Multipurpose Grants Recommendation.docx; Small Community Assis Grants Recommendation.docx; FY19 Brownfields Grant Schedule.docx

Attached are the documents from the BUILD Act meeting w/OBLR today.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

BUILD Act Implementation
Multipurpose Grant Policy

I. Statutory Framework for Multipurpose Grants

The BUILD Act established a new Multipurpose (MP) Brownfield Grant program (CERCLA § 104(k)(4)). Under this new authority, EPA may provide a maximum of $1 million in funding per grant to an eligible entity to inventory, characterize, assess, plan for or remediate one or more brownfield sites within a target area. The statute requires that a MP recipient own the brownfields property prior to expending grant resources to remediate the property. The grant period of performance is five years. The statute limits EPA to awarding a maximum of 15% in 104(k) funds for MP grants each year.

As established by CERCLA § 104(k)(4), when evaluating proposals, EPA shall consider the extent to which the eligible entity is able to:

- Provide an overall plan for revitalization of the one or more brownfield site(s) in the proposed area;
- Demonstrate capacity to conduct the range of eligible activities funded by the MP grant; and
- Demonstrate that a MP grant will meet the needs of the one or more brownfield site(s) in the proposed area.

II. Recommendation

Deliberative Process / Ex. 5

BUILD Act Implementation Recommendation
Small Community Assistance Grant Policy

I. Statutory Framework for Small Community Assistance Grants

CERCLA § 128(a)(B)(III) was added to create a new grant program for states and tribes to provide technical assistance to small communities or disadvantaged communities as defined in the BUILD Act.

- Grants maximum per community – $20,000.
- Entities eligible for the grant – States and Tribes with a 128(a) grant.
- Type of Funding and Mechanics to Award – 104(k) funding but will be awarded as part of a 128(a) grant in an allocation process.
- Disadvantaged Areas definition – means a community with an annual median household income that is less than 80% of the statewide annual median household income, as determined by the President based on the latest available decennial census.
- Small Community definition – means a community with a population of not more than 15,000 individuals, as determined by the President based on the latest available decennial census.

II. Recommendation

Deliberative Process / Ex. 5

Message

From: Harwood, Jackie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=958567B57D5B4940A7C5FD04095F6964-JHARWOOD]
Sent: 7/24/2018 9:35:25 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Attachments: OEM-CERCLA-EPCRA Reporting.docx; OBLR.Brownfields.docx; ORCR.CCR.docx; OEM.Chem Facility RMP.v2.docx; OSRTI.LeadExposureSFSites.docx

Importance: High

Hi Barry, Steven, and Peter,

This is the first of several emails I'll be sending you with materials for Acting Administrator Wheeler's SEPW hearing. I apologize for sending the materials piecemeal, but some of them are taking longer to finalize than others and I wanted to give you an opportunity to start reviewing the fact sheets. Please let me know if you have any questions or concerns. Thanks.

Attached for your review are draft fact sheets on the topics that will be covered at the pre-brief tomorrow at 11:00 and OLEM's Wheeler briefing later this week. They have been approved by the ODs, and slightly edited/shortened by both Carolyn Levine and me. They include:

- Coal Ash – Steven (Barnes as backup)
- Brownfields -- Peter
- Risk Management Plan – Peter
- NEW Suggestion from OCIR: CERCLA/EPCRA Reporting & Recent Vacatur Rule
- Lead Exposure at Superfund Sites – Jim Woolford

The second and third emails I'll be sending you later tonight or tomorrow morning will include:

1. Program offices' suggested Q&As for you to ask Wheeler in the second part of the OLEM briefing.
2. Fact sheets on the Superfund Program Sites below.
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

    NOTE: Peter will not participate in these site discussions:

    - American Cyanamid Company—Booker ***
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - Berry's Creek—Booker ***

- Portland Harbor—Merkley ***

3. **Second tier fact sheets. They will include the following topics:**
   - SPCC
   - Hurricane preparedness
   - Spill Prevention Rule
   - 108(b)
   - PFAS at Fed Facility Sites
   - Hot Topics/Issues at Fed Facility Sites
   - Compliance deadline
   - Abandoned Minds and Mineral Processing Sites
   - Addressing Extreme Weather at Superfund Sites
   - Superfund Remedial Cleanup Program
   - Superfund Special Accounts
   - Superfund Task Force
   - Role of States in SF Program
   - Hazard Ranking System Revision

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Hilosky, Nick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=39E1182AC8CD4709AE0787CA4A068D2D-NHILOSKY]
Sent: 7/24/2018 9:32:26 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Draft FUDs Scenarios
Attachments: FUDs Scenarios V2.docx

See below from OBLR…
Nick

Nicholas J. Hilosky
Special Assistant
Office of Land and Emergency Management
US Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460
ph: 202-566-1942; fax: 202-566-0207
mobile: 202-368-0724

From: Overmeyer, Patricia
Sent: Tuesday, July 24, 2018 4:22 PM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>
Subject: Draft FUDs Scenarios

Nick:

As follow up to our meeting with Barry, Peter, and Steven last week, the team has pulled together descriptions of a few draft scenarios related to Formerly Used Defense Sites (FUDs). Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Could you please share the attached with Barry, Peter and Steven? Then please let us know what they may need in the form of next steps.

Thanks,
Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Grantham, Nancy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=12A3C2ED7158417FB0BB1B1B72A8CFB0-GRANTHAM, NANCY]
Sent: 7/23/2018 12:39:11 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Fonseca, Silvina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d77d07be7386476380b9193170946863-Fonseca, Silvina]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: FW: East Chicago Press Clips, July 23, 2018

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Arcaute, Francisco
Sent: Monday, July 23, 2018 8:35 AM
To: Bassler, Rachel <Bassler.Rachel@epa.gov>; Singer, Joshua <Singer.Joshua@epa.gov>; Rowan, Anne <rowan.anne@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Kaplan, Robert <kaplan.robert@epa.gov>; Mitchell, James <mitchell.james@epa.gov>; Ballotti, Doug <ballotti.douglas@epa.gov>; Borries, Samuel <borries.samuel@epa.gov>; El-Zein, Jason <el-zein.jason@epa.gov>; Brown, Jaime <brown.jaime@epa.gov>; Benning, Brad <benning.bradley@epa.gov>; Miller, Kristina <miller.kristina@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Cannon, Phillippa <Cannon.Phillippa@epa.gov>; Woolford, James <Woolford.James@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Mankowski, Matthew <mankowski.matthew@epa.gov>; Alcamo, Thomas <alcamo.thomas@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Deamer, Eileen <deamer.eileen@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Vega, Sonia <vega.sonia@epa.gov>; Pope, Janet <Pope.Janet@epa.gov>; Kelley, Jeff <kelley.jeff@epa.gov>; Beckmann, Ronna Erin <beckmann.ronna@epa.gov>; Ostermeier, Jennifer <Ostermeier.Jennifer@epa.gov>; Fortin, Denise <Fortin.Denise@epa.gov>; Korleski, Christopher <korleski.christopher@epa.gov>; Guerriero, Margaret <guerriero.margaret@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Konkus, John <konkus.john@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Bucci, Anthony <bucci.anthony@epa.gov>; Ross, Anthony <ross.anthony@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Garypie, Catherine <garypie.catherine@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fulghum, Mary <fulghum.mary@epa.gov>; Reshkin, Karen <Reshkin.Karen@epa.gov>; Lippert, Allison <lippert.allison@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Thiede, Kurt <thiede.kurt@epa.gov>; Adler, Kevin <adler.kevin@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Payne, James <payne.james@epa.gov>
Cc: DORIAN.S.HAWKINS@hud.gov; Joel.A.Foreman@hud.gov; Lang, Annette (ENRD) <Annette.Lang@usdoj.gov>; Dixon, Douglas <Dixon.Douglas@epa.gov>; dane.m.narode@hud.gov; Courtney.B.Minor@hud.gov; Boseman, Anita <boseman.anita@epa.gov>; Chingcuanco, Leonardo <Chingcuanco.Leonardo@epa.gov>; Fischer, Timothy <Fischer.Timothy@epa.gov>; Khandeshi, Sparsh (ENRD) <Sparsh.Khandeshi@usdoj.gov>; Rolfes, Sarah

<Rolfes.Sarah@epa.gov>; Thomas, Katherine <thomas.katherine@epa.gov>
Subject: East Chicago Press Clips, July 23, 2018

East Chicago press clips
US EPA Region 5 – prepared by the Office of Public Affairs
July 23, 2018

NWI Times **UPDATE: Community groups say $26.6 million cleanup plan for old DuPont site doesn't go far enough**

Post Tribune **EPA finalizes $26.6 million cleanup for contaminated East Chicago site; will dispose material off site**

WRAL **EPA OKs $26.6M cleanup for former DuPont site in NW Indiana**

IIN Business **EPA Lays Out $26.6M Cleanup Plan in Northwest Indiana**

https://www.nwitimes.com/news/local/lake/update-community-groups-say-million-cleanup-plan-for-old-dupont/article_bd30b3f2-dca9-51bd-a531-c5de5f467178.html

UPDATE: Community groups say $26.6 million cleanup plan for old DuPont site doesn't go far enough

- Sarah Reese sarah.reese@nwi.com, 219-933-3351
- Jul 20, 2018 Updated Jul 21, 2018

EAST CHICAGO — Environmental groups reacted Friday to EPA's approval of a $26.6 million cleanup plan at the former DuPont/Chemours plant adjacent to the USS Lead Superfund site with skepticism, concern and dismay.

The cleanup of more than 200 acres at the former DuPont plant, 5215 Kennedy Ave., will address arsenic, lead, zinc and cadmium in the soil and arsenic in groundwater, the U.S. Environmental Protection Agency said.

EPA received more than 200 comments after releasing a proposed $22 million cleanup plan in November.

In response, the agency revised its plan to require all excavated contaminated soil to be disposed of off-site instead of in the on-site solid waste landfill. The change increased the cleanup cost by about $4 million.

The landfill will be closed, and EPA will require groundwater treatment, long-term monitoring and maintenance, the agency said. The agency also will conduct five-year reviews to evaluate to ensure the remedy it chose is effective and the companies paying for the cleanup are following through on financial commitments.

EPA scheduled a community meeting from 10 a.m. to noon Sept. 15 at the old Carrie Gosch Elementary School, 455 E. 148th St., according to a public notice.

Will plan protect residents?

The plan fails to address the imminent risks posed by groundwater, which flows north from the site through their neighborhood, said Debbie Chizewer, an attorney at Northwestern University's Pritzker Law School Environmental Advocacy Center working pro bono on behalf of the East Chicago/Calumet Coalition Community Advisory Group.

Residents say groundwater often floods basements during rainstorms because of the high water table in the area and gets pumped onto their lawns by sump pumps.

"While there is a measure of good news in that EPA has indicated that it will move off-site the excavated contaminated soil, residents remain concerned that this plan will not protect them from ongoing and serious groundwater contamination," Chizewer said.

EPA said it surveyed residents in the 4900 blocks of the East Calumet neighborhood and confirmed two out of 95 have sump water discharging onto the yard.

"EPA has begun sampling residential properties to determine if contamination is present in sump water," an agency spokesman said. "Lab results are pending, and the study is expected to be completed in fall 2018."

EPA also is studying groundwater as part of its remedial investigation of the former USS Lead facility, 5300 Kennedy Ave.

"As part of that remedial investigation, monitoring wells are slated to be installed across the residential neighborhoods in the USS Lead site in fall 2018," EPA said.

Rather than addressing the potential harm posed by groundwater, the plan instead defered those efforts to the USS Lead Superfund site, Chizewer said.

"Yet, that work will take years to even begin," she said.

Critic: Polluter driving decisions

Thomas Frank, co-founder of the Community Strategy Group, said he was disappointed and upset with the settlement.

"It's clear to us the community hasn't been heard, and their voice hasn't had much weight or standing," he said. "We've been consistently arguing for a cleanup, not capping."

EPA's final decision notes comments said off-site disposal of excavated soil would "facilitate 'green' redevelopment" of the site, but the decision requires the site owners to restrict access by maintaining fencing and signs to deter trespassing and update health and safety plans to protect on-site workers.

"The site owners also must maintain institutional controls preventing changes in land use from the current industrial use," the decision states.

The Graselli Chemical Co. was established at the site in 1892 and later purchased by E. I. du Pont de Nemours and Co.

DuPont entered into the EPA's Resource Conservation and Recovery Act program in the early 1980s, and the property has been listed as a hazardous waste site under EPA's RCRA program since 1997.

Redevelopment firm now owns site

DuPont spun off Chemours Co. in 2015 and conveyed title to the property to the new company. Chemours informed EPA June 29 it had conveyed title to the former DuPont facility and 30 acres leased to W.R. Grace and Co. to the redevelopment firm East Chicago Gateway Partners, EPA said.

"The cleanup at the former DuPont/Chemours plant helps pave the way for redevelopment opportunities in East Chicago that will bring jobs and economic growth to the community," EPA Regional Administrator Cathy Stepp said in a news release.

Frank criticized EPA for allowing polluters to drive cleanup plans by placing too much weight on how the property may be used in the future.

"DuPont came here and destroyed our ecosystem," Frank said. "They've broken the system here, and they are being allowed to walk away at a fraction of the cost to actually fix it. Because the damage is so severe, it's going to limit any future use for the next 100, 200 or even 400 years."

Nearby properties include a nature area, a residential neighborhood and a natural area at the DuPont site — which was restored in 2014 but is inaccessible because of ongoing risks to human health. Because of EPA's decision, the DuPont site cannot be used for recreation or residential purposes, Frank said.

"It puts constraints on future economic development and quality of life, because that continues to be a problem the community has to face," he said.

The decision document on the DuPont site, summary of EPA's response to comments and other information is at www.epa.gov/in/hazardous-waste-cleanup-dupont-facility-east-chicago-indiana.

http://www.chicagotribune.com/suburbs/post-tribune/news/ct-ptb-east-chicago-epa-dupont-st-0721-story.html

EPA finalizes $26.6 million cleanup for contaminated East Chicago site; will dispose material off site

Craig Lyons Post-Tribune

The U.S. Environmental Protection Agency said Friday that contaminated material remaining at an East Chicago plant will be removed from the site .

The EPA announced the $26.6 million cleanup of the former DuPont site, on Kennedy Avenue in East Chicago, has been finalized. After receiving more than 200 public comments on the proposed cleanup, the EPA decided to dispose of contaminated material off site, according to a press release.

“The cleanup at the former DuPont/Chemours plant helps pave the way for redevelopment opportunities in East Chicago that will bring jobs and economic growth to the community,” said EPA Regional Administrator Cathy Stepp, in a statement.

During public meetings in February and March, residents pushed the EPA for a more stringent cleanup for the former DuPont site, noting its close ties to much of the contamination in the Calumet neighborhood, which is part of the U.S.S. Lead Superfund site.

The EPA said the 440-acre facility, at 5215 Kennedy Ave., will focus on removing contaminated material and other industrial property at the site and treating groundwater. The EPA said the industrial land and water is contaminated with arsenic, lead, zinc and cadmium.

The EPA’s plans will remove 61,000 cubic yards of contaminated soil; treat groundwater and take steps to prevent it from leaving the site; fence the site and ensure compliance with industrial zoning requirements and health and safety rules for digging; and receive financial assurances from the site owner, according to a press release.

The cleanup will focus on three areas at the site: 155 acres of land for redevelopment; 50 acres of open area that was a former solid waste landfill; and a 30-acre leased area, according to the EPA.

In March, Greg Townsend, business development director for Chemours, which owns the former DuPont property, told residents the company plans to do everything required to clean the site and ready it for redevelopment.

EPA staff is tentatively planning a Sept. 15 meeting to discuss the project.

https://www.wral.com/epa-oks-26-6m-cleanup-for-former-dupont-site-in-nw-indiana/17713861/

https://www.sfchronicle.com/news/article/EPA-OKs-26-6M-cleanup-for-former-DuPont-site-in-13095409.php

EPA OKs $26.6M cleanup for former DuPont site in NW Indiana

July 22, 2018 Updated: July 22, 2018 8:49 a.m.

EAST CHICAGO, Ind. (AP) — Federal officials have approved a $26.6 million cleanup of a former DuPont Co. industrial site in northwestern Indiana that will remove lead and other heavy metals.

The plan announced Friday by the U.S. Environmental Protection Agency calls for disposing of the 440-acre East Chicago site's remaining contaminated material off-site.

Residents pushed during public meetings in February and March for a more stringent cleanup, noting the former DuPont site's close ties to contamination in the Calumet neighborhood that's part of the U.S.S. Lead Superfund site.

Both sites are along the Grand Calumet River.

The EPA the cleanup will focus on removing contaminated material and other industrial property at the former DuPont site and treating groundwater. The agency says the industrial land and water is contaminated with arsenic, lead, zinc and cadmium.

http://www.insideindianabusiness.com/story/38695360/epa-lays-out-266m-cleanup-plan-in-east-chicago-lake-county-northwest-indiana

EPA Lays Out $26.6M Cleanup Plan in Northwest Indiana

Posted: Jul 20, 2018 4:08 PM CDT
By Dan McGowan, Senior Writer/Reporter

EAST CHICAGO -

The U.S. Environmental Protection Agency has detailed a $26.6 million final remediation plan for most of the 440-acre former DuPont East Chicago chemical plant site. Delaware-based The Chemours Co., which spun-off of DuPont three years ago, owns the property that is contaminated by unsatisfactory levels of arsenic, lead, zinc and cadmium.

Following a 90-day public comment period that yielded 200 comments, the EPA increased the estimated cost of the cleanup from a $22.6 million November estimate. The EPA says it will now require the contaminated soil excavated on-site to be disposed of off-site.

EPA Regional Administrator Cathy Stepp says "the cleanup at the former DuPont/Chemours plant helps pave the way for redevelopment opportunities in East Chicago that will bring jobs and economic growth to the community."

Around half of the site is a natural area maintained by the Indiana Department of Natural Resources and a buffer area that was previously cleaned up. The property is located near the Grand Calumet River and the old USS Lead Superfund site where additional cleanup is ongoing.

You can connect to more about the site and the cleanup efforts by clicking here. A community meeting led by the EPA is scheduled for September 15 at the former Carrie Gosch School in East Chicago.

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 8/7/2018 5:41:12 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: FW: Previous briefing for Peter Wright
Attachments: Brownfields Basics for Peter Wright.pptx

For your electronic files.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Overmeyer, Patricia
Sent: Tuesday, August 07, 2018 1:32 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>
Subject: Previous briefing for Peter Wright

Becky:

Attached is an electronic copy of the "intro to brownfields" briefing that we used when we met with Peter right after he came on board.

Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Lloyd, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3DEEDE75DB8E44A790B2F73DEBF00E12-LLOYD, DAVID]
Sent: 8/2/2018 6:07:59 PM
To: OLEM OBLR [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d1a7ece71274cde882aa28d0be7e4d2-OSWER OBLR]; OLEM Brownfields Leadership Forum [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10644283539642b589800617bc37a070-Brownfields]; OLEM SF Reg DDs [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=22a2d96e1cb14c22a7e29ee598e0f80e-OSWER SF Reg DDs]; OLEM OD Deputies [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=55fcfb6355ea48d4bcf3ca38f35f1f62-OSWER OD Deputies]; Dalbey, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=163a0950019048d598e22c167ef6aa33-Dalbey, Matthew]; Kackar, Adhir [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a4a500388f094cf6869b652e5dd07a3f-AKackar]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: Presentation describing OBLR's Land Revitalization Tools
Attachments: BFs LR Tools_July 2018 (004).pptx

Colleagues, FYI, attached is a presentation that describes OBLR's Land Revitalization Tools. These tools were developed by our HQ Team working with the Regional and Program Offices' Land Revitalization Coordinators. If you have questions, please contact Aimee Storm at 202-566-0633.

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/30/2018 11:06:49 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: Final OLEM Fact Sheets for Wheelers Background Book

Jackie

I echo Steven's appreciation for your work.

Thank you.

Peter

From: Cook, Steven
Sent: Monday, July 30, 2018 6:56 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: Final OLEM Fact Sheets for Wheelers Background Book

Appreciate all the hard work.

From: Harwood, Jackie
Sent: Monday, July 30, 2018 6:41 PM
To: Wright, Peter <wright.peter@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: FYI: Final OLEM Fact Sheets for Wheelers Background Book

Hi Peter and Steven,

Attached are the final OLEM fact sheets for Wheeler's background book – in case you need them tomorrow. I've also attached the:

- List of OLEM questions and answers
- Two short "cheat sheets" on RMP and CCR, and
- OLEM's original consolidated list of talking points.

Please let me know if you have any questions or need anything else on this.

Thanks.
Jackie

Jackie Harwood

OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Levine, Carolyn
Sent: Friday, July 27, 2018 5:08 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: HQ issue papers

Carolyn Levine
Office of Congressional and
Intergovernmental Relations
U.S. EPA
(202) 564-1859
levine.carolyn@epa.gov

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/1/2018 3:50:28 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: McIntosh, Chad [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e328de48699c4747ad3a421e3aa5e850-McIntosh, W]
Subject: Re: Senate panel advances four environmental nominees

Matt

Thank you and thanks to your staff for all of their support.

Peter

Sent from my iPad

On Aug 1, 2018, at 11:47 AM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

> Congrats to you both. Here's hoping for a swift confirmation.
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** "POLITICO Pro Energy Whiteboard" <politicoemail@politicopro.com>
> > **Date:** August 1, 2018 at 9:41:53 AM CDT
> > **To:** <leopold.matt@epa.gov>
> > **Subject: Senate panel advances four environmental nominees**
> > **Reply-To:** "POLITICO subscriptions" <reply-fe8b1376756c027574-1159543_HTML-878713253-1376319-0@politicoemail.com>
> >
> > By Anthony Adragna
> >
> > 08/01/2018 10:40 AM EDT
> >
> > The Senate Environment and Public Works Committee advanced four nominations to various EPA, White House and Commerce roles on largely party-line votes.
> >
> > Lawmakers advanced the nominations of:
> >
> > —Peter Wright to be assistant EPA administrator for the Office of Land and Emergency Management on a 11-10 vote;
> > —Mary Neumayr to lead the White House Council on Environmental Quality on a 11-10 vote;
> > —Charles McIntosh to be assistant EPA administrator for the Office of International and Tribal Affairs on a 11-10 vote; and,
> > —Former Louisiana Rep. John Fleming to serve as assistant secretary of Commerce for economic development on a 15-6 vote.

Democrats voiced concern over potential conflicts of interest for Wright given his work for Dow Chemical Co. and Neumayr's views on ocean policy and changes to the National Environmental Policy Act.

WHAT'S NEXT: The four nominees join a list of executive branch nominees awaiting floor action on their selections.

To view online:
https://subscriber.politicopro.com/energy/whiteboard/2018/08/senate-panel-advances-four-environmental-nominees-1707275

You received this POLITICO Pro content because your customized settings include: Energy: EPA. To change your alert settings, please go to https://subscriber.politicopro.com/settings

POLITICOPRO

This email was sent to leopold.matt@epa.gov by: POLITICO, LLC 1000 Wilson Blvd. Arlington, VA, 22209, USA

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/1/2018 2:05:31 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
Subject: Fwd: FUDS Background info

Sent from my iPad

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: July 13, 2018 at 3:43:03 PM EDT
To: "Wright, Peter" <wright.peter@epa.gov>
Cc: "Breen, Barry" <Breen.Barry@epa.gov>, "Cook, Steven" <cook.steven@epa.gov>
Subject: RE: FUDS Background info

That would be perfect. I'm looking forward to that. Thank you.

-----Original Message-----
From: Wright, Peter
Sent: Friday, July 13, 2018 2:14 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: FUDS Background info

Ryan

We have reviewed the material provided by DOD and consulted with colleagues in FFRRO and OBLR. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know when you think a briefing would be timely.

Peter

-----Original Message-----

From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US)
[mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff.

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: Personal Phone / Ex. 6
Cell: (Personal Phone / Ex. 6

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/9/2018 3:53:32 PM
To: Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]; Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Bennett, Tate [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1fa92542f7ca4d01973b18b2f11b9141-Bennett, El]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: RE: CERCLA Reporting Rule

Reggie and Michele

Thank you for the quick turnaround.

Peter

From: Indermark, Michele
Sent: Thursday, August 9, 2018 8:46 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: CERCLA Reporting Rule

Hi All,

I'm providing the final paper we submitted for Andrew Wheeler's hearing on 1 Aug. We also developed a Q/A document that covers RMP, hurricane preparedness and CERCLA/EPCRA FARM Act and I've attached it for your use. Please let us know if you need anything else.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:39 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>

Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA Reporting Rule

Folks....please disregard the attachments I sent....we discovered a version control problem...Michele is sending the final versions.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Cheatham, Reggie
Sent: Thursday, August 09, 2018 8:26 AM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: CERCLA Reporting Rule

Tate

Attached is the CERCLA/EPCRA white paper we did for the Administrator's SEPW hearing. This has been cleared by OGC.

Additionally, here is the Q and A we drafted, in case this comes up:

Deliberative Process / Ex. 5

Let us know if you need any additional information.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant

202.564.0053

From: Bennett, Tate
Sent: Thursday, August 09, 2018 7:45 AM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: Re: CERCLA Reporting Rule

Great. Can you pass it along?

On Aug 9, 2018, at 7:36 AM, Wright, Peter <wright.peter@epa.gov> wrote:

> All
>
> We prepared a summary on this topic for the Administrator's Senate hearing briefing book.
>
> Peter
>
> Sent from my iPhone
>
> On Aug 8, 2018, at 8:56 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>
>> Got it Tate
>>
>> Thanks
>>
>> Reggie Cheatham, Director
>> Office of Emergency Management, USEPA
>> 202/564-8003(o)/202/689-9400
>> Doris Williams, Executive Assistant
>> 202/564-0053
>>
>> On Aug 8, 2018, at 8:54 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:
>>
>>> Thank you. No need to recreate the wheel, just something similar to what was covered in our official press release.
>>>
>>> On Aug 8, 2018, at 8:53 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>>>
>>>> We will get talkers to Tate
>>>>
>>>> Thanks
>>>>
>>>> Reggie Cheatham, Director
>>>> Office of Emergency Management, USEPA
>>>> 202/564-8003(o)/202/689-9400
>>>> Doris Williams, Executive Assistant
>>>> 202/564-0053
>>>>
>>>> On Aug 8, 2018, at 6:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:

Can someone help out here since I am wandering the left coast ?

Sent from my iPhone

Begin forwarded message:

From: "Bennett, Tate" <Bennett.Tate@epa.gov>
Date: August 8, 2018 at 1:21:44 PM PDT
To: "Cook, Steven" <cook.steven@epa.gov>
Cc: "Dickerson, Aaron" <dickerson.aaron@epa.gov>, "Lovell, Will (William)" <lovell.william@epa.gov>
Subject: CERCLA Reporting Rule

Deliberative Process / Ex. 5

Elizabeth Tate Bennett
Associate Administrator
for Public Engagement
& Environmental
Education
Office of the
Administrator
U.S. Environmental
Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov

From: Wright, Peter
To: Grantham, Nancy
Sent: 7/26/2018 8:23:24 PM
Subject: University of Michigan Dioxin Exposure Study Science Advisory Board

https://sph.umich.edu/dioxin/images/top-1.jpg

UM Dioxin Home
What's New
How We Did The Study
Protocol
Confidentiality
Brochures
Letters to Study Participants
Informed Consent Documents
What The Study Showed
January 2011 Results
August 2006 Results
Dioxin Measurements in Blood, Dust & Soil
Questionnaire Responses
Presentations at Scientific Conferences
Presentations at Community Meetings
Publications in Scientific Journals
Stakeholder Requests for Analyses
Definitions
In The News
People Involved In The Study
UM Researchers
Scientific Advisory Board
Community Advisory Panel
Dioxin Information
References
Links

Scientific Advisory Board

Linda Birnbaum, PhD - Director, National Institute for Environmental Health Sciences (member 2004 - present)

Paolo Boffetta, MD - Epidemiologist, International Agency for Research on Cancer (member 2004 - present)

Ronald Hites, PhD - Environmental Scientist, Indiana University (member 2004 - present)

David Kleinbaum, PhD - Statistician, Emory University (member 2004 - 2006)

Marie Haring Sweeney, PhD - Epidemiologist, National Institute for Occupational Safety and Health (member 2007 - present)

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Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/14/2018 1:55:43 PM
To: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]
CC: Wilson, Erika [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=57799aef8ca04393a26f102efa5bd45e-Wilson, Erika]
Subject: Re: Morning session suggestions

Kent

Thank you for the suggestions. I will check out the two referenced sessions.

Peter

Sent from my iPad

> On Aug 14, 2018, at 6:25 AM, Benjamin, Kent <Benjamin.Kent@epa.gov> wrote:
>
> Peter, here are a couple of sessions that might be interesting and helpful for background on OLEM tribal highlights.
>
> Room 302 AB 8:00 - 9:45
> Updates on ITF and addressing Open Dumps
>
> Room 401 AB 9:00 - 10:00
> Emergency Response: FEMA and US roles and responsibilities
>
> Field trip (may be full)
> 8:00-12:00 Walking tour of Brownfields sites along Spokane River
>
> Just some suggestions
>
>
>
> Kent Benjamin, Acting Office Director. OCPA OLEM. 202-565-9095. Sent from my iPhone

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/26/2018 8:21:56 PM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: MDEQ Approval of Midland Dioxin Soil Cleanup
Attachments: deq-owmrp-hws_2016-07-21_Dow_724_MAS_CA_Report_Approval_Letter_CA_539484_7.pdf

Nancy

Here is one of the documents we discussed.

Peter

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

July 21, 2016

Mr. Steven C. Lucas
Senior Remediation Leader
The Dow Chemical Company
1790 Building
Midland, Michigan 48674

Dear Mr. Lucas:

SUBJECT: Approval of Revised Corrective Action Report, Midland Area Soils; The Dow Chemical Company, Michigan Operations, Midland Plant; Midland, Michigan; MID 000 724 724

The Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), has completed a review of the Corrective Action Report, Midland Area Soils (Report). The Report was submitted by The Dow Chemical Company (Dow) on January 8, 2016, and was most recently revised on May 6, 2016, in response to review comments from the DEQ. The Report was submitted as part of corrective action work required under Condition XI.B. of the Hazardous Waste Management Facility Operating License (License) renewal issued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976.

This Report was designed to be an important and major part of a final remedial action intended to represent the response action for direct contact to soils for Dow's off-site corrective action obligations under Conditions XI.B. and XI.J. of the License. Therefore, the DEQ conducted public participation pursuant to Condition XI.B.2. of the License and R 299.9511 of the Part 111 administrative rules, including a public comment period held from May 6, 2016, to June 20, 2016, and two public open houses held on June 6, 2016. No significant comments were submitted during the public comment period, and therefore, no significant changes were made to the draft Report. The DEQ will be sending the enclosed notice of this final decision to all persons on the facility mailing list and to the appropriate units of state and local government.

Based on the DEQ's review of the revised Report submitted on May 6, 2016, and since no significant public comments were obtained during the public comment period, the revised Report is hereby approved. In accordance with Condition XI.B.2. of the License, the approved Report becomes an enforceable condition of, and Attachment 18 to, the License. This approval constitutes a CA800 Ready for Anticipated Use Determination for Midland Area Soils.

The DEQ reserves its rights in regard to hazardous substances, as defined in Section 20101 of Part 201, Environmental Remediation, of Act 451, beyond those identified and addressed as a part of the revised Report. This approval does not convey any rights regarding unknown environmental conditions or compliance with other environmental laws and regulations.

Should you have any questions regarding this approval, please contact Mr. Al Taylor, of my staff, at 517-614-7335; taylora@michigan.gov; or DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741; or you may contact me.

Sincerely,

DeLores Montgomery, Chief
Hazardous Waste Section
Office of Waste Management and
Radiological Protection
517-284-6565

Enclosure
cc: Mr. Jose Cisneros, U.S. Environmental Protection Agency
Ms. Virginia Himich, DEQ
cc/enc: Mr. Greg Rudloff, U.S. Environmental Protection Agency
Mr. Jim Sygo, DEQ
Mr. Steve Sliver, DEQ
Mr. Phil Roycraft, DEQ
Ms. Trisha Confer, DEQ
Mr. Al Taylor, DEQ
Dr. Deb MacKenzie-Taylor, DEQ
Mr. Art Ostaszewski, DEQ
Mr. Dan Dailey, DEQ
Corrective Action File – Midland Area Soils

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING

RICK SNYDER
GOVERNOR

KEITH CREAGH
DIRECTOR

Michigan Department of Environmental Quality
Office of Waste Management and Radiological Protection

NOTICE OF FINAL DECISION

Midland Area Soils, Corrective Action Report
The Dow Chemical Company, Michigan Operations, Midland Plant
MID 000 724 724
July 21, 2016

On June 6, 2016, the Michigan Department of Environmental Quality (DEQ), Office of Waste Management and Radiological Protection (OWMRP), held two public open houses to receive comments on the Revised Corrective Action Report, Midland Area Soils (Report) submitted by The Dow Chemical Company (Dow), Michigan Operations, Midland Plant, located at 1790 Building, Midland, Michigan 48674, on May 6, 2016, as part of corrective action work required under the Hazardous Waste Management Facility Operating License Renewal (License) reissued to Dow by the DEQ in 2015 pursuant to Part 111, Hazardous Waste Management, of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), and the federal Resource Conservation and Recovery Act of 1976 (RCRA). The DEQ approved the Report on July 21, 2016.

A public comment period on the draft Report was announced in the Midland Daily News on May 6, 2016. Two public open houses were also held on June 6, 2016, from 3:00 p.m. to 5:00 p.m. and from 7:00 p.m. to 9:00 p.m. The public comment period extended from May 6, 2016 to June 20, 2016. On May 30, 2016, a notice regarding the two public open houses on the proposed Report also appeared in the DEQ Environmental Calendar, which is published every two weeks to provide public notice of pending public hearings, DEQ decisions, etc.

In accordance with Condition XI.B. of the License and R 299.9511 of the Part 111 administrative rules, the DEQ is required to respond to significant comments submitted during the public comment period and to describe any significant changes made to the draft Report. No significant public comments were received during the public comment period or at the public open houses. Therefore, no changes were made to the draft Report prior to approval.

The approved Report and Notice of Final Decision may be reviewed at the Reference Desk of the Grace A. Dow Memorial Library, 1710 West St. Andrews Street, Midland, Michigan, and the DEQ, Saginaw Bay District Office, 401 Ketchum Street, Suite B, Bay City, Michigan (contact Ms. Trisha Confer at 989-225-7968). The approved Report and related materials are also available at the DEQ, OWMRP, Constitution Hall, Atrium North, 525 West Allegan Street, Lansing, Michigan (contact Mr. Al Taylor at 517-614-7335) and at http://www.michigan.gov/deqdioxin under "Midland Area Soil Cleanup". Copies of the documents may be obtained for the cost of reproduction by sending your request to Mr. Al Taylor, DEQ, OWMRP, P.O. Box 30241, Lansing, Michigan 48909-7741 or taylora@michigan.gov. Depending upon the items requested, there may be a charge for reproduction and mailing costs.

This Notice of Final Decision is being sent to the individuals on the DEQ's Dow facility mailing list. To have your name added to or removed from the DEQ's Dow facility mailing list, please contact Ms. Amy Nevison at nevisona@michigan.gov or at 517-284-6562.

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 10:11:34 PM
To: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: Fwd: New York Times follow-up query re: Peter Wright

John and Nancy

Here is her reply.

My EPA cell is Personal Phone / Ex. 6
My personal cell Personal Phone / Ex. 6

I will have both with me all weekend.

Thank you for all of the tremendous support.

Peter

Sent from my iPhone

Begin forwarded message:

> **From:** "Tabuchi, Hiroko" <hiroko.tabuchi@nytimes.com>
> **Date:** July 27, 2018 at 6:00:53 PM EDT
> **To:** wright.peter@epa.gov
> **Subject: Fwd: New York Times follow-up query re: Peter Wright**
>
> Mr. Wright, I wasn't sure whether this email address was already working -- but I wanted to make sure you were aware of our questions to EPA regarding your appointment to the assistant administrator job. Let us know if you had any comments or are able to speak with us. Thanks, Hiroko
>
> Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi
>
> ---------- Forwarded message ----------
> From: **Tabuchi, Hiroko** <hiroko.tabuchi@nytimes.com>
> Date: Wed, Jul 25, 2018 at 1:51 PM
> Subject: New York Times follow-up query re: Peter Wright
> To: "Hewitt, James" <hewitt.james@epa.gov>
> Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
>
> Dear James,

Thanks again for getting me on the phone with Kevin Minoli regarding Peter Wright's nomination to become E.P.A. assistant administrator. Here are a series of facts and factual assertions and questions based on further reporting on Mr. Wright.

Our overall assertion is that Mr. Wright helped lead a team at Dow accused by regulators and Dow's own staff of submitting disputed data on dioxin contamination, misrepresenting scientific evidence, and delaying the cleanup at one of the country's most toxic sites.

We welcome responses to these questions individually and any clarifications or disagreements with factual assertions as well. Finally, we welcome any on the record statement you want to make. We ask for responses by EOB tomorrow (Thursday).

Hiroko and Tryggvi

212-556-2642 (Hiroko direct line)
917-615-4180 (Hiroko cell)

FACTUAL ASSERTIONS:

++Mr. Wright was born in LA and spent 19 years at Dow. Before Dow, he was employed by Monsanto. In 2003, he was named to the Michigan Dioxin Initiative, a five-person executive team at Dow tasked with designing and negotiating the details of a cleanup of dioxin and other contamination in the Tittawbassee and Saginaw watersheds. That river network flows some 50 miles into Lake Huron. Mr. Wright was the only lawyer on the team, and led its legal strategy.

++Mr. Wright has pointed to his work on the Michigan site as his biggest accomplishment. In a 2017 email to the E.P.A.'s chief of staff Ryan Jackson, Mr. Wright called it "the most controversial matter and single most publicly successful matter that I have worked on at Dow."

++DowDuPont has at least partial responsibility at 171 locations nationwide, or almost 14 percent of all sites on the E.P.A.'s list of priority Superfund cleanups, according to E.P.A. data. QUESTION: According to our analysis of the data, DowDuPont is linked to more NPL Superfund sites than any other company. Is this in line with E.P.A.'s analysis?

++In 2004 and 2005, state and federal officials twice discovered Dow contractors collecting soil samples along the Tittabawassee without telling regulators, which violated a Dow operating license. The unauthorized sampling not only prevented regulators from verifying Dow's results, state officials warned, but could enable Dow to identify hotspots in order to downplay them when designing cleanup plans. Mr. Wright was one of three Dow representatives on a May 2005 phone call with the E.P.A. and the M.D.E.Q. instructing the company to abide by the rules. Later, Michigan fined Dow $70,000 for the unauthorized sampling.

++Dow newsletters in 2004 to local residents stated that few health effects were tied to dioxin exposure, an assertion the E.P.A. has taken issue with. A study released by Dow also found that wild game — deer, turkey, squirrel — had elevated dioxin levels but was safe to eat. Michigan's health department disagreed and warned people not to eat the meat.

++Mr. Wright separately authored an article in 2005 on dioxin risk in the American Bar Association's Natural Resources and Environment, describing dioxin as "highly toxic to a variety of animal species but not to humans." This goes against the opinion of several dioxin experts we spoke to.

++Mr. Wright also participated in discussions with researchers and regulators about a Dow-funded study at the University of Michigan that had found that living on dioxin-contaminated soil was not associated with higher dioxin levels in the body. (E.P.A. officials at the time believed the study "was initiated at the request of Dow in order to downplay the risks of exposure.")

++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of progress in addressing the significantly elevated levels of dioxin and furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A. memo states.)

++In 2006, an independent lab testing company hired to validate Dow's data on contamination rejected Dow's numbers. The company, Project Enhancement Corporation, terminated its contract with Dow, citing the chemical company's "major technical noncompliance," and a "breakdown" in Dow's testing procedures, according to the termination letter it sent to Dow.

++Priscilla Denney, a senior environmental engineer on Mr. Wright's team, warned Dow about PEC's concerns. (Dow had changed the way it submitted its data while she was on maternity leave, making it impossible for a third party to validate Dow's results, particularly those that showed no levels of contamination.) She later claimed in a whistleblower suit that her concerns about Dow's data were ignored and that she had been demoted in retaliation. Mr. Wright, who was deposed as part of the case, said he helped investigate Ms. Denney's concerns. In the deposition, he also calls himself Dow's "dioxin lawyer."

++Dow submitted the data to the Michigan environmental regulator and to the E.P.A. in February 2007 without mentioning PEC's concerns

++In May 2008, then E.P.A. Region 5 administrator Mary Gade was forced to resign, after Dow appealed to officials in Washington, according to emails that have since been made public. Ms. Gade told the Chicago Tribune at the time that "there was no question" she had been pushed out because of pressure from Dow.

QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment, saying Dow's exposure to Superfund sites presents a major conflict of interest. Is this a fair assertion?

++When does E.P.A. expect the Michigan dioxin cleanup to be complete?

++What role did Dow play in the appointment of Mr. Wright to the E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/22/2018 1:14:58 PM
To: Cheatham, Reggie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c04c7b4fbf4d45108592282991c719cb-RCheatha]
CC: Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cogliano, Gerain [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4ba589a367194efd92030bfbe891a298-Cogliano, Gerain]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Gioffre, Patricia [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31f5c89e985847ecaeec14283e8fc914-PFLEMI02]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Clark, Becki [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a906e07f1cd143b9a3c2ddab813b8140-Clark, Becki]; Indermark, Michele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cf63a0730b3e4d89aa3b8ce9a5d9eab2-Indermark,]
Subject: RE: RMP Rule Vacatur Options Paper and Compliance Dates

Reggie

This is very helpful.

Thank you and the others at OEM who prepared these documents.

Peter

From: Cheatham, Reggie
Sent: Wednesday, August 22, 2018 8:51 AM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RMP Rule Vacatur Options Paper and Compliance Dates

Per our discussion yesterday, the team in RID pulled together an options paper to walk through how things potentially could unfold. We are still awaiting the results from discussions between DOJ and Industry and will update you when more information becomes available. Thoughts, comments and questions appreciated.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov

Doris Williams, Executive Assistant
202.564.0053

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 10:07:45 PM
To: Tabuchi, Hiroko [hiroko.tabuchi@nytimes.com]
CC: Konkus, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=555471b2baa6419e8e141696f4577062-Konkus, Joh]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: Re: New York Times follow-up query re: Peter Wright

Ms Tabuchi

I would like to refer you to my colleagues John and Nancy who I know you have been working with on your story.

Regards,

Peter Wright

Sent from my iPhone

On Jul 27, 2018, at 6:01 PM, Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com> wrote:

> Mr. Wright, I wasn't sure whether this email address was already working -- but I wanted to make sure you were aware of our questions to EPA regarding your appointment to the assistant administrator job. Let us know if you had any comments or are able to speak with us. Thanks, Hiroko
>
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> Date: Wed, Jul 25, 2018 at 1:51 PM
> Subject: New York Times follow-up query re: Peter Wright
> To: "Hewitt, James" <hewitt.james@epa.gov>
> Cc: Tryggvi Adalbjornsson <tryggvi.adalbjornsson@nytimes.com>
>
> Dear James,
>
> Thanks again for getting me on the phone with Kevin Minoli regarding Peter Wright's nomination to become E.P.A. assistant administrator. Here are a series of facts and factual assertions and questions based on further reporting on Mr. Wright.
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> Our overall assertion is that Mr. Wright helped lead a team at Dow accused by regulators and Dow's own staff of submitting disputed data on dioxin contamination, misrepresenting scientific evidence, and

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Hiroko and Tryggvi

212-556-2642 (Hiroko direct line)
917-615-4180 (Hiroko cell)

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++Mr. Wright's team was criticized by E.P.A. in the mid-2000s for stalling on the cleanup. ("E.P.A. is concerned with Dow's lack of progress in addressing the significantly elevated levels of dioxin and furan contamination in the Saginaw Bay watershed," a June 2007 E.P.A. memo states.)

++In 2006, an independent lab testing company hired to validate Dow's data on contamination rejected Dow's numbers. The company, Project Enhancement Corporation, terminated its contract with Dow, citing the chemical company's "major technical noncompliance," and a "breakdown" in Dow's testing procedures, according to the termination letter it sent to Dow.

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QUESTIONS:

++Does E.P.A. believe that any of the above in any way affect the suitability of Mr. Wright's appointment to the OLEM role, or his ability to carry out his tasks on the job?

++Some environmental groups have criticized Mr. Wright's appointment,

saying Dow's exposure to Superfund sites presents a major conflict of interest. Is this a fair assertion?

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++What role did Dow play in the appointment of Mr. Wright to the E.P.A. assistant administrator role?

++Any other on-the-record statement regarding the above?

Hiroko Tabuchi | Reporter | The New York Times | Phone 212-556-2642 | hiroko.tabuchi@nytimes.com | http://www.nytimes.com/by/hiroko-tabuchi

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 9:37:25 PM
To: Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
Subject: RE: Follow-up Information from EPA re: Peter Wright

Nancy

My weekend will be much better for your report.

Have a great weekend as well.

Peter

From: Grantham, Nancy
Sent: Friday, July 27, 2018 5:36 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: RE: Follow-up Information from EPA re: Peter Wright

Thanks .. have a great weekend.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Wright, Peter
Sent: Friday, July 27, 2018 5:35 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: Follow-up Information from EPA re: Peter Wright

Nancy

Thank you and our colleagues for all of your efforts on my behalf. I have nothing further to add or suggest. I do not have much in the way of hobbies. Over the last number of years, when away from work I have been very active with my college in alumni matters and working with undergraduates and with the ABA's Environmental Section (I have now had to give up formal positions with both).

Peter

From: Grantham, Nancy
Sent: Friday, July 27, 2018 5:19 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: FW: Follow-up Information from EPA re: Peter Wright
Importance: High

As discussed

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Grantham, Nancy
Sent: Friday, July 27, 2018 4:42 PM
To: Tabuchi, Hiroko <hiroko.tabuchi@nytimes.com>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Konkus, John <konkus.john@epa.gov>
Subject: Follow-up Information from EPA re: Peter Wright
Importance: High

Hiroko: Thank you for taking the time to speak with us earlier. Below are quotes from your call with EPA Region 5 career staff as well as some additional on-the-record quotes we would encourage you to use in your article.

Additionally, attached are three important documents for your reference: July 2106 letter from the Michigan DEQ on Midland; February 28 letter from John Milner, Chair of the ABA's Section on Environment, Energy, and Resources, supporting Mr. Wright's nomination; Mr. Wright's recusal statement.

Finally, below the quotes is background material to answer your other questions.

Quotes to use on the record:

"During Mr. Wright's tenure as Dow's in-house counsel, the company ultimately reached agreement with EPA to use CERCLA/Superfund authority to clean up the rivers and bay. Mr. Wright's work was critical in reaching these agreements with EPA that accelerated work at the site." – Jeff Kelley, EPA Region 5, Office of External Communications

Leverett Nelson (current Regional Counsel):

"Peter was notable for his professionalism, candor, cordiality and grace under pressure, and also had a practical sense of what needed to be done in order to successfully conclude the negotiations."

On Denney allegations:

"I don't recall a correlation between that event and the course of negotiations."

"I don't remember that there was any particular impact on the remedial work at the site. There was other data that was available that was reliable."

"If we had to throw out some samples, it probably had zero impact on our assessment of environmental conditions at the site."

Additional quote from Leveret Nelson: **"EPA Region 5 has been working for many years on Superfund and other hazardous waste cleanups at Dow sites in Michigan, including the Midland plant and the Tittabawassee River. In my experience, the working relationship between EPA's legal team and Dow's legal team headed by Mr. Wright has been a positive one – professional, cordial and largely productive."**

Robert Kaplan (former Regional Counsel) (current Special Policy Advisor)

"Through it all, I could talk to Peter one on one about positions or issues, and I found him to be professional in all his dealings."

"In negotiations especially in high profile matters, sometimes the dynamics of the negotiators matter. What could have been even a more high pressure controversial superheated negotiation came to fruition because of the team dynamics. And that had a lot to do with Peter Wright."

On earlier EPA concerns over Dow actions: **"The record speaks for itself. The EPA took action to take it from state lead to Superfund. And from 2007 or so we decided to take a different path."**

On background from Robert Kaplan: **There is nothing about "lead negotiator." I hope the reporter used what we said about Peter's role. He was not Dow's overall lead. He was their lead LEGAL counsel. That's important in characterizing the role appropriately.**

Background on Dioxin from the EPA Office of Research and Development and Office of Land and Emergency Management:

The study cited in Mr. Wright's 13-year old article was the basis for EPA's health effects study on dioxin. Since then EPA finalized its non-cancer science assessment for dioxin in 2012. The findings showed that generally, over a person's lifetime, current exposure to dioxins does not pose a significant health risk.

Over the past several years EPA has worked to reduce emissions from all of the major industrial sources of dioxins. As a result of efforts by EPA, state governments and industry, known and measurable air emissions of dioxins in the United States have been reduced by 90 percent from 1987 levels. The largest remaining source of dioxin emissions is backyard burning of household trash. Most Americans have low-level exposure to dioxins. The non-cancer health assessment for dioxin could be considered in a range of agency activities, from establishing cleanup levels at Superfund sites, to reviewing the dioxin drinking water standard as part of EPA's regularly scheduled review process, to evaluating whether additional Clean Air Act limits on dioxin emissions are warranted.

Background on Peter Wright:

Peter Wright was born in Connecticut and raised in Los Angeles, CA. Before Dow, he worked as an attorney at Bryan Cave LLP and the Monsanto Company. He began his legal career with the environmental practice group of Baker & Daniels (now Fagre Baker and Daniels).

Background on Peter Wright's work:

The Dow Chemical Company's Midland Plant is a manufacturing facility that began operations in 1897. The facility is located on 1,900 acres abutting the Tittabawassee River. The past disposal of various chemicals at the facility resulted in high levels of dioxins and furans in the Tittabawassee River and downstream in the Saginaw River and Bay, as well as on the facility and in the City of Midland.

Pursuant to a Resource Conservation and Recovery Act (RCRA) permit issued by the Michigan Department of Environmental Quality (MDEQ), Dow had been conducting corrective actions, including extensive facility investigations and interim response activities to address the dioxins and furans at the Midland Plant and off-site. As the MDEQ-supervised RCRA corrective action remedial investigations progressed, EPA and MDEQ recognized that investigations and early actions to protect public health would benefit from federal resources, in addition to MDEQ's RCRA resources. After evaluating the facility, EPA and MDEQ agreed that CERCLA authority could be used to complete off-site cleanup work on the river systems and floodplains, while the RCRA corrective action program focused on off-site corrective action in the City of Midland and on-site corrective action for the Midland Plant site. Splitting the lead agency responsibilities allowed more work to occur concurrently.

Between 2007 and 2009, Dow conducted six time-critical removals under CERCLA authority, with EPA oversight. Mr. Peter Wright was Dow's lead counsel in the negotiation of the six settlements under which these cleanups were performed. EPA, MDEQ, and Dow entered into a settlement in 2010 for Remedial Investigation, Feasibility Study and/or

Engineering Evaluation and Cost Analysis, and Response Design work (2010 ASAOC) which has provided the basis for further settlements to conduct non-time critical removal actions in the Tittabawassee River and its floodplain. Mr. Wright was Dow's lead counsel in the negotiation of the 2010 ASAOC. Between 2010 and 2017, EPA and Dow entered into seven separate CERCLA settlements under which Dow performed non-time-critical CERCLA removal actions at the site. Mr. Wright was Dow's lead counsel in the negotiation of the seven settlements under which these cleanups were performed. During this same timeframe, off-site cleanup was completed in the City of Midland under the RCRA permit and Mr. Wright was also legal counsel for this work.

More information about the CERCLA cleanup at the Tittabawassee River, Saginaw River & Bay Site is available on EPA's website at https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0503250.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/20/2018 4:42:46 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: EPW Hearing August 1

Troy

I would be glad to participate in the mini-murder board. I will review my hearing and the dialogue with Senator Booker on RMP.

Have a great weekend.

Peter

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This is a great team effort to get the Administrator ready for his first hearing. Thank you for your contributions—especially with such quick turnaround.

Many thanks,

Troy

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Please let us know if you have any questions or wish to discuss further.

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EPW
August 1, 2018

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- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker
- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
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- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***

- Des Moines TCE—Ernst ***
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- Mississippi Phosphate—Wicker ***

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- IRIS
- Vieques, Puerto Rico—Wicker

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Subject: RE: EPW Hearing August 1

My apologies—adding Brittany

From: Jackson, Ryan
Sent: Wednesday, July 18, 2018 2:40 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block,

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Subject: Re: EPW Hearing August 1

We also need to involve our career program office leads in these prep sessions as well. Certainly Charlotte and Barry in particular and I'd of course defer to the political heads of other program offices to determine briefer attendees.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Jul 18, 2018, at 2:21 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Please hold close--the Administrator has confirmed August 1st for his first hearing before EPW. This is a quick turnaround, so we will need everyone's assistance in preparing the Administrator.
>
> **Chris Beach**—could you please work on both written and oral testimony outlining the Administrator's priorities for the agency? Tony and Christian can provide any assistance you may need.
>
> **Program Offices**—OCIR has reached out to the program offices today to update the one pagers by next Wednesday, July 25. This will give a full weekend for the Administrator to review the material. We will schedule hearing prep the week of July 30th.
>
> _____
>
> **Troy M. Lyons**
> Associate Administrator
> Office of Congressional & Intergovernmental Relations
> U.S. Environmental Protection Agency
> 202-309-2490 (cell)

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/20/2018 4:40:52 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: FW: EPW Hearing August 1

Importance: High

Barry

This will let you know about what I understand to be changed process for briefing the Administrator in advance of a hearing.

Peter

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Sent: Wednesday, July 18, 2018 2:48 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: EPW Hearing August 1

My apologies—adding Brittany

From: Jackson, Ryan
Sent: Wednesday, July 18, 2018 2:40 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada,

Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: Re: EPW Hearing August 1

We also need to involve our career program office leads in these prep sessions as well. Certainly Charlotte and Barry in particular and I'd of course defer to the political heads of other program offices to determine briefer attendees.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Jul 18, 2018, at 2:21 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Please hold close--the Administrator has confirmed August 1st for his first hearing before EPW. This is a quick turnaround, so we will need everyone's assistance in preparing the Administrator.
>
> **Chris Beach**—could you please work on both written and oral testimony outlining the Administrator's priorities for the agency? Tony and Christian can provide any assistance you may need.
>
> **Program Offices**—OCIR has reached out to the program offices today to update the one pagers by next Wednesday, July 25. This will give a full weekend for the Administrator to review the material. We will schedule hearing prep the week of July 30th.
>
> _____
>
> **Troy M. Lyons**
> Associate Administrator
> Office of Congressional & Intergovernmental Relations
> U.S. Environmental Protection Agency
> 202-309-2490 (cell)

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/3/2018 10:19:28 AM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: Deliberative Process / Ex. 5

Barry and Steven

Thank you for your comments. I will have the changes made and the document cleaned up. I will be speaking within Kathleen today about the related recycling summit being developed and the engagement of NGOs, including community groups.

Peter

Sent from my iPhone

On Aug 2, 2018, at 11:38 PM, Breen, Barry <Breen.Barry@epa.gov> wrote:

> These look very good.
>
> Deliberative Process / Ex. 5
>
> On Aug 2, 2018, at 12:15 PM, Wright, Peter <wright.peter@epa.gov> wrote:
>
> Barry and Steve
>
> Deliberative Process / Ex. 5
>
> I appreciate that you are both out of the office and I would be glad to have the text of the Word document placed into an email so you would not have to open the attachments. Each is about a page and a half.

Your comments on substance and form are appreciated.

Peter

Deliberative Process / Ex. 5

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/13/2018 10:58:22 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: FUDS Background info

Barry and Steven

Deliberative Process / Ex. 5

Regards,

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Friday, July 13, 2018 3:43 PM
To: Wright, Peter <wright.peter@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: FUDS Background info

That would be perfect. I'm looking forward to that. Thank you.

-----Original Message-----
From: Wright, Peter
Sent: Friday, July 13, 2018 2:14 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: RE: FUDS Background info

Ryan

We have reviewed the material provided by DOD and consulted with colleagues in FFRRO and OBLR. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know when you think a briefing would be timely.

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. We would

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: Personal Phone / Ex. 6
Cell:

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 6:18:24 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
Subject: RE: Dioxin response

Jackie

Thank you for your efforts to address this during an already hectic day.

Peter

From: Harwood, Jackie
Sent: Friday, July 27, 2018 2:16 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: FW: Dioxin response

Hi Peter,

I meant to cc: you on this. Let me know if you have any questions.

Thanks.
Jackie

From: Grantham, Nancy
Sent: Friday, July 27, 2018 1:09 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Colip, Matthew <colip.matthew@epa.gov>; Bussard, David <Bussard.David@epa.gov>
Subject: RE: Dioxin response

Thanks much

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Harwood, Jackie
Sent: Friday, July 27, 2018 12:57 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Colip, Matthew <colip.matthew@epa.gov>; Bussard, David <Bussard.David@epa.gov>
Subject: FW: Dioxin response

Hi Nancy,

Here's what Barry Breen suggested after reviewing Dave's email below:

Deliberative Process / Ex. 5

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Grantham, Nancy
Sent: Friday, July 27, 2018 12:44 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Subject: FW: Dixoin response

Thanks . .are you going to send me a revised statement?

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Bussard, David
Sent: Friday, July 27, 2018 12:05 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Woolford, James <Woolford.James@epa.gov>; Bahadori, Tina <Bahadori.Tina@epa.gov>
Subject: Dixoin response

Jackie and Nancy,

Deliberative Process / Ex. 5

David A. Bussard

Director, Washington Division, National Center for Environmental Assessment (NCEA)
Office of Research and Development (ORD), USEPA
Tel: 202-564-4113; office RRB Room 71254

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:31 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: RE: calling you two about this now thanks ng

Look at the very last paragraph, that might help.

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bussard, David
Sent: Friday, July 27, 2018 11:30 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: calling you two about this now thanks ng

Sure. Let me take a minute more to see the structure of the Wright article.

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:29 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: RE: calling you two about this now thanks ng

Can you call me again? Might be easier . . .

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Bussard, David
Sent: Friday, July 27, 2018 11:28 AM

To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: calling you two about this now thanks ng

Do you know what OLEM cited as support for the Superfund cleanup standards?

From: Harwood, Jackie
Sent: Friday, July 27, 2018 11:16 AM
To: Bussard, David <Bussard.David@epa.gov>
Subject: FW: calling you two about this now thanks ng

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Grantham, Nancy
Sent: Friday, July 27, 2018 10:10 AM
To: Colip, Matthew <colip.matthew@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: calling you two about this now thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

From: Hubbard, Carolyn
Sent: Friday, July 27, 2018 10:08 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: does this look okay? want to share with olem next thanks ng

Deliberative Process / Ex. 5

Carolyn Hubbard
Communications Director
EPA Office of Research and Development
202-564-2189
202-379-6744

From: Grantham, Nancy
Sent: Friday, July 27, 2018 10:03 AM
To: Hubbard, Carolyn <Hubbard.Carolyn@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: does this look okay? want to share with olem next thanks ng

Deliberative Process / Ex. 5

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Ex. 6 (mobile)

Message

From: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Sent: 7/24/2018 9:32:26 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]
CC: Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: FW: Draft FUDs Scenarios
Attachments: FUDs Scenarios V2.docx

See below from OBLR…
Nick

Nicholas J. Hilosky
Special Assistant
Office of Land and Emergency Management
US Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460
ph: 202-566-1942; fax: 202-566-0207
mobile: 202-368-0724

From: Overmeyer, Patricia
Sent: Tuesday, July 24, 2018 4:22 PM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Lloyd, David <Lloyd.DavidR@epa.gov>; Lentz, Rachel <Lentz.Rachel@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>
Subject: Draft FUDs Scenarios

Nick:

As follow up to our meeting with Barry, Peter, and Steven last week, the team has pulled together descriptions

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Could you please share the attached with Barry, Peter and Steven? Then please let us know what they may need in the form of next steps.

Thanks,
Patricia

Patricia Overmeyer
EPA Office of Brownfields and Land Revitalization
202-566-2774

Message

From: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Sent: 7/11/2018 8:29:25 PM
To: Wright, Peter [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=11616a3db06f4eceb13ea26c7e6dc1f0-Wright, Pet]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: FUDS Background info
Attachments: FUDS 06052018_v1.docx; TAB D - ESOH Pilot Program for FUDS Cleanups.docx

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone: Personal Phone / Ex. 6
Cell:

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/13/2018 6:13:33 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: FUDS Background info

Ryan

We have reviewed the material provided by DOD and consulted with colleagues in FFRRO and OBLR. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know when you think a briefing would be timely.

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)
Phone:
Cell: Personal Phone / Ex. 6

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/2/2018 9:22:11 PM
To: Lloyd, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3deede75db8e44a790b2f73debf00e12-Lloyd, David]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Kackar, Adhir [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a4a500388f094cf6869b652e5dd07a3f-AKackar]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Dalbey, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=163a0950019048d598e22c167ef6aa33-Dalbey, Matthew]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]
Subject: RE: Presentation describing OBLR's Land Revitalization Tools

David

Thank you for sharing these materials. They are very well organized and really showcase the great work the OLBR does across the country.

Peter

From: Lloyd, David
Sent: Thursday, August 2, 2018 2:08 PM
To: OLEM OBLR <OLEMOBLR@epa.gov>; OLEM Brownfields Leadership Forum <OLEM_Brownfields_Leadership_Forum@epa.gov>; OLEM SF Reg DDs <OLEMSFRegDDs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>; Dalbey, Matthew <Dalbey.Matthew@epa.gov>; Kackar, Adhir <Kackar.Adhir@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: Presentation describing OBLR's Land Revitalization Tools

Colleagues, FYI, attached is a presentation that describes OBLR's Land Revitalization Tools. These tools were developed by our HQ Team working with the Regional and Program Offices' Land Revitalization Coordinators. If you have questions, please contact Aimee Storm at 202-566-0633.

David R. Lloyd, Director
Office of Brownfields and Land Revitalization
U.S. Environmental Protection Agency
Washington, DC
202-566-2731

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/9/2018 10:50:21 PM
To: Colip, Matthew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb142ab3fb174f0ea41a87668c7fb641-Mcolip]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Simon, Nigel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2f1084d32324dcd965683a9d2f09764-Simon, Nigel]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
Subject: RE: primary OLEM webpages for reference

Matt

Thank you. This will be very useful to me.

Peter

From: Colip, Matthew
Sent: Thursday, August 9, 2018 6:19 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: primary OLEM webpages for reference

Hi Peter,

Following-up to your request during the communications meeting on Monday for a list of primary OLEM webpages, below is an initial list sorted by office/topic area. I'll send additional webpages going forward for reference.

Office of Superfund Remediation and Technology Innovation (OSRTI)

Superfund - https://www.epa.gov/superfund

Federal Facilities Restoration and Reuse Office (FFRRO)

Cleanups at Federal Facilities - https://www.epa.gov/fedfac

Office of Brownfields and Land Revitalization (OBLR)

Brownfields - https://www.epa.gov/brownfields

Office of Resource Conservation and Recovery (ORCR)

RCRA - https://www.epa.gov/rcra

State Authorization Under RCRA - https://www.epa.gov/rcra/state-authorization-under-resource-conservation-and-recovery-act-rcra

Hazardous Waste Generators - https://www.epa.gov/hwgenerators

Sustainable Materials Management - https://www.epa.gov/smm

Office of Emergency Management (OEM)

Emergency Response - https://www.epa.gov/emergency-response

Emergency Planning and Community Right-to-Know Act (EPCRA) - https://www.epa.gov/epcra

Risk Management Plan - https://www.epa.gov/rmp

Office of Underground Storage Tanks (OUST)

Underground Storage Tanks - https://www.epa.gov/ust

Office of Communications, Partnerships, and Analysis (OCPA)

Cleaning-up, Protecting, and Preserving Tribal Lands - https://www.epa.gov/tribal-lands

Re-Powering America's Land Initiative - https://www.epa.gov/re-powering

Agency-wide topic webpages

Per- and Polyfluoroalkyl Substances (PFAS)- https://www.epa.gov/pfas

Lead - https://www.epa.gov/lead

Please let me know if you have any questions.

Thanks,
Matt

Matthew Colip
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
Office: 202-566-2641
Mobile: 202-597-1887

Follow us on Twitter @EPALand

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/25/2018 1:01:00 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Attachments: OEM.Chem Facility RMP.v2.docx

Jackie

Please find my comments on the RMP writeup.

Peter

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 10:36 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions
Importance: High

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    - Hoosick Falls—Gilliland
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    - Passaic River—Booker
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    - Berry's Creek—Booker ***
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    - Role of States in SF Program
    - Superfund Task Force (Not attached, providing press release instead of fact sheet)

3. **Questions (with answers) that OLEM program offices provided for you to use at Wheeler briefing.**

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 5:35 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FOR YOUR REVIEW: Initial Fact Sheets for Wheeler's briefing
Importance: High

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    - Mississippi Phosphate—Wicker ***

NOTE: Peter will not participate in these site discussions:

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   - Superfund Remedial Cleanup Program
   - Superfund Special Accounts
   - Superfund Task Force
   - Role of States in SF Program
   - Hazard Ranking System Revision

Jackie Harwood
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Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/27/2018 5:32:40 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
Subject: Secondary Topic Talking Points
Attachments: OLEM Talking Points #2.docx

Jackie

Attached are the draft talking points for the secondary topics. I realize I need to add something to the RMP and I will do that separately.

Thank you.

Peter

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/25/2018 12:37:12 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]
Subject: RE: 2nd Email: FOR YOUR REVIEW: Additional Fact Sheets & Wheeler Briefing Questions

Jackie

Thank you and your team for working on these so late to help meet the challenging deadline. I will have comments on RMP, I think CCR needs a bit and a couple of minor comments on Brownfields. The Farm write up seems fine. What others should I focus on this morning?

Peter

From: Harwood, Jackie
Sent: Tuesday, July 24, 2018 10:36 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
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Jackie Harwood
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U.S. Environmental Protection Agency
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Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
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Follow OLEM on Twitter: @EPALand

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/25/2018 7:43:37 PM
To: Hewitt, James [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41b19dd598d340bb8032923d902d4bd1-Hewitt, Jam]
Subject: RE: to confirm

Jim

Here is a link to the Science Advisory Board for the University of Michigan Dioxin Exposure Study https://sph.umich.edu/dioxin/scientific-advisory-board.html. Linda Birnbaum is at NIH/NIEHS birnbaumls@niehs.nih.gov. She and the other members of the Science Advisory Board did not work for the the University of Michigan.

Peter

From: Hewitt, James
Sent: Wednesday, July 25, 2018 3:31 PM
To: Wright, Peter <wright.peter@epa.gov>
Subject: to confirm

"We recommend reaching out Linda Beirmbuam of the University of Michigan who chaired the science advisory board for the study." ?

James Hewitt
Environmental Protection Agency
Press Secretary
(202) 578-6141

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/29/2018 10:40:05 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: RMP

Steven

Thank you,

Peter

Sent from my iPad

On Jul 29, 2018, at 5:53 PM, Cook, Steven <cook.steven@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Cook, Steven" <cook.steven@epa.gov>
Date: July 29, 2018 at 5:51:20 PM EDT
To: adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>
Cc: "Lyons, Troy" <lyons.troy@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>
Subject: Re: RMP

I have confirmed that the inspection point should have been included in this rewrite. We will provide an updated RMP paper with this revision Monday morning.

Sent from my iPhone

On Jul 29, 2018, at 4:27 PM, adm15.arwheeler.email <adm15.arwheeler.email@epa.gov> wrote:

Deliberative Process / Ex. 5

Sent from my iPhone

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/20/2018 1:22:46 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: FW: EPW Hearing August 1
Attachments: 8-1-18 EPW Topics v1.docx

Importance: High

Barry

Here is the note with the list of topics for which the Administrator will need to be briefed.

Peter

From: Lyons, Troy
Sent: Thursday, July 19, 2018 2:42 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Wright, Peter <wright.peter@epa.gov>; McIntosh, William <mcintosh.william@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chancellor, Erin <chancellor.erin@epa.gov>
Subject: RE: EPW Hearing August 1
Importance: High

As I mentioned yesterday—OCIR's career liaisons have reached out to their counterparts in your respective program offices for updated fact sheets. For your reference, you will find a list of topics for which we will need to brief the Administrator. You will receive an invitation from scheduling once we lock in times to brief Andrew.

Please let us know if you have any questions or wish to discuss further.

Hearing Prep—Topics
EPW
August 1, 2018

OAR

- CAFE—Carper
- California Waiver—Carper
- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker

- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
- Uranium Tailings—Barrasso

OARM

- Chesapeake Bay Office—Cardin, Van Hollen
- Kansas City Lab--Moran
- Region V Office—Duckworth
- Workforce Issues

OCFO

- Budget Overview

OCSPP

- Chlorpyrifos—Carper
- Formaldehyde—Markey
- Methylene Chloride—Markey
- TSCA Implementation—Carper, Markey
- TSCA Animal Testing Protections—Booker
- Worker Protection Standards—Booker
- PRIA
- Dicamba—Rounds

OECA

- Enforcement Priorities
- Chicago Manganese—Duckworth

OGC

- Sue & Settle

OLEM

- Coal Ash—Markey
- Brownfields
- Lead Exposure at Superfund Sites
- Risk Management Plan—Cardin
    - Chlorosulfonic Acid: Solvay Industries 2017 Release, Baltimore
- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Portland Harbor—Merkley ***
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

*** Administrator's Emphasis List

OP

- Environmental Justice—Booker

OW

- WOTUS—Carper, Sanders, Whitehouse, Merkley, Booker, Markey, Cardin, Gillibrand, Duckworth
- Lead
  - Chicago Drinking Water—Duckworth
- Chesapeake Bay Funding—Cardin, Van Hollen
- Great Lakes Funding—Duckworth
- Pebble Mine—Carper
- PFAS—Gillibrand
- ASTDR Study on PFAS—Gillibrand (Westhampton Beach, Air National Guard Base),
- WIFIA—Boozman
- Small Drinking Water Systems—Wicker

ORD

- Science Advisory Boards—Carper, Whitehouse
- Science Transparency—Merkley
- IRIS
- Vieques, Puerto Rico—Wicker

From: Lyons, Troy
Sent: Wednesday, July 18, 2018 2:48 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: EPW Hearing August 1

My apologies—adding Brittany

From: Jackson, Ryan
Sent: Wednesday, July 18, 2018 2:40 PM
To: Lyons, Troy <lyons.troy@epa.gov>
Cc: Molina, Michael <molina.michael@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Block, Molly <block.molly@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Beach, Christopher <beach.christopher@epa.gov>; Morgan, Ashley <morgan.ashley@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Hanson, Paige (Catherine) <hanson.catherine@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>
Subject: Re: EPW Hearing August 1

We also need to involve our career program office leads in these prep sessions as well. Certainly Charlotte and Barry in particular and I'd of course defer to the political heads of other program offices to determine briefer attendees.

Ryan Jackson
Chief of Staff
U.S. EPA
202-564-6999

On Jul 18, 2018, at 2:21 PM, Lyons, Troy <lyons.troy@epa.gov> wrote:

> Please hold close--the Administrator has confirmed August 1st for his first hearing before EPW. This is a quick turnaround, so we will need everyone's assistance in preparing the Administrator.
>
> **Chris Beach**—could you please work on both written and oral testimony outlining the Administrator's priorities for the agency? Tony and Christian can provide any assistance you may need.
>
> **Program Offices**—OCIR has reached out to the program offices today to update the one pagers by next Wednesday, July 25. This will give a full weekend for the Administrator to review the material. We will schedule hearing prep the week of July 30th.
>
> _____
>
> **Troy M. Lyons**
> Associate Administrator
> Office of Congressional & Intergovernmental Relations
> U.S. Environmental Protection Agency
> 202-309-2490 (cell)

Hearing Prep—Topics
EPW

August 1, 2018

OAR

- CAFE—Carper
- California Waiver—Carper
- Clean Power Plan—Carper, Whitehouse, Merkley, Gillibrand, Booker
- Cross State Air Pollution—Carper
- Glider Kits—Carper
- New Source Review—Carper
- Once in, Always In—Carper
- Kigali Amendment/Hydrofluorocarbons (HFC's)—Carper
- RFS (Pro)—Ernst, Moran, Rounds, Duckworth
- Small Refinery Exemptions—Ernst, Fischer
- Uranium Tailings—Barrasso

OARM

- Chesapeake Bay Office—Cardin, Van Hollen
- Kansas City Lab--Moran
- Region V Office—Duckworth
- Workforce Issues

OCFO

- Budget Overview

OCSPP

- Chlorpyrifos—Carper
- Formaldehyde—Markey
- Methylene Chloride—Markey
- TSCA Implementation—Carper, Markey
- TSCA Animal Testing Protections—Booker
- Worker Protection Standards—Booker
- PRIA
- Dicamba—Rounds

OECA

- Enforcement Priorities
- Chicago Manganese—Duckworth

OGC

- Sue & Settle

OLEM

- Coal Ash—Markey
- Brownfields
- Lead Exposure at Superfund Sites
- Risk Management Plan—Cardin
    - Chlorosulfonic Acid: Solvay Industries 2017 Release, Baltimore
- Superfund Program
    - Passaic River—Booker
    - Lower Hackensack River—Booker
    - American Cyanamid Company—Booker ***
    - Berry's Creek—Booker ***
    - Delaware Sand & Gravel—Carper ***
    - Des Moines TCE—Ernst ***
    - Hudson River Super Fund Site—Gillibrand
    - Hoosick Falls—Gilliland
    - Portland Harbor—Merkley ***
    - Centredale Manor Restoration Projects—Whitehouse ***
    - Mississippi Phosphate—Wicker ***

*** Administrator's Emphasis List

OP

- Environmental Justice—Booker

OW

- WOTUS—Carper, Sanders, Whitehouse, Merkley, Booker, Markey, Cardin, Gillibrand, Duckworth
- Lead
    - Chicago Drinking Water—Duckworth
- Chesapeake Bay Funding—Cardin, Van Hollen
- Great Lakes Funding—Duckworth
- Pebble Mine—Carper
- PFAS—Gillibrand
- ASTDR Study on PFAS—Gillibrand (Westhampton Beach, Air National Guard Base),
- WIFIA—Boozman
- Small Drinking Water Systems—Wicker

ORD

- Science Advisory Boards—Carper, Whitehouse
- Science Transparency—Merkley

- IRIS
- Vieques, Puerto Rico—Wicker

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/29/2018 8:58:12 PM
To: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: RMP

Steven

It sounds like Andrew might not received the very latest draft of this one pager. I mentioned this point in the oral briefing on Friday morning. I did not initially include that point when revising the talking points and then thought I had, but it sounds like that did not go to Andrew. We can fix that in the morning and have Jackie submit an updated draft.

Peter

Sent from my iPad

On Jul 29, 2018, at 4:37 PM, Cook, Steven <cook.steven@epa.gov> wrote:

> Any thought on this one?
>
> Sent from my iPhone
>
> Begin forwarded message:
>
> > **From:** adm15.arwheeler.email <adm15.arwheeler.email@epa.gov>
> > **Date:** July 29, 2018 at 4:27:21 PM EDT
> > **To:** "Cook, Steven" <cook.steven@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>
> > **Subject: RMP**
>
> **Deliberative Process / Ex. 5**
>
> Sent from my iPhone

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/15/2018 1:43:51 PM
To: Darwin, Veronica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc98aaf2f15a466baede3dab0e27a35e-Darwin, Ver]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: Re: metrics; abandoned mines, rulemakings

Veronica

Thank you for the information and suggestions. I look forward to further discussions.

Peter

Sent from my iPad

On Aug 15, 2018, at 5:57 AM, Darwin, Veronica <darwin.veronica@epa.gov> wrote:

> Good Morning,
> As a follow-up to my discussion with Steven on Monday, I reached out to Katherine Dawes who is working on posting performance measures in OLEM's IO. I have asked to meet with her on Friday to discuss progress thus far – will have an update for you by the end of the week. Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5
>
> Deliberative Process / Ex. 5 hanks. Happy to discuss.
> Veronica

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/11/2018 8:45:31 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
CC: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]
Subject: RE: FUDS Background info

Ryan

Thank you for sharing this with us.

I will discuss with Barry and Steven and we will be in touch with you about briefing Andrew.

Peter

-----Original Message-----
From: Jackson, Ryan
Sent: Wednesday, July 11, 2018 4:29 PM
To: Wright, Peter <wright.peter@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Subject: FW: FUDS Background info

Gentlemen --

Deliberative Process / Ex. 5

Thanks

Ryan.

-----Original Message-----
From: Niemeyer, Lucian L II HON OSD OUSD ATL (US) [mailto:lucian.l.niemeyer.civ@mail.mil]
Sent: Tuesday, July 10, 2018 4:54 PM
To: Wheeler, Andrew <wheeler.andrew@epa.gov>
Cc: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: FUDS Background info

Andrew: Thanks for the call and follow-up. Here is some background information for your staff. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

USACE website with overview https://www.usace.army.mil/Missions/Environmental/Formerly-Used-Defense-Sites/

I wrote an article on the topic last year. https://www.cato.org/publications/commentary/turning-former-military-bases-economic-development

Deliberative Process / Ex. 5

Congratulations again.

Respectfully,

Lucian Niemeyer, ASD (EIE)

Phone:
Cell: Personal Phone / Ex. 6

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/20/2018 9:30:40 PM
To: Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]
Subject: RE: FUDs Debrief - First Draft

Barry

Thank you. I look forward to reviewing all of information you have linked and referenced.

Peter

From: Breen, Barry
Sent: Monday, August 20, 2018 5:25 PM
To: Wright, Peter <wright.peter@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: FUDs Debrief - First Draft

I spent some time working on this today.

1. There is an office within Lucien's part of DOD called the Office of Economic Adjustment. Here is their website: http://www.oea.gov/ Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

2. Lucien testified before the House Armed Services Committee in April. Here is the written testimony: https://docs.house.gov/meetings/AS/AS03/20180418/108135/HHRG-115-AS03-Wstate-NiemeyerL-20180418.PDF

Deliberative Process / Ex. 5

3. In addition to the written testimony, the press summary is potentially helpful too – Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

https://federalnewsradio.com/dod-reporters-notebook-jared-serbu/2018/04/in-lieu-of-brac-dod-plans-big-spending-to-demolish-crumbling-facilities/

All this is of course preparatory to further discussions.

From: Wright, Peter
Sent: Friday, August 17, 2018 4:51 PM
To: Falvo, Nicholas <falvo.nicholas@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>
Subject: RE: FUDs Debrief - First Draft

Nick

Thank you for the write up. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Peter

From: Falvo, Nicholas
Sent: Friday, August 17, 2018 3:50 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Subject: FUDs Debrief - First Draft

Deliberative Process / Ex. 5

Nicholas Falvo
Environmental Protection Agency
Office of the Administrator
Falvo.Nicholas@epa.gov
Office: (202) 564-5075
Cell: (202) 760-0581

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 7/19/2018 2:34:34 AM
To: Block, Molly [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60d0c681a16441a0b4fa16aa2dd4b9c5-Block, Moll]
CC: Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Chancellor, Erin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae6aeabeca754643bdb01c9f5b653ca6-Chancellor,]; Falvo, Nicholas [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=424ac90ea7d8494a93209d14d37f2946-Falvo, Nich]; Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]
Subject: Re: FOR APPROVAL: RE: R5 draft press release to announce $26.6 million RCRA cleanup at DuPont in E. Chicago -TBA 8AM, Fri., 7/20

All

I am recused from working on DuPont matters due to the Dow DuPont merger. I will not review or comment.

Peter

Sent from my iPhone

On Jul 18, 2018, at 5:07 PM, Block, Molly <block.molly@epa.gov> wrote:

> Please review the press release attached from Region 5 on the cleanup for the DuPont/Chemours RCRA site in East Chicago. Please let me know if you have any questions or edits. Thank you!

Deliberative Process / Ex. 5

<DUPONT RELEASE 7-18.approvedDRAFT mb.docx>

Message

From: Wright, Peter [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=11616A3DB06F4ECEB13EA26C7E6DC1F0-WRIGHT, PET]
Sent: 8/22/2018 10:19:01 PM
To: Harwood, Jackie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=958567b57d5b4940a7c5fd04095f6964-Jharwood]
CC: Hilosky, Nick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=39e1182ac8cd4709ae0787ca4a068d2d-NHilosky]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Breen, Barry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1b44bce1a71e4a95acaf82f2fbc858b0-BBREEN]; Benjamin, Kent [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4ef714fe2d04e6991e769140ec001d0-Benjamin, Kent]; Cook, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=394f5dede6184bc083cf9390e49a192c-Cook, Steve]; Manges, Ellen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8be200f0d7a5401487e84ca0128b0484-Manges, Ellen]
Subject: RE: URGENT: Need Barry/Steven/Peter review before 3pm Thursday

Jackie

I have only one change to these well drafted responses.

Deliberative Process / Ex. 5

Peter

From: Harwood, Jackie
Sent: Wednesday, August 22, 2018 6:04 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>
Subject: URGENT: Need Barry/Steven/Peter review before 3pm Thursday
Importance: High

Hi Barry, Steven and Peter,

Attached are OLEM's draft responses to the questions for the record (QFRs) sent to Acting Administrator Wheeler after his SEPW hearing on 8/1 – for your review. These responses have all been reviewed by the OLEM Office Directors, and OGC reviewed all but #53 (Superfund and climate change). I reviewed them all as well.

These are due to OCIR by 3:00 pm tomorrow (Thursday), which as you've probably heard, is a very firm deadline. Please get back to me with any comments or edits before 3:00 pm if possible.

And let me know if you have any questions or concerns.

Thank you.
Jackie

Jackie Harwood
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand