To: Mack, Karyllan Dodson[Karyllan.Mack@klgates.com]
Cc: Hyatt, Jr., William[william.hyatt@klgates.com]; Monsen, Dawn M.[dawn.monsen@klgates.com]
From: Flanagan, Sarah
Sent: Thur 6/13/2013 7:07:40 PM
Subject: RE: LPRSA RI/FS Trust - Occidental Chemical Corporation Share

Karyllan,

I apologize that we have not responded yet to the CPG's request for a second extension of the time to pay the remaining balance of the May 8, 2013 payment to the RI/FS trust fund, of $3,043,269. We have been pulled in a number of directions this week and I have not had a chance to circle back with Ray Basso and Stephanie Vaughn. I hope to get back to you next week on this request, as well as the various requests the CPG has made for information about EPA's Bill for Collection.

I can offer information about the peer review comments, however. EPA is preparing a report that documents the peer review process, appended to which will be the comments and EPA's response to the comments, showing which we have implemented, which we will provide to the CPG. We expect to release the report in August.

Your email says that if we are going to release the peer review comments, you would withdraw that request. Could you let me know the CPG's intention in that regard? The peer review comments would be responsive to the first part of the FOIA request, EPA-R2-2013-007149, submitted by Robert La Gravenis, but the request also goes way beyond just a request for the comments, and seeks "all documents relating to and resulting from" the peer review. Responding to this request would require us to collect a potentially large volume of notes, emails, drafts, and other internal documents, which we will then have to review for FOIA exemptions. If it is not necessary to undertake this work, please let me know.

Thanks

-Sarah

Sarah P. Flanagan
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From: Mack, Karyllan Dodson [mailto:Karyllan.Mack@klgates.com]
Sent: Friday, June 07, 2013 1:53 PM
To: Flanagan, Sarah
Cc: Hyatt, Jr., William; Monsen, Dawn M.; Mack, Karyllan Dodson
Subject: RE: LPRSA RI/FS Trust - Occidental Chemical Corporation Share

Sarah,

The Group would appreciate the additional time to collect the funding shortfall due to Tierra, Maxus and Occidental's (T/M/O) failure to pay. This reflects a significant sum of money that all other members are being asked to cover. The Group is also considering a response to Carol's recent letter regarding coordination. An extension could provide additional opportunity to try to obtain some contribution from T/M/O. Finally, as we have discussed in the past, the Group would appreciate any assistance EPA can provide in encouraging T/M/O to contribute to the RI/FS Trust Fund. As a signatory to the RI/FS AOC, Occidental has an obligation to fund the RI/FS Study.

Regarding the account balance, we will coordinate with de maximis to ensure that the Trust Fund does not drop below $1M. If we anticipate that it will, we will make additional incremental payments as necessary to keep it above $1M.

Finally, attached is a copy of the FOIA request we mentioned during a call earlier this week. As I understand it, during the June 5 meeting, Ray Basso indicated to our consultants that he was working on a response to the request for the peer review comments. If EPA has decided to provide the comments, we will withdraw that request.

Please let me know if you have any questions.

Thanks,

Karyllan

From: Flanagan, Sarah [mailto:Flanagan.Sarah@epa.gov]
Sent: Thursday, June 06, 2013 6:26 PM
To: Hyatt, Jr., William; Mack, Karyllan Dodson
Cc: Mack, Karyllan Dodson
Subject: LPRSA RI/FS Trust - Occidental Chemical Corporation Share

Bill and Karyllan,

I am following up on our call on June 4, 2013, in which you asked if the CPG could have another extension of the time to pay the remaining balance of the May 8, 2013 payment to the RI/FS trust fund, of $3,043,269. In April, you asked to extend the time to July 22, 2013, and EPA agreed, as long as the balance in the account did not drop below $1,000,000. Now the CPG has asked to extend the payment again, to August 22, 2013.

First, I neglected to ask you on June 4, but could you explain the reason for the requested extension to August 22?

Second, looking at account statement from the end of April, and invoices submitted for payment since then, I see that as of mid-June, after the payment of the recently submitted invoices, the balance will be approximately $2.47 million. The CPG is in a better position that EPA to know if $1.47 million will suffice to pay any invoices that come due before August 22, 2013 (consistent with the goal of not allowing the balance to drop below $1 million). Certainly in the last several months, the payment amounts have been averaging over $1 million per month. Can you give me a sense of what your projections are for the period between now, and the end of August when the CPG is proposing to make the last increment of the payment?

Thanks – I look forward to hearing from you.

-Sarah

Sarah P. Flanagan

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From: Monsen, Dawn M. [mailto:dawn.monsen@klgates.com]
Sent: Tuesday, April 09, 2013 3:34 PM
To: Flanagan, Sarah
Cc: Hyatt, Jr., William; Mack, Karyllan Dodson
Subject: RE: LPRSA RI/FS Trust - Occidental Chemical Corporation Share

Thanks, Sarah.

From: Flanagan, Sarah [mailto:Flanagan.Sarah@epa.gov]
Sent: Tuesday, April 09, 2013 9:02 AM
To: Monsen, Dawn M.
Cc: Hyatt, Jr., William; Mack, Karyllan Dodson
Subject: RE: LPRSA RI/FS Trust - Occidental Chemical Corporation Share

Dawn,

This will confirm that EPA does not object to the CPG's proposal, described below, to deposit less than the full amount due to be paid into the RI/FS Trust Account by May 8, 2013 ($7,156,731 as opposed to $10,200,000). Based on the CPG's representations, we understand that the balance should be paid by Occidental Chemical Corporation pursuant to the terms of the CPG's agreement, and that additional time is needed to collect that amount from Occidental. We also understand that if Occidental fails to pay, the CPG will raise the funds to pay the remaining amount from among the CPG.

The CPG plans to pay any remaining amount not paid by Occidental by July 22, 2013. This is fine as long as the amount in the RI/FS trust account does not drop below $1,000,000.

Please let me know if you have any questions or concerns.

-Sarah

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From: Monsen, Dawn M. [mailto:dawn.monsen@klgates.com]
Sent: Monday, April 08, 2013 5:48 PM
To: Flanagan, Sarah
Cc: Hyatt, Jr., William; Mack, Karyllan Dodson
Subject: RE: LPRSA RI/FS Trust - TMO Share

Sarah,

The amount would be $3,656,731.

Dawn

From: Flanagan, Sarah [mailto:Flanagan.Sarah@epa.gov]
Sent: Monday, April 08, 2013 5:30 PM

To: Monsen, Dawn M.
Cc: Hyatt, Jr., William; Mack, Karyllan Dodson
Subject: RE: LPRSA RI/FS Trust - TMO Share

Dawn,

I have discussed this with Ray and Stephanie and we just have one question: what is the amount that the CPG would deposit on or before May 7, 2013?

-Sarah

Sarah P. Flanagan
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From: Monsen, Dawn M. [mailto:dawn.monsen@klgates.com]
Sent: Monday, April 08, 2013 4:52 PM
To: Flanagan, Sarah
Cc: Hyatt, Jr., William; Mack, Karyllan Dodson
Subject: LPRSA RI/FS Trust - TMO Share

Sarah,

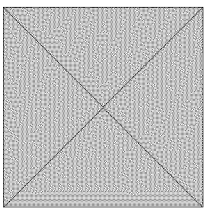
In follow-up to our call last week, below are the due dates of the RI/FS Trust Fund invoices that have or will be issued to Tierra, Maxus and Occidental (TMO) under the terms of the CPG's Organization Agreement. As indicated, the Group will not know whether Occidental will make its payment until June 12. In the meantime, we are continuing to encourage TMO to pay their share and would request that EPA do the same, as Occidental remains a signatory to the RI/FS AOC. If TMO does not pay, the Group members will have to raise funds to cover the TMO share. Accordingly, and in light of the timing, the Group requests an extension of time for payment of TMO's share into the RI/FS Trust until July 22.

The Group has already prepaid $3.5M into the RI/FS Trust to date and will deposit the shares of all CPG members on or before May 7, 2013 in accordance with the Fifth Amendment to Trust Agreement. We believe these funds will be sufficient to cover RI/FS work until the full balance can be deposited.

- Invoice issued to Tierra on January 11 with a due date of February 11 - not paid
- Invoice issued to Maxus on February 28 with a due date of March 13 (i.e., 30 days of Tierra's non-payment) - not paid
- Invoice will be issued to Occidental on or before May 13 (i.e., 60 days of Maxus' non-payment) with a due date of June 12 - TBD
- If Occidental does not pay its share, invoices for the TMO share will be issued to the CPG members on June 13, with a due date of July 15 .
- A due date of July 22 allows the CPG an additional week to collect any outstanding invoices and make the transfer into the RI/FS Trust.

Please let us know if you have any questions or wish to discuss. Thank you for your consideration.

Dawn



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