To: Peterson, Mary[Peterson.Mary@epa.gov]
Cc: Thomas, Hattie[Thomas.Hattie@epa.gov]
From: Emshwiller, John
Sent: Mon 2/24/2014 5:31:02 AM
Subject: WSJ FOLLOW-UP QUESTIONS TO EPA responses to Westlake questions

Mary,

Thanks for the responses. I have some follow-up questions.

1. I have been told that the National Remedy Review Board came under pressure from EPA headquarters officials to water-down or soften its recommendations regarding the West Lake landfill. I have also been told that such pressure was intense and extremely unusual, possibly unheard of, in the nearly 20-year history of the board. Does the EPA have any comment on such claims?

2. I was told that the board was critical of the analysis that Region 7 had done as the basis for its decision to leave the radioactive waste in place at West Lake. Among other things, the Board supposedly felt that the region had relied on some possibly inaccurate data in deciding the radioactive waste was too widely and deeply scattered in the landfill to remove. I have also been told that members of the board felt the cap arrangement proposed by the region might not be adequately protective if the radioactive material was to be left at the site. Does the EPA have any comment regarding these claims?

3. I have been told that at least part of the reason the Board's review was changed to consultation was to prevent evidence from becoming public of disagreements within the agency regarding West Lake or of Board criticism of the region's actions and analysis work at the site. Does the EPA have any comment regarding these claims?

4. Did an EPA official named Doug Ammon take part, in any way, in the Board's deliberations regarding West Lake? If so, please elaborate on what his role was. Please also confirm that he wasn't a member of the Board at the time of the West Lake deliberations.

5. Would involvement by a non-board member in an NRRB review be viewed as normal and proper by the EPA?

6. If Mr. Ammon did take part in the West Lake deliberations did he challenge or criticize board members for statements they made or questions they raised about the site or the region's handling of the site?

7. At the time of the Board's West Lake deliberations was Mr. Ammon the supervisor of Amy Legare, the Board's chairperson?

8. If Mr. Ammon took part in the West Lake deliberations and was Ms. Legare's supervisor at the time, does the EPA have any comment on this situation? Does the

EPA feel there is any potential problem having a supervisor offer his views on a possible agency action to an independent review board chaired by one of that supervisor's subordinates? Might such a situation put undue pressure on the chairperson to support the supervisor's position/recommendations?

9. Could you help me arrange interviews with Mr. Ammon and Ms. Legare? Could I also have the job title of each person?

Since any story on this could run very soon, please get any responses to me as soon as possible.

Thanks and regards,

John

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From: Peterson, Mary [mailto:Peterson.Mary@epa.gov]
Sent: Thursday, February 20, 2014 5:02 PM
To: Emshwiller, John
Subject: EPA responses to Westlake questions

John,

See below EPA's responses to your recent inquiry. If you need additional information, you may contact me or Hattie Thomas. Chris Whitley will be out of the office until Monday, Feb 24.

1. I have been told that the review of the West Lake site done by the National Remedy Review Board (NRRB) was at some point changed from a full review to a consultation regarding the site. Is this correct?

A: Yes.

2. If the review was changed to a consultation, what was the reason for the change? If such a change was made, at whose direction was it made? When was such a change made?

A: As referenced in the NRRB Frequent Questions (on the EPA website), Regions may request an optional NRRB consultation on remedial alternatives at the draft feasibility study scoping stage or any time prior to the draft proposed plan. Region 7 requested that the review be changed to a consultation in May 2012 and the Office of Superfund Remediation and Technology Innovation agreed to the change. The Region requested this consultation because additional sampling and analyses would be needed to address concerns from members of the NRRB and to help inform a future potential draft proposed plan. The NRRB Frequent Questions also indicate that a consultation does not excuse a site from the NRRB review at the draft proposed plan stage if the proposed remedial action meets the NRRB review criteria.

3. If a NRRB review of West Lake was switched to a consultation is this the first instance that such a change has occurred at the NRRB? If not, please cite the other instances where such a change has happened.

A: Yes. The NRRB has conducted five consultations, all since 2009. West Lake is the only consultation that was changed after a NRRB review was begun.

4. Is it true that the report/recommendations from a NRRB review of a site is publicly available and posted on the EPA website?

A: Yes, by the publication of the proposed plan.

5. Is it true that a consultation letter (or other consultation document) regarding a site isn't routinely made public and isn't posted on the EPA website?

A: Yes. The consultation documents are considered internal technical discussions and are not posted.

6. I didn't see any review document listed for West Lake in the Region 7 section of the NRRB webpage. If such a public document exists, I'd like to get a copy.

A: No such public document exists.

7. If the NRRB did a consultation on West Lake, I'd like to get a copy of any consultation letter or consultation document issued by the NRRB regarding the site. If necessary, please consider this a request under the Freedom of Information Act.

A: This document is considered deliberative as the additional studies it recommends are still underway. It was withheld as exempt from the documents produced in response to your above-referenced FOIA.

8. The response to my previous FOIA request (EPA-R7-2014-002244) included a privilege log of documents the EPA said were exempt from release. The log refers to several drafts of documents. Were any these drafts related to a board review as opposed to a board consultation? In other words, were any of these drafts related to a board review?

A: No Board review has occurred at this time, the Region consulted with the NRRB.

Mary P. Peterson, Acting Deputy Director

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