LWG
LOWER WILLAMETTE GROUP

Chairperson: Bob Wyatt, NW Natural
Treasurer: Fred Wolf, Legacy Site Services for Arkema

February 18, 2010

Chip Humphrey
Eric Blischke
U.S. Environmental Protection Agency, Region 10
805 SW Broadway, Suite 500
Portland, OR 97205

Re: EPA Preliminary Comments on the Baseline Human Health and Ecological Risk Assessments (Lower Willamette River, Portland Harbor Superfund Site, USEPA Docket No: CERCLA-10-2001-0240)

Chip and Eric:

As requested we are responding to your February 9, 2010 letter regarding EPA's December 23, 2009 Preliminary Comments on the Baseline Human Health and Ecological Risk Assessments for the Portland Harbor Superfund Site. We believe that our recent frequent meetings have been useful in resolving many of the issues raised in your comments relative to the expedited feasibility study (FS) but have significant concerns over new, previously undiscussed issues being raised in your formal written communications.

As you know, EPA and LWG have agreed to an expedited FS development schedule whereby the FS has been initiated prior to finalization of the baseline risk assessments. On December 23, 2009 EPA provided preliminary comments on the draft Baseline Human Health Risk Assessment (BHHRA) and draft Baseline Ecological Risk Assessment (BERA) to identify key issues for consideration in the expedited FS. As indicated in our February 5, 2010 letter, for purposes of preparation of the expedited FS, the LWG agreed to modify several areas of potential concern (AOPCs) based on EPA's comments 2, 3, and 4, including evaluating in the FS all chemicals with hazard quotients greater than 1.0.

However, we believe that for the purposes of starting the FS it is premature to formally define contaminants of concern (COCs) on either a site-wide or AOPC-specific basis at this time because EPA is still reviewing the draft risk assessments, has not completed an evaluation of the risk assessment lines of evidence, and has not yet developed the risk management framework for the site. Therefore we object to defining COCs based on all lines of evidence, regardless of their strength or certainty, and request the following changes to EPA's proposed language wherever it occurs in the February 9, 2010 resolution letter and table: "All chemicals with a hazard quotient greater than or equal to 1.0 based on the lines of evidence presented in the problem formulation must be carried into the FS." This change results in no functional difference in the FS but allows for greater flexibility in the future regarding the designation of COCs once EPA completes its review of the risk assessments and development of the risk management framework.

EPA's February 9, 2010 proposed resolution for Comment 10 presents several new requirements for evaluating surface water data in the FS. Based upon our February 10, 2010 meeting with EPA, we understand that EPA agrees that Region 6 Tap Water PRGs (and Regional Screening Levels) are not ARARs for the site. We also note that EPA has previously directed the LWG to use Regional Screening Levels in place of Region 6 Tap Water PRGs for the BHHRA. Consistent with EPA's proposed resolution of Comment 10 the LWG agrees to screen near-bottom surface water samples against Regional Screening Levels (in place of Region 6 Tap Water PRGs, to be consistent with previous EPA direction) as part of the uncertainty analysis in the BHHRA. However since the BHHRA has already determined that only arsenic is a surface water COC (and that it occurs at concentrations comparable to background) then the LWG sees no reason to carry chemicals that exceed conservative surface water screening levels into the FS. The LWG agrees to screen existing near-bottom surface water samples against SDWA MCLs in areas of contaminated groundwater discharge to identify additional chemicals for evaluation of contaminant mobility during the evaluation of remedial alternatives in the FS. For chemicals in surface water the FS will evaluate the effectiveness of remedial alternatives by comparison of ARARs to depth integrated concentration estimates.

Finally, we understand from the acknowledgment in your February 9 letter that we are in agreement that Comments 3, 4, 7 and 8 are not of a directive nature as they pertain to the baseline risk assessments. Please let us know if we have mis-interpreted that. The LWG disagrees with those comments for the reasons stated in our January 20, 2010 letter and the table accompanying that letter. Further discussion of those comments is needed as they pertain to finalization of the baseline risk assessments. Those discussions would be most effective if they can occur in the context of addressing the comprehensive set of risk assessment comments EPA is planning to provide to the LWG in April. Alternatively, the LWG requests a 30-day extension of the deadline for invoking dispute resolution on the comments as they relate to the risk assessments to facilitate further discussion of the comments in the context of the final risk assessments.

Sincerely,

Bob Wyatt

cc: Confederated Tribes and Bands of the Yakama Nation
Confederated Tribes of the Grand Ronde Community of Oregon
Confederated Tribes of Siletz Indians of Oregon
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs Reservation of Oregon
Nez Perce Tribe
Oregon Department of Fish & Wildlife
United States Fish & Wildlife
Oregon Department of Environmental Quality
LWG Legal
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