LWG
LOWER WILLAMETTE GROUP

Chairperson: Bob Wyatt, NW Natural
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February 5, 2010

Chip Humphrey
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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:

We have appreciated the opportunity to meet with EPA this week to further discuss the ten directed comments in EPA's December 23, 2009 Preliminary Comments on the Baseline Human Health and Ecological Risk Assessments for the Portland Harbor Superfund Site.

On January 20, 2010, EPA agreed to extend the deadline for the Lower Willamette Group to invoke dispute resolution on these directed comments to February 5, 2010. Based upon our February 2, 2010 meeting with EPA, we understand that, for purposes of preparation of the feasibility study, each of the directive comments has been resolved as follows:

Comment	Resolution
1. Use the Logistic Regression Model for the development of site specific SQGs. These SQGs should be used in conjunction with generic SQGs and SQGs generated based on the logistic regression model to identify areas of sediment contamination for evaluation in the draft FS.	We understand that EPA is withdrawing the comment. The LWG understands that NOAA may continue work on development of the LRM model. The scope of NOAA work currently funded by the LWG will not be modified because of this continuing work.
2. Retain the Transition Zone Water LOE as a measure of benthic risk. This information may be used in the assessment of groundwater upwelling and the evaluation of CDFs, CADs and sediment caps in the draft FS.	We understand that Comment #2 will result only in the modification of the area designated "AOPC 8" for evaluation in the feasibility study as generally depicted on the attached Figure 1. On this basis, the LWG will not dispute the comment.

3. Benthic risks should be determined based on both level 2 and level 3 effects identified from the sediment toxicity tests performed at the site. This information should be used to identify areas of sediment contamination for evaluation in the draft FS.	We understand that Comment #3 will result only in the modification of the area designated "AOPC 19" for evaluation in the feasibility study as generally depicted on Figure 1. On this basis, the LWG will not dispute the comment.
4. All COCs with hazard quotients greater than or equal to 1 must be identified as potentially posing unacceptable risk. This information will be used to identify areas of sediment contamination for evaluation in the draft FS.	We understand that Comment #4 will result only in the modification of the area designated "AOPC 4" for evaluation in the feasibility study as generally depicted on Figure 1. On this basis, the LWG will not dispute the comment.
5. Generic SQGs that meet the reliability analysis requirements must be included in the assessment of benthic risk. This information will be used to identify areas of sediment contamination for evaluation in the draft FS.	We understand that Comment #5 will result in no changes to the designated AOPCs for evaluation in the Feasibility Study.
7. All chemicals identified as posing unacceptable risks from lines of evidence EPA directed LWG to use, but which were eliminated by inappropriate LWG risk management decisions prior to the completion of risk characterization, must also be incorporated in Table 11-2 of the BERA.	Given that the comment addresses the contents of BERA Table 11-2, the LWG understands that EPA agrees that Comment #7 does not pertain to the FS. The LWG understands that if an HQ>1 is identified, then that chemical will be evaluated in the FS.
8. Table 11-2 must either amended, or split into multiple tables, so that it provides information on both which lines of evidence any given chemical poses unacceptable risks, and the magnitude of the identified risks. As currently structured, Table 11-2 provides little more than an incomplete list of chemicals identified as posing unacceptable risks to one or more receptors, and provides no information on the magnitude of risks.	Given that the comment addresses the contents of BERA Table 11-2, the LWG understands that EPA agrees that Comment #8 does not pertain to the FS. The LWG understands that if an HQ>1 is identified, then that chemical will be evaluated in the FS.
10. Chemicals present in surface water and transition zone water evaluated above the relevant a human health water quality criteria (i.e., SDWA MCLs and CWA AWQCs) should be carried forward into the Portland Harbor FS and used for the development of PRGs.	The LWG understands that EPA will allow using these criteria in the FS in other evaluations in addition to those specifically mentioned in EPA's December 18, 2009 comments on the FS process. On this basis, the LWG will carry these criteria forward into

	the FS. The comment, which is presented as a comment on the BHHRA, directs the LWG to perform the evaluation for chemicals "evaluated above the relevant human health water quality criteria." Neither the comment nor any of the detailed text supporting the comment requires the comparison of data to ARARs on a point-by-point basis as proposed by some participants in the February 2 meeting. In fact, the comment is consistent with the LWG's understanding that ARARs are to be evaluated in the FS consistent with their evaluation in the BHRRA, as stated in our October 7, 2009 letter to EPA accepting EPA's August 7, 2009 RAO directive. For example, our letter notes that "in our recent discussions, EPA affirmed that the evaluation in the FS should use the methodologies in the risk assessment (again assuming no treatment, but where vertically integrated samples were evaluated against MCLs) as a guide to the evaluation against MCLs in the FS. Other comparative methodologies could be discussed in the evaluation of uncertainty." EPA has not responded to our October 7, 2009 letter, and, prior to the comments made at the February 2 meeting, the LWG had no reason to believe that EPA had a different view.

If EPA disagrees with our understanding of how any of the directed comments have been resolved for the feasibility study, the LWG objects to the directed comments as they pertain to the FS for the reasons stated in our January 20, 2010 letter and the table accompanying that letter.

We further understand that, <u>for purposes of finalization of the baseline human health and ecological risk assessments</u>, Comments 1 and 5 have been resolved as described above. The LWG would like to continue discussion with EPA of Comments 3, 4, 7 and 8 as they pertain to finalization of the risk assessments.[1] We believe that these discussions would be most effective if EPA would agree to withdraw the directive nature of the comments as they relate to the baseline human health and ecological risks assessments, at least at this time, so that they can be resolved with 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.

[1] We note that Comments 7 and 8 will be resolved by the resolution of Comment 4.

If EPA is unwilling either to withdraw the direction or to extend the deadline for dispute resolution, or if our understanding of the resolution of Comments 1 and 5 is incorrect, the LWG objects to the directed comments as they pertain to the baseline risk assessments for the reasons stated in our January 20, 2010 letter and the table accompanying that letter.

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
LWG Repository