## DeMaria, Eva

**From:** MCCLINCY Matt <MCCLINCY.Matt@deq.state.or.us>
**Sent:** Tuesday, March 29, 2016 5:39 PM
**To:** LACEY David; DeMaria, Eva
**Subject:** RE: Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

Dave and Eva,

Sorry if this fell of my plate. As we have discussed, the OU-5 project is a bit unique. At this point, I think we are ok with leaving the EPA comments in the administrative record.

Matt

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**From:** LACEY David
**Sent:** Tuesday, March 29, 2016 3:30 PM
**To:** MCCLINCY Matt
**Subject:** FW: Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

Did you give Eva guidance on this?

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**From:** DeMaria, Eva [mailto:DeMaria.Eva@epa.gov]
**Sent:** Thursday, March 17, 2016 3:11 PM
**To:** MCCLINCY Matt
**Cc:** Michael Allen (allenmc@cdmsmith.com); Sheldrake, Sean; JOHNSON Keith; Zhen, Davis; LIVERMAN Alex; LACEY David
**Subject:** RE: Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

Matt-

Given our conversations the last two weeks and Dave's latest email that he plans on finalizing the SCD, is DEQ still requesting that I withdraw our review comments? Thanks.

Have a great weekend!

Eva

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**From:** MCCLINCY Matt [mailto:MCCLINCY.Matt@deq.state.or.us]
**Sent:** Wednesday, February 24, 2016 3:23 PM
**To:** DeMaria, Eva <DeMaria.Eva@epa.gov>
**Cc:** Michael Allen (allenmc@cdmsmith.com) <allenmc@cdmsmith.com>; Sheldrake, Sean <sheldrake.sean@epa.gov>; JOHNSON Keith <JOHNSON.Keith@deq.state.or.us>; Zhen, Davis <Zhen.Davis@epa.gov>; LIVERMAN Alex <liverman.alex@deq.state.or.us>; LACEY David <LACEY.David@deq.state.or.us>
**Subject:** RE: Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

Hi Eva,

After reviewing the EPA review comments on the proposed source control decision for Operable Unit 5 on Swan Island, DEQ requests that EPA withdraw and reissue their review comments to address the following comments:

1. DEQ concludes based on the EPA's review comments that EPA supports our proposed riverbank source control measure. However, EPA's review comments do not actually state whether or not EPA concurs with

the proposed source control decision. DEQ requests that EPA reissue review comments specifically addressing whether or not they concur with the proposed riverbank source control measure. Also, as EPA's review is a significant element of the source control administrative record, we ask that EPA convey support of the proposed decision in a signed letter. I have attached a previously received example for reference.

2. Assuming EPA supports the proposed source control measure, EPA appears to conditionally tie concurrence of the source control decision to the expectation that previous EPA review comments related to the Work Plan be incorporated into the design. DEQ request that EPA reissue review comments without contingency to previously submitted review comments on other documents. This issue is addressed under DEQ management of EPA review comments below. However, it is DEQ's position that this discussion is not germane to whether or not EPA supports the proposed source control decision, and it further confuses the lead agency question.

3. EPA notes their expectation that the source control decision include a work plan for riverbank stability monitoring and that a future work plan for the abandonment and evaluation of inactive outfall CG-28 be provided. While DEQ wholeheartedly agrees that these documents are necessary, they are design documents outside of the scope of the subject proposed source control decision. Consistent with the 2001 Memorandum of Understanding for the Portland Harbor Superfund Site, DEQ will provide these documents to EPA, and EPA can elect to provide review comments. DEQ requests that EPA reissue review comments without the contingency regarding their expectations for future design documents.

4. EPA references previous review comments on related upland documents and states "EPA's expectation is that those comments are addressed in future submittals for the SCM and that EPA's recommendations be incorporated in the SCM design or a response be provided for any deviation from or exceptions to the recommendations". DEQ questions whether this EPA expectation is consistent with the existing MOU and JSCS.

DEQ Management of EPA Review Comments

I believe we need to review and possibly reset expectations around how DEQ manages EPA review comments for Source Control. Recent comments from the EPA team indicate a shift in process and expectations. DEQ does not understand the need for change at this stage, but regardless, it is clear that the current process is unsatisfactory to both DEQ and EPA. As the lead agency for upland source control work, DEQ works hard to address EPA's comments and expectations. This helps avoid confusion with the regulated community and provides parties certainty in decision making and outcomes for their work. EPA has in the past informed us of their clear expectation that DEQ convey their review comments to the upland party, which DEQ does. DEQ sorts the review comments into three categories: agree, disagree, and nonessential (i.e., nice to have but DEQ does not think the modification is necessary for protectiveness). It is this last category that DEQ has struggled with the most. In the past, we requested that EPA prioritize their comments into "important" and "for DEQ consideration", but are now informed that all EPA comments are important. If this is the case, DEQ still needs to require the ability to do our own prioritization- in fact, such prioritization becomes more important as a result. The DEQ resultant review letters or transmittal emails have identified which of the EPA comments, DEQ agrees with and DEQ expectations that upland work products be modified to address them. The DEQ transmittal has also been clear where DEQ disagrees with an EPA comment. The DEQ transmittals have been silent on the nonessential comments. Most upland RPs chose to modify upland work projects to address the EPA comments even where DEQ has not directed them to do so.

I know that you are out on training this week, please let me know if you have any questions or wish to discuss our request for EPA to reissue review comments on the proposed SCD and DEQ management of EPA review comments.

Also, in consultation with Keith, I plan to recommend we have a joint meeting to discuss issues raised above. I believe this will help us coordinate more efficiently on remaining SC work.

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Fax 503-229-6945

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**From:** DeMaria, Eva [mailto:DeMaria.Eva@epa.gov]
**Sent:** Friday, February 19, 2016 12:06 PM
**To:** MCCLINCY Matt; LACEY David; LIVERMAN Alex
**Cc:** Michael Allen (allenmc@cdmsmith.com); Sheldrake, Sean
**Subject:** RE: Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

Hi all-

Please find attached, EPA's comments on the Port of Portland SIUF OU-5 Proposed SCD for the SCM. Please call or email if you have questions. Thanks.

Eva

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**From:** MCCLINCY Matt [mailto:MCCLINCY.Matt@deq.state.or.us]
**Sent:** Tuesday, January 19, 2016 2:48 PM
**To:** Koch, Kristine <Koch.Kristine@epa.gov>; LIVERMAN Alex <liverman.alex@deq.state.or.us>; Allen, Elizabeth <allen.elizabeth@epa.gov>; 'Audie Huber (audiehuber@ctuir.com)' <audiehuber@ctuir.com>; 'Blischke, Eric' <blischkee@cdmsmith.com>; brandy.humphreys@grandronde.org; callie@ridolfi.com; Christopher, Anne <Christopher.Anne@epa.gov>; 'Coffey, Scott' <CoffeySE@cdmsmith.com>; Conley, Alanna <conley.alanna@epa.gov>; 'Courtney Johnson (courtney@crag.org)' <courtney@crag.org>; DeMaria, Eva <DeMaria.Eva@epa.gov>; Ebright, Stephanie <EBRIGHT.STEPHANIE@EPA.GOV>; 'Elmer Ward' <elmer.ward@ctwsbnr.org>; Fuentes, Rene <fuentes.rene@epa.gov>; 'Gabriel Moses (b) (6) (b) (6) 'Gail Fricano (gfricano@indecon.com)' <gfricano@indecon.com>; 'Genevieve Angle (Genevieve.Angle@noaa.gov)' <Genevieve.Angle@noaa.gov>; 'Hagerman, Paul' <HagermanPR@cdmsmith.com>; 'Holly Partridge (Holly.Partridge@grandronde.org)' <Holly.Partridge@grandronde.org>; 'JD Williams (jd@williamsjohnsonlaw.com)' <jd@williamsjohnsonlaw.com>; PETERSON Jenn L <PETERSON.Jenn@deq.state.or.us>; Jeremy_Buck@fws.gov; 'Julie Weis (jweis@hk-law.com)' <jweis@hk-law.com>; Gustavson, Karl <Gustavson.Karl@epa.gov>; 'Laura Klasner Shira' <shil@yakamafish-nsn.gov>; Michael.karnosh@grandronde.org; poulsen.mike@deq.state.or.us; Morrison, Kay <morrison.kay@epa.gov>; 'Paul Bianco' <paul@ridolfi.com>; 'rdelvecchio@indecon.com DelVecchio' <RDelVecchio@indecon.com>; 'Rita Cabral (rcabral@indecon.com)' <rcabral@indecon.com>; Robert.Neely@noaa.gov; Robinson, Deborah <Robinson.Deborah@epa.gov>; rose@yakamafish-nsn.gov; GREENFIELD Sarah <Greenfield.Sarah@deq.state.or.us>; Sheldrake, Sean <sheldrake.sean@epa.gov>; Shephard, Burt <Shephard.Burt@epa.gov>; tomd@ctsi.nsn.us; ROICK Tom <ROICK.Tom@deq.state.or.us>; Zhen, Davis <Zhen.Davis@epa.gov>
**Cc:** Grandinetti, Cami <Grandinetti.Cami@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>; PARRETT Kevin <Parrett.Kevin@deq.state.or.us>; JOHNSON Keith <JOHNSON.Keith@deq.state.or.us>; LACEY David

<LACEY.David@deq.state.or.us>; Woods, Jim <Woods.Jim@epa.gov>
**Subject:** FW: Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

Good day!

DEQ just submitted our draft source control decision for a source control measure at the Port of Portland Swan Island Operable Unit 5 to EPA. We asked EPA for a 30-day turnaround on their review. Below is a link to the draft decision document. If you have review comments, DEQ also requests that you provide them within the next 30-days.

ftp://deqftp2.deq.state.or.us/dlacey/Proposed_Swan_Island_Upland_Facility_OU5_SCD_Letter(1-19-16).pdf

Please let me know if you have any questions.

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**From:** MCCLINCY Matt
**Sent:** Tuesday, November 24, 2015 4:05 PM
**To:** 'DeMaria, Eva'; Coffey, Scott; Robinson, Deborah; LIVERMAN Alex; Allen, Elizabeth; Audie Huber (audiehuber@ctuir.com); Blischke, Eric; brandy.humphreys@grandronde.org; Brian Cunninghame (cunninghame@gorge.net); callie@ridolfi.com; Charters, David; Christopher, Anne; Conley, Alanna; Courtney Johnson (courtney@crag.org); Ells, Steve; Elmer Ward (elmer.ward@ctwsbnr.org); Fonseca, Silvina; Fuentes, Rene; Gabriel Moses (b) (6) [redacted] Gail Fricano (gfricano@indecon.com); Genevieve Angle (Genevieve.Angle@noaa.gov); Hagerman, Paul; Holly Partridge (Holly.Partridge@grandronde.org); JD Williams (jd@williamsjohnsonlaw.com); PETERSON Jenn L; Jeremy_Buck@fws.gov; Julie Weis (jweis@hk-law.com); Gustavson, Karl; PARRETT Kevin; Koch, Kristine; Legare, Amy; Michael.karnosh@grandronde.org; POULSEN Mike; Morrison, Kay; Paul Bianco; rdelvecchio@indecon.com DelVecchio; Rita Cabral (rcabral@indecon.com); Robert.Neely@noaa.gov; rose@yakamafish-nsn.gov; Sheldrake, Sean; Shephard, Burt; tomd@ctsi.nsn.us; ROICK Tom; shil@yakamafish-nsn.gov
**Cc:** Rose Longoria; LACEY David; JOHNSON Keith
**Subject:** Proposed Source Control Action - Port of Portland Swan Island OU-5 Riverbank

All

This is a head's up that DEQ will soon submit a proposed source control measure for the riverbank at the Port of Portland Swan Island Operable Unit 5. As always, DEQ will send a second e-mail when we submit the draft source control decision to EPA and offer you an opportunity to review & comment. We expect to submit the proposed action to EPA next week and will ask EPA for a 30-day review turn-around.

The Swan Island Upland Facility is located at the downstream end of Swan Island and is being investigated by the Port of Portland and Vigor Industrial. The site has been divided into five operable units. Operable Unit 5 is owned by the Port of Portland and consists of 2,700 feet of riverbank on the riverside of Swan Island.

DEQ's proposed source control decision is that contaminant transport pathways from the site do not pose a significant current or likely future threat to the Willamette River with the exception of the riverbank erosion pathway. Five erosion scarps totaling 828 feet of river bank have been identified as needing source control. DEQ recommends that the remedial action be implemented for a 308 feet portion of the river bank as soon a practicable and that the remedial action at the remaining 520 feet of erosion scarps be incorporated by EPA into the final remedy for the in-water cleanup. The 308 foot section has the highest levels of contaminants, and is the most upstream. The remaining area is downstream, has lower contaminant concentrations, will require a 404 permit and may be adjacent to an in-water dredge/cap remedy. Should EPA not select a cap/dredge remedy in this reach, the remaining section of Operable Unit 5 bank can be included with the mobilization of the cap/dredge and riverbank remedy required for the Operable Unit 1 area.

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