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**From:** Oman, Daniel [DOman@haleyaldrich.com]  
**Sent:** 7/28/2017 2:24:29 PM  
**To:** Rees, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Rees, Sarah]; Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
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**Subject:** AFS / Metalcasting Industry Summary of Important Air Issues  
**Attachments:** 2017\_0729\_AFS Letter\_Sarah Rees.pdf

Sarah and Patrick,

First of all thank you for meeting with our metalcasting industry delegation on June 20<sup>th</sup> during the American Foundry Society (AFS) Governmental Affairs Conference. At the conclusion of our meeting, Sarah asked if we would summarize the air regulations (especially those associated with PSD/NSR Permitting) that were imposing a significant burden on the metalcasting industry. Attached is a letter prepared by a working group of the AFS Air Quality Committee and others which summarizes our major issues with current air quality regulations and includes recommendations as to how they could be improved/modified. We have also echoed our support for reinstating the Sector Strategies Program which we felt was very beneficial not only to industry, but also to the agency.

While we have attempted to summarize our issues in this letter, we realize that there may be additional questions regarding these issues and some additional detail may be necessary in order to fully understand our perspective and our suggestions for improvement. Toward that end we want you to know that we would be willing to follow up this letter with a meeting between staff from the USEPA and technical experts from the metalcasting industry at a mutually acceptable date and time in order to facilitate a better understanding of our issues and our suggested improvements/modifications.

Again, thanks for meeting with us and for your willingness to consider issues of importance to the metalcasting industry.

Dan

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July 29, 2017

Sarah L. Rees, PhD  
Director Office of Regulatory Policy & Management, Office of Policy  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
WJC-N 3521-A, MC 1804  
Washington, DC 20460

Re: Follow Up to June 20, 2017 Meeting

Dear Ms. Rees:

We would like to thank you and Mr. Patrick Davis for meeting with our group from the American Foundry Society on June 20, 2017. During the meeting you requested additional information on air quality regulations affecting the metalcasting industry, particularly with respect to the New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs. In response, we asked our air quality technical committee to prepare a list of the most critical issues that impact the metalcasting industry. While this list is not a comprehensive list of the air quality regulatory burdens facing metalcasting operations, we have provided below a brief summary of some of the most significant issues for the industry.

We would appreciate the opportunity to discuss these issues further with you and your team at EPA, and we are happy to make our industry experts available to discuss how these issues that affect our industry and identify potential solutions that are protective of human health and the environment.

**New Source Review (NSR)/Prevention of Significant Deterioration (PSD)**

*Applicability Criteria*

1. Iron and Steel Foundries are not “secondary metal production plants” and therefore should not be part of the 28 source categories subject to the 100 TPY major source threshold. EPA should alter the current policy in this regard such that Iron and Steel Foundries are correctly subject to the 250 TPY threshold, or at least be allowed to be nested sources similar to aluminum foundries with a major source threshold of 250 TPY rather than 100 TPY.
2. The “Statute of Limitations” circuit court rulings on PSD look backs should become national EPA policy. States should be required not to revisit prior PSD applicability determinations beyond five years from construction.
3. Exclude condensable particulate matter (CPM) from PM10 and PM2.5 emissions calculations, relying on filterable PM emissions until better data is available to quantify and to justify the impacts of CPM on ambient air quality levels.
4. Modify and/or clarify the definition of Routine Repairs, Maintenance and Replacement (RMRR) to reflect real world situations that routinely occur in industrial environments including a bright line cutoff for repairs and maintenance activities that are less than 20 percent of a comparable new piece of equipment.

5. Review and clarify the “contiguous and adjacent” policy. If facilities are not contiguous, treat them as separate sources as the rule is written and consistent with several circuit court decisions.
6. Modify and/or clarify treatment of “Affected Units” and “Debottlenecking” emission units.
7. Modify and/or clarify definition of “project” in relation to project aggregation.
8. Allow “project netting” (i.e., taking credit for emissions reductions associated with the shutdown of existing equipment as part of a modification) without triggering a full netting exercise for the contemporaneous look-back period.
9. Clarify factors reviewed for circumvention (aka “sham permitting”) and clarify that projects permitted within two years of each other need not be aggregated unless there is a clear finding that the projects were conceptually, economically and technically dependent upon each other from the outset.
10. Raise Major Source threshold for CO to 1000 tpy and significance threshold to 250 tpy. (Would take regulatory or statutory changes).
11. Implement a more definitive and practical policy on when pollution control devices are “integral to the process” and not considered emission control devices for the purpose of determining PSD applicability. Where materials controlled have economic value the use of a baghouse for example would be integral to the process. Wouldn’t have to demonstrate net economic gain. (Bin vent filters on material silos would be considered integral to the process).
12. Guidance to address use of certain emission factors commonly misunderstood or misused in the foundry industry.
13. Could policies on Actual-to-Projected-Actual (ATPA) test be revised? Clearer and better guidance on “could have accommodated”.

#### *BACT/LAER Determinations*

1. Limit EPA role in commenting on and or overruling State BACT determinations to large or complex sources only
2. Emission units with potential emissions less than two tpy of all criteria pollutants are exempt from BACT.
3. EPA should create and maintain a database of presumptive BACT for emission units. Examples include emergency diesel generators, small fuel storage tanks, small natural gas fired heaters and boilers, units below designated emissions thresholds. Examples of presumptive BACT levels include the following:
  - 0.002 gr/dscf for fabric filter dust collectors,
  - Less than 20 ppm VOC,
  - NOx threshold for smaller heaters and boilers, and
  - federal standards for new engines v. NSPS and or NESHAPs technology limits established in the last 15 years.
4. Only BACT/LAER clearinghouse determinations that have been demonstrated in practice shall be considered in any BACT/LAER evaluation. For example, an emission control device intended to control odors that coincidentally controls PSD regulated pollutants will be given lower weighting, if any, in a BACT or LAER determination.
5. Policy addressing non-applicability of certain technologies as infeasible or inappropriate for certain applications: e.g. flares or combustion controls for exhaust streams less than a certain level of ppm for VOC.

#### *Air Quality Assessments*

1. Reinstate moratorium on inclusion of CPM until a better understanding of the measurement and mechanism for CPM. This would apply to applicability, BACT and air quality.
2. Allow the use of “representative” background air quality levels rather than data from the nearest available monitoring station. Rural sources could use data from a similar rural area rather than the closest (urban) monitor.

3. Address issues in AERMOD air dispersion modeling software related to highly conservative assumptions that results in overly conservative concentration estimates. Exclude emission sources below certain emission threshold and/or distances from a source from the full air quality assessment.
4. Implement a clear policy that there are no applicable models for Ozone air quality impacts and PSD applications would not need to include any “modeling” in the application.
5. Treat PM<sub>2.5</sub> and NO<sub>x</sub> as regional pollutants like ozone and eliminate/modify modeling requirements for these pollutants.
6. Allow use of realistic assumptions of “worst-case” modeled emission rates (i.e., do not require simultaneous modeling of all emissions sources at the highest-possible, short-term startup emission rates).
7. Allow PSD applications that have been submitted and are under review to be “grandfathered” so that they are reviewed under regulations, standards or policies (collectively “Review Procedures”) that were in place when the application was submitted, unless the applicant waived the “grandfathered” status and opts for review under the new Review Procedures (to apply for newly promulgated NAAQS, etc.).
8. Allow companies to offset emission increases by obtaining “offsets” in lieu of PSD modeling demonstration.

#### *Re-designations for Non-Attainment Areas*

Allow areas to be re-designated to attainment based on implementation of all plan strategies and one-year air quality data, rather than requiring three years of data.

#### *Administrative and Policy Decisions*

1. Policy review on project related activities that can take place prior to issuance of a PSD or EOR permit.
2. Review of why certain states have not been able to get SIP approval of their PSD rules. SIP delegated states are at a disadvantage since any appeal automatically stays the permit.
3. Impose a 180-day permit issuance requirement.
4. Revisit and modify definition of “commence construction” to allow applicants to begin early construction activities at their own risk before final permit issuance.
5. EPA should be required to formally object (e.g. by Regional Administrator) to any provisions of a public noticed permit during the 30-day public comment period. If no formal objection is filed, then EPA should not be allowed to appeal or overrule a state’s determination.
6. Limit EPA’s review and oversight of state permitting actions to large or complex projects only.

#### **Other Issues**

##### *Title V Permitting*

1. Exclude small sources from compliance monitoring obligations.
2. Guidance on enforcement action thresholds for self-reported deviation.
3. Audit privilege under Title V for self-discovered deviations/violations.
4. Removal of compliance monitoring requirements where a clear pattern is shown that little or no benefit is derived from the monitoring (i.e., why continue to do daily visible emissions observations where you never see anything).
5. More consistent state permitting requirements and exemption of any unit with emissions less than two tpy for each criteria pollutant that does not emit a HAP.

##### *National Emissions Standards for Hazardous Air Pollutants (NESHAPs)*

1. Prohibit state regulation of toxics that are already subject to regulation by a NESHAP.
2. Clarify the term “contiguous” for defining a facility for regulatory purposes.
3. Address issues related to Startup, Shutdown and Malfunction (SSM) requirements.

4. Revisit and modify process for Residual Risk and Technology Review (RTR) so that it is consistent with statutory language and intent.

*Startup, Shutdown and Malfunction*

EPA should revisit the startup shutdown policy and allow affirmative defense for bona fide malfunctions.

*Enforcement*

1. EPA should allow states to be primary enforcement agency where they find alleged violations.
2. EPA should coordinate inspection and enforcement activities with the appropriate state and/or local air agencies, affording state and local agencies the opportunity to participate in these activities with EPA.

*Sector Strategies Program*

Reinstate the Sector Strategies Program that was a cooperative working relationship among government, industry trade groups, and other stakeholders to promote the improvement of environmental performance of selected industry sectors. EPA, the metalcasting industry, and the public benefitted from this valuable program by increasing the positive dialogue among all stakeholders, reducing unnecessary regulatory burdens, and improving the environmental performance of the industry.

**Conclusion**

Thank you again for the opportunity to meet and provide this information on issues impacting the metalcasting industry. We look forward to discussing these issues further and would be happy to arrange a convenient time to meet with you and your team on identifying details on how to help reduce regulatory burdens for the metalcasting industry while continuing to protect human health and the environment. Please feel free to contact us to arrange a meeting or to provide any additional information that may be helpful to you.

Best regards,

Bradford Muller  
Chair, AFS Government Affairs Committee  
Vice President, Marketing  
Charlotte Pipe and Foundry  
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**CC:** Stephen Lee [Stephen.Lee@la.gov]; Tom Stiles [KDHE] [Tom.Stiles@ks.gov]; Henne, Lisa [lhene@slo.state.nm.us]; Vinson, Toby [

**Subject:** Bi-Monthly EPA/State/Tribal Oil and Natural Gas Conference Call

**Location:** Dial:  Conference ID: TBD

**Start:** 2/20/2019 6:00:00 PM

**End:** 2/20/2019 7:00:00 PM

**Show Time** Tentative

**As:**

**Recurrence** Monthly

:  
the third Wednesday of every 2 month(s) from 11:00 AM to 12:00 PM

The focus of the December call is on water-related oil and natural gas topics. We will hear from representatives with EPA's Office of Enforcement and Compliance Assurance on the following item:

1. The web-based oil and natural gas sector compliance assistance center.

To join the conference line, dial:  Please provide the operator with the following conference ID: TBD. You may join the call up to 15 minutes prior to the scheduled start time. If you need assistance during the call, use the following keypad commands on your phone: \*0 - Operator assistance or \*6 - Self mute/unmute.

If you have any questions about this particular call or would like to suggest topics for future calls, please contact me.

Sincerely,  
Jim Kenney

--

James C. Kenney | Senior Policy Advisor for Unconventional Oil and Gas | US EPA

**Desk/Mobile:**  **Email:** [kenney.james@epa.gov](mailto:kenney.james@epa.gov)

**Please note:** I am geographically located in Albuquerque, New Mexico (Mountain Time Zone).

*This message may contain deliberative, attorney-client or otherwise privileged material. Do not release this message without the appropriate review. If you are not the intended recipient, kindly advise and delete this message/attachments. Namaste.*

Appointment

**From:** Kenney, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CE6FF8...]  
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CC: Stephen Lee [Stephen.Lee@la.gov]; Ewart, Emily [EEwart@mt.gov]; Thompson, Ricknold [rithompson@mt.gov]; Vinson, Toby [tvinson@mt.gov]

**Subject:** Bi-Monthly EPA/State/Tribal Oil and Natural Gas Conference Call

**Attachments** FAQ.pdf

**Location:** Dial: Ex. 6

**Start:** 12/19/2018 6:00:00 PM

**End:** 12/19/2018 7:00:00 PM

**Show Time** Tentative

**As:**

**Recurrence:** Monthly  
the third Wednesday of every 2 month(s) from 11:00 AM to 12:00 PM

The focus of the December call is on waste-related oil and natural gas topics. We will hear from representatives with EPA's Office of Land and Emergency Management on the following item:

1. Update on the Resource Conservation and Recovery Act consent decree (Civil Action No. 16-842 (JDB)) which requires the EPA to review the Subtitle D criteria regulations, 40 C.F.R. Part 257, for wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy (oil and gas wastes) and determine if regulatory updates are necessary by March 15, 2019.

To join the conference line, dial: Ex. 6 Please provide the operator with the following conference ID:  
Ex. 6 You may join the call up to 15 minutes prior to the scheduled start time. If you need assistance during the call, use the following keypad commands on your phone: \*0 - Operator assistance or \*6 - Self mute/unmute.

If you have any questions about this particular call or would like to suggest topics for future calls, please contact me.

Sincerely,  
Jim Kenney

--  
James C. Kenney | Senior Policy Advisor for Unconventional Oil and Gas | US EPA

**Desk/Mobile:** Ex. 6 | **Email:** [kenney.james@epa.gov](mailto:kenney.james@epa.gov)

*Please note: I am geographically located in Albuquerque, New Mexico (Mountain Time Zone).  
This message may contain deliberative, attorney-client or otherwise privileged material. Do not release this message without the appropriate review.  
If you are not the intended recipient, kindly advise and delete this message/attachments. Namaste.*

**Bi-Monthly EPA/State/Tribe Oil and Natural Gas Conference Call  
Frequently Asked Questions**

- 1) What is the bi-monthly call schedule?
  - The first bi-monthly conference call took place on Wednesday, June 20, 2018 from 1-2 pm EDT. Conference calls occur every other month from 1-2 pm EDT on the third Wednesday of the month (i.e., August 15, 2018, October 17, 2018, December 19, 2018, February 20, 2019, etc.).
- 2) What will these conference calls cover?
  - The bimonthly conference calls will focus on topics related to responsible oil and natural gas exploration and development.
- 3) Who from my organization should participate?
  - The answer to this question is likely agenda dependent. You will receive an agenda before each call that will help answer this question.
- 4) Can multiple individuals from my organization participate?
  - Yes. When practical, we ask that you gather the multiple individuals together and connect to the conference call using a single phone line.
- 5) Can I suggest agenda topics?
  - Yes. Please send suggested agenda topics for future calls to James Kenney ([kenney.james@epa.gov](mailto:kenney.james@epa.gov)).
- 6) Who is invited to these calls?
  - State and tribal representatives with oil and natural gas exploration and production interests. The conference calls are generally for state and tribal governments only.
- 7) Who from EPA will participate?
  - Depending on the agenda topic, representatives from EPA's program and regional offices.
- 8) What is the objective of these conference calls?
  - It is our hope that these conference calls will allow us to continue to build and improve relationships while finding meaningful solutions to various challenges. For additional background, please see the [Oil and Natural Gas Roundtable Highlights document](#).
- 9) Do these conference calls replace various state and tribal calls with EPA program or regional offices?
  - No, these conference calls provide an additional opportunity for states, tribes and EPA to discuss topics related to onshore oil and natural gas exploration and production.
- 10) What else do I need to know?
  - During the conference calls, we are looking to hear from individual states and tribes on various topics. Please note that EPA is not seeking group consensus from states or tribes during these conference calls.
- 11) What if I have additional questions?
  - Please contact James Kenney, Senior Policy Advisor for Unconventional Oil and Natural Gas, at [kenney.james@epa.gov](mailto:kenney.james@epa.gov) or at **Ex. 6**

Appointment

**From:** Kenney, James [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CE6FF8...]  
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(FYDIBOHF23SPDLT)/cn=Recipients/cn=2202a7a607ed4580b1c55ddaa3b83ba6-andy.bessle]; tbonnette@tunica.org [/o=Exchang...]  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=6deffbd6ed754539ba2245d573830040-pbritton@ca]; jbrown@easternshoshone.org; din...  
[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bf36b703ccc44beb85100487db6a...]  
luded@utetribe.com; aduran@pojoaque.org [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Rec

(FYDIBOHF23SPDLT)/cn=Recipients/cn=ef9eb883abf04f94893eac60ecc60dec-dean.goggle]; alan.hatch@santaana-nsn.gov [/o=EPA Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4049e81a03b64355a47c132e805f519b-jannhayman@]; chood@mhanation.com; Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88ac652676274bd191e242ac0698b6d4-gjojola@lag]; environmentdmartinez@puebloofacoma.org [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f4allison.mclaughlin@quinault.org; POI36871@Isletapueblo.com [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4d4470e1d1a84b69901d56050f74f2a9-cnaha@kewa-]; inperce@ftbelknap.org [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f14b42bc934f4c7b86ce07ac566bf7d4-Boyd.Nysted]; bpargeets@utetribe.com; tammy.pedroza@puebloofacoma.org; Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15ab0d7e1dfb485aa1f1422a7159080f-jacob\_pecos@pueblodecoda.com; [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6df8331063b5400fa030a2699df3a-ootc@osagenation-nsn.gov; pstout@sfpueblo.com [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cltecube@yahoo.com]; atwobears@standingrock.org; lvetter@standingrock.org [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c2428b5c0f79426995bb8512dd18910a-gwagner@3ri]; cwagon@easternshoshone.org; lvetter@standingrock.org (FYDIBOHF23SPDLT)/cn=Recipients/cn=f7184e4b5ccc4f5191aba63e8b86fe76-ashdw@nemon]; andy.werk@ftbelknap.org; pawil@ftbelknap.org [harry.birdwell@clo.ok.gov]; Amy Childers [amy.childers@iogcc.state.ok.us]; jgadret@westar.org; tmoore@westar.org; kathyjoplin@westar.org (FYDIBOHF23SPDLT)/cn=Recipients/cn=2fa5c9eb65dc497c81a8dc9ccdb1ffa7-Richardson, RobinH]; Bowles, Jack [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]

CC: Tracy Tomkins [ttomkins@mdeq.ms.gov]; Stephen Lee [Stephen.Lee@la.gov]; Tom Stiles [KDHE] [Tom.Stiles@ks.gov]; Vinson, Tom

Subject: Bi-Monthly EPA/State/Tribe Oil and Natural Gas Conference Call

Attachments FAQ.pdf

:

Location: Dial:

Start: 10/17/2018 5:00:00 PM

End: 10/17/2018 6:00:00 PM

Show Time Tentative

As:

Recurrence: Monthly

the third Wednesday of every 2 month(s) from 11:00 AM to 12:00 PM

The focus of the October call is on water-related oil and natural gas topics. We will hear from representatives with EPA's Office of Water on the following items:

1. The Clean Water Act Produced Water Study, and
2. General updates related to the Safe Drinking Water Act Underground Injection Control Program.

To join the conference line, dial:  Please provide the operator with the following conference ID:

You may join the call up to 15 minutes prior to the scheduled start time. If you need assistance during the call, use the following keypad commands on your phone: \*0 - Operator assistance or \*6 - Self mute/unmute.

If you have any questions about this particular call or would like to suggest topics for future calls, please contact me.

Sincerely,

Jim Kenney

--

James C. Kenney | Senior Policy Advisor for Unconventional Oil and Gas | US EPA

Desk/Mobile:  | Email: [kenney.james@epa.gov](mailto:kenney.james@epa.gov)

*Please note: I am geographically located in Albuquerque, New Mexico (Mountain Time Zone).*

*This message may contain deliberative, attorney-client or otherwise privileged material. Do not release this message without the appropriate review.*

*If you are not the intended recipient, kindly advise and delete this message/attachments. Nomaste*

**Bi-Monthly EPA/State/Tribe Oil and Natural Gas Conference Call  
Frequently Asked Questions**

- 1) What is the bi-monthly call schedule?
  - The first bi-monthly conference call took place on Wednesday, June 20, 2018 from 1-2 pm EDT. Conference calls occur every other month from 1-2 pm EDT on the third Wednesday of the month (i.e., August 15, 2018, October 17, 2018, December 19, 2018, February 20, 2019, etc.).
- 2) What will these conference calls cover?
  - The bimonthly conference calls will focus on topics related to responsible oil and natural gas exploration and development.
- 3) Who from my organization should participate?
  - The answer to this question is likely agenda dependent. You will receive an agenda before each call that will help answer this question.
- 4) Can multiple individuals from my organization participate?
  - Yes. When practical, we ask that you gather the multiple individuals together and connect to the conference call using a single phone line.
- 5) Can I suggest agenda topics?
  - Yes. Please send suggested agenda topics for future calls to James Kenney ([kenney.james@epa.gov](mailto:kenney.james@epa.gov)).
- 6) Who is invited to these calls?
  - State and tribal representatives with oil and natural gas exploration and production interests. The conference calls are generally for state and tribal governments only.
- 7) Who from EPA will participate?
  - Depending on the agenda topic, representatives from EPA's program and regional offices.
- 8) What is the objective of these conference calls?
  - It is our hope that these conference calls will allow us to continue to build and improve relationships while finding meaningful solutions to various challenges. For additional background, please see the [Oil and Natural Gas Roundtable Highlights document](#).
- 9) Do these conference calls replace various state and tribal calls with EPA program or regional offices?
  - No, these conference calls provide an additional opportunity for states, tribes and EPA to discuss topics related to onshore oil and natural gas exploration and production.
- 10) What else do I need to know?
  - During the conference calls, we are looking to hear from individual states and tribes on various topics. Please note that EPA is not seeking group consensus from states or tribes during these conference calls.
- 11) What if I have additional questions?
  - Please contact James Kenney, Senior Policy Advisor for Unconventional Oil and Natural Gas, at [kenney.james@epa.gov](mailto:kenney.james@epa.gov) or at **Ex. 6**

Message

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**From:** Livingston, Robert [rlivingston@livingstongroupdc.com]  
**Sent:** 9/22/2017 4:12:11 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Strayer, Marjorie [mstrayer@livingstongroupdc.com]; Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Traylor, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b6d06c6b766c4b4b8bfd6b0fea4b998-Traylor, Pa]; Jane Graham [jr.graham@cox.net]  
**Subject:** Re: New Cassel Hicksville Groundwater Contamination Superfund Site

Absolutely, Patrick. I'm out of county for the next 10 or 12 days, but jane graham can set something up after that.  
Many thanks.  
Bob

Sent from my iPhone

> On Sep 22, 2017, at 6:09 PM, Davis, Patrick <davis.patrick@epa.gov> wrote:  
>  
> Hi Bob,  
>  
> I have been talking with Patrick Traylor, our newly appointed Deputy Assistant Administrator for the EPA Office of Enforcement and Compliance Assurance (OECA) about the situation you described in your August 11 letter.  
>  
> Patrick and I have an interest in visiting with you again to fully understand the situation from your perspective. Would you be available to meet us at the EPA in the coming weeks?  
>  
> Hope to see you soon.  
>  
> Sincerely,  
>  
> Patrick Davis  
> Environmental Protection Agency  
> Deputy Assistant Administrator, Office of Land and Emergency Management  
> 202-564-3103 office  
> Ex. 6 cell  
>  
> Information sent to this email address may be subject to FOIA.  
>  
> -----Original Message-----  
> From: Livingston, Robert [mailto:rlivingston@livingstongroupdc.com]  
> Sent: Friday, August 11, 2017 1:45 PM  
> To: Davis, Patrick <davis.patrick@epa.gov>  
> Cc: Strayer, Marjorie <mstrayer@livingstongroupdc.com>; Kelly, Albert <kelly.albert@epa.gov>  
> Subject: New Cassel Hicksville Groundwater Contamination Superfund Site  
>  
> Mr. Davis - Thank you for your recent letter. Attached is my response. Your attention to this matter is appreciated.  
>  
> Bob Livingston  
>

Message

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**From:** Livingston, Robert [rlivingston@livingstongroupdc.com]  
**Sent:** 9/22/2017 4:09:52 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**Subject:** Automatic reply: New Cassel Hicksville Groundwater Contamination Superfund Site

Thanks very much for your email. I will be out of the office until October 4th, so I may be slow to answer you. But if you need to reach me, please call or email Jane Graham or Allen Martin, 202 289 9881 / jgraham@livingstongroupdc.com.

Best wishes, Bob Livingston

## Delivery Report

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**From:** Mail Delivery Subsystem [mailer-daemon@googlemail.com]  
**Sent:** 9/21/2017 7:44:24 PM  
**To:** mstrayer@livingstongroupdc.com  
**Subject:** Delivery delayed:Delivery Status Notification (Delay)

Your message



### **Delivery incomplete**

There was a temporary problem delivering your message to [mstrayer@livingstongroupdc.com](mailto:mstrayer@livingstongroupdc.com). Gmail will retry for 142 more hours. You'll be notified if the delivery fails permanently.

**[LEARN MORE](#)**

The response was:

The recipient server did not accept our requests to connect. Learn more at <https://support.google.com/mail/answer/7720> [mail.livingstongroupdc.com 207.87.222.195: timed out]



Message

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**From:** Strayer, Marjorie [mstrayer@livingstongroupdc.com]  
**Sent:** 10/5/2017 5:14:16 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Livingston, Robert [rlivingston@livingstongroupdc.com]  
**Subject:** RE: New Cassel Hicksville Groundwater Contamination Superfund Site

**Importance:** High  
**Flag:** Flag for follow up

Hi Patrick --

I just left you a voice mail. We heard that two of the EPA attorneys were going to be conferenced in to the meeting this afternoon. May we invite three of our attorneys to conference in, also. Two are in-house attorneys with one of them retiring at the end of this year and one is outside counsel. Please advise.

I can be reached by email or cell: Ex. 6

-----Original Message-----

**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Wednesday, September 20, 2017 2:27 PM  
**To:** Livingston, Robert <rlivingston@livingstongroupdc.com>  
**Cc:** Strayer, Marjorie <mstrayer@livingstongroupdc.com>; Kelly, Albert <kelly.albert@epa.gov>; Brooks, Becky <Brooks.Bekky@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>  
**Subject:** RE: New Cassel Hicksville Groundwater Contamination Superfund Site

Hi Bob,

I have been talking with Patrick Traylor, our newly appointed Deputy Assistant Administrator for the EPA Office of Enforcement and Compliance Assurance (OECA) about the situation you described in your August 11 letter.

Patrick and I have an interest in visiting with you again to fully understand the situation from your perspective. Would you be available to meet us at the EPA in the coming weeks?

Hope to see you soon.

Sincerely,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office  
202-380-8341 cell

Information sent to this email address may be subject to FOIA.

-----Original Message-----

**From:** Livingston, Robert [mailto:rlivingston@livingstongroupdc.com]  
**Sent:** Friday, August 11, 2017 1:45 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Strayer, Marjorie <mstrayer@livingstongroupdc.com>; Kelly, Albert <kelly.albert@epa.gov>  
**Subject:** New Cassel Hicksville Groundwater Contamination Superfund Site

Mr. Davis - Thank you for your recent letter. Attached is my response. Your attention to this matter is appreciated.

Bob Livingston

Message

---

**From:** Laws, Elliott [ELaws@crowell.com]  
**Sent:** 6/28/2017 3:46:17 AM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]  
**Subject:** Fwd: Pruitt Briefing Paper  
**Attachments:** Pruitt Briefing Final.docx; ATT00001.htm; Soil Remedy Map.docx; ATT00002.htm

Hi Patrick. Attached are some background materials for tomorrow's meeting.

Elliott

Elliott P. Laws  
elaws@crowell.com<mailto:elaws@crowell.com>  
Direct: [redacted] Ex. 6  
Fax: 1.202.322.9511<tel:[redacted] Ex. 6

Crowell & Moring LLP |www.crowell.com<http://www.crowell.com/>  
1001 Pennsylvania Avenue NW<x-apple-data-detectors://2>  
Washington, DC 20004<x-apple-data-detectors://2>

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# FMC – EASTERN MICHAUD FLATS SUPERFUND SITE

Pocatello, Idaho

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From 1949 until 2001, FMC Corporation operated the world's largest elemental phosphorus plant in Power County, Idaho, just outside Pocatello, employing upwards of 650 individuals at full production. The FMC property is approximately 1400 acres, most of which is FMC fee-owned land within the Fort Hall Indian Reservation, homeland of the Shoshone-Bannock Tribes (Tribes).

The Eastern Michaud Flats Superfund Site (EMF), which includes both the FMC elemental phosphorus plant site and the J.R. Simplot Co. (Simplot) phosphoric acid fertilizer plant site, was listed on the Superfund National Priorities List in 1990.

Under the terms of a 1991 Administrative Order on Consent (AOC) with EPA, and in cooperation with the Idaho Department of Environmental Protection (IDEQ) and the Tribes, FMC and Simplot conducted a Remedial Investigation/Feasibility Study (RI/FS) of the two facilities and surrounding area. Following completion of EMF RI/FS, EPA issued a CERCLA Record of Decision (ROD) in 1998 that addressed the entire EMF Site, including addressing all areas of the site except active operational areas at the Simplot and FMC facilities.

IDEQ agreed with the selected remedies for the entire EMF Site and EPA proceeded to lodge the required consent decrees with the District Court. However, EPA withdrew the consent decree negotiated with FMC based on comments submitted by the Tribes. Without an entered consent decree of the 1998 ROD, FMC was unable to implement the cleanup remedies specified in the ROD. Simplot, located off-Reservation, proceeded to implement its ROD.

Following the FMC plant closure in December 2001, FMC entered into another AOC with EPA in October, 2003 for a Supplemental Remedial Investigation and Feasibility Study (SRI/SFS) of the FMC Plant OU. These investigations included supplemental investigation and evaluation of Off-Plant OU areas (located outside FMC-owned properties). This was driven primarily by EPA's finding that additional investigations and evaluations were needed for the FMC plant areas that had been actively operated at the time of the 1998 ROD, as well as re-investigation of previously sampled areas.

The SRI/SFS was completed in July 2010; public hearings were conducted between September and December 2011, and on September 27, 2012 EPA issued an Interim Amendment to the Record of Decision (IRODA) that selected a cleanup plan for the FMC OU. The selected cleanup includes capping of contaminated soil and extraction and treatment of contaminated groundwater. The primary contaminants of concern in soil are elemental phosphorus, metals and gamma radiation; the primary contaminant of concern in groundwater is arsenic.

[ PAGE \\* MERGEFORMAT ]

The IRODA has the support of the State of Idaho; the Shoshone-Bannock Tribes did not concur with EPA's remedy and advocated instead for a soil remedy that would excavate all elemental phosphorus from soils and treat and transport the contaminated materials for off-site disposal. That alternative was deemed by EPA to be unacceptable due to lack of implementable excavation and treatment technologies, potential risks posed to remedial workers, adjacent facility workers, and the public as well as the high cost, estimated around \$4 billion.

On June 10, 2013, EPA issued a Unilateral Administrative Order for Remedial Design and Remedial Action (UAO) that directed FMC to implement the IRODA remedy. FMC agreed that the issuance of a UAO would expedite the commencement of the remedy rather than a Consent Decree.

## Overview of Soil Remedy Construction

On September 22, 2014, FMC began the Site-Wide Grading Phase of the interim remedy selected in the IRODA, moving approximately 4 million cubic yards of material, to prepare the site for cap placement and managing on-site stormwater. Site-wide grading was completed by the end of the 2015 construction season. FMC started placing caps on the site in late 2015 and all capping will be completed in Summer, 2017.

There are two types of caps that are being constructed: (1) gamma caps, which consist of a 14 inch soil cover over areas of the site where naturally occurring radiation from shale and slag are present, and (2) evapotransporative caps (ET caps) which consist of 30 inches of soil over a capillary barrier to reduce infiltration of rain and snow-melt to prevent additional groundwater contamination. Both caps are being seeded with native plants.

Soil for the capping work was obtained from the existing borrow pit in the Western Undeveloped Area (WUA) of the property. The borrow pit is approximately 80 acres, and approximately 2 million cubic yards of soil were excavated/hailed/placed for capping. The WUA will be reclaimed in Summer, 2017. This is land owned by FMC and had no role in phosphorus production activities.

Immediately prior to the commencement of capping in 2016, the Shoshone-Bannock Tribes requested that a cultural resource survey occur in the WUA before digging could begin. In coordination with the Shoshone-Bannock Tribes Cultural Resources Office and the State Historic Preservation Office, EPA conducted a cultural resource survey in the WUA to ensure that no historic properties would be impacted by the soil excavation. No historic artifacts were found, but the investigation delayed capping construction approximately 3 months at a cost of approximately \$5 million.

Because most of the remediation of the FMC site is taking place within the boundaries of an Indian reservation on FMC-owned fee land, FMC asked its construction contractors to hire local personnel using Native American hiring preferences authorized under the Federal Civil Rights Act. A substantial proportion of the local hires were Native American.

The groundwater extraction and treatment system is currently in the design phase. Construction of the groundwater extraction and treatment system is expected to commence in 2019. The system will utilize a network of extraction wells to extract contaminated groundwater and prevent its migration to areas down-gradient from the FMC property. Groundwater will be treated to drinking water standards and/or risk-based cleanup levels and discharged to infiltration ponds for evaporation or percolation into the groundwater or conveyed to the local POTW. FMC is currently collecting additional groundwater data to update current conditions and will submit a 60% design to EPA in late 2017.

FMC anticipates that the cleanup will have a final cost of approximately \$70 million for which FMC is responsible. In addition, FMC is paying oversight costs to EPA, IDEQ, and the Tribes.

## **Current and Future Redevelopment Projects**

In 2006, FMC granted certain property rights at the site to the Power County Development Authority to market the property for redevelopment. Prior to the issuance of the IRODA and UAO, uncertainties regarding the scope and timing of the cleanup deterred interested developers. Subsequent to the issuance of the IRODA/UAO, those barriers to redevelopment were removed and strong interest is being expressed by developers.

ValleyAgronomics, LLC is the first of hopefully many projects that will locate on the property. On a 20 acre area in the northeast corner of the FMC site, ValleyAgronomics constructed a dry and liquid fertilizer distribution facility that serves the agricultural community of Southeast Idaho, creating approximately 70 jobs. It is the largest fertilizer distribution facility in Idaho.

The project investment is approximately \$12 million and construction was completed in early 2017. To date, Valley has received and distributed approximately 600,000 tons of fertilizer throughout SE Idaho, the equivalent of a 13 mile long train. Additional construction is expected through 2017/2018 at the site where Valley will locate a propane distribution facility as well as an office/warehousing complex, creating additional employment opportunities locally.

The FMC site is uniquely situated to support good paying, industrial jobs and is already contributing again to the local economies. The property is zoned for heavy industrial use and offers excellent infrastructure including rail, electrical transmission, access to interstate highways, and proximity to the Pocatello Regional Airport.

PCDA is actively marketing other areas of the property, and is currently engaged in listing the properties with CBRE, which is the world's largest commercial real estate firm serving owners, investors and occupiers.

## Management of Phosphorus-Containing Soils Uncovered During Soil Remedy

Construction of the soil capping remedy is largely complete however one issue remains outstanding. During planning of the soil remedy implementation, it was anticipated that subsurface materials that pose unique hazards could be unearthed. They were described as “Undocumented Subsurface Conditions (USCs).” Primarily during the site-grading phase of construction in 2014/2015, USCs were unearthed. When even trace amounts of elemental phosphorus are exposed to air, they spontaneously combust and create a grayish smoke which can be extinguished by placing sand over it. About 68% of the USCs came from the slag pile and the plant landfill area of the slag pile.

The USC materials largely consist of furnace digout and rebuild waste containing elemental phosphorus from furnace operations. The FMC Supplemental Remedial Investigation (SRI) documented historic disposal of this type of waste and anticipated that it could be unearthed as a result of site-wide grading. As a result, the IRODA requires FMC to cover the principal area where phosphorus is known to be under the soils with ET caps.

Encountering USCs was also anticipated under the FMC *Emergency Response Plan* (ERP, July 2014) that FMC developed and EPA approved as a required deliverable under the UAO. When USC materials have been encountered, FMC contractors have safely managed them in accordance with the ERP to minimize worker risks.

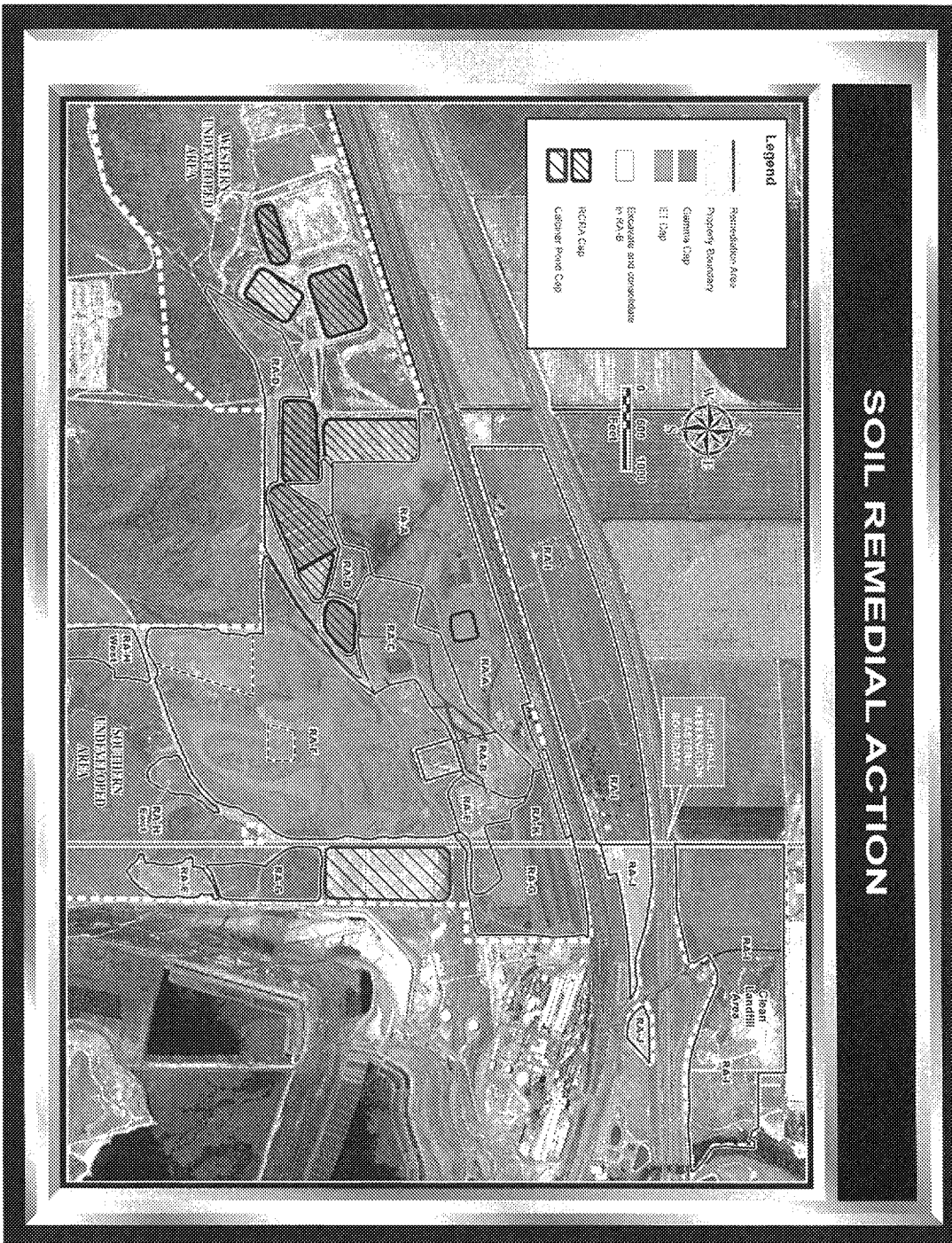
As of October 30, 2015, the total volume of relocated USC material, not including sand that was added to the material to prevent P4 oxidation, is 860 CY; including sand, the total quantity is approximately 1,275 CY. At the direction of EPA, all USCs have been consolidated in the historic plant landfill area of the slag pile.

EPA has suggested that the USC materials be manually placed into containers by site workers and shipped to an appropriately permitted off-site disposal facility. FMC has submitted a risk assessment of this disposal option that identifies increased risks to workers and the general public. Off-site disposal is estimated to involve 4-6 weeks of preparation work, 35-37 weeks of field work, packaging the material into 4,289 to 4,595 drums, and 63 to 66 truckloads to transport the drums across the country to the TSD facility in Ohio that is the closest facility that has preliminarily indicated that it could accept the material. The cost estimates for doing this work and disposal fees are in the range of \$3-4 million.

FMC’s preferred option is to manage the USC material on-site under an ET cap, given that the IRODA anticipated the material would be encountered during site-wide grading of the slag pile and all other elemental phosphorus materials within the slag pile are managed under an ET cap. FMC has also provided EPA with a legal analysis under the CERCLA “Area of Contamination” policy and the IRODA that supports consolidation and on-site disposal of the USC material. In addition to being safer for site workers, who can use heavy equipment instead of shovels, and the public, on-site disposal would cost only about \$50,000 (excluding capping costs).



# SOIL REMEDIAL ACTION



Message

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**From:** Livingston, Robert [rlivingston@livingstongroupdc.com]  
**Sent:** 8/11/2017 5:44:58 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Strayer, Marjorie [mstrayer@livingstongroupdc.com]; Kelly, Albert [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08576e43795149e5a3f9669726dd044c-Kelly, Albe]  
**Subject:** New Cassel Hicksville Groundwater Contamination Superfund Site  
**Attachments:** 0081017.pdf

Mr. Davis – Thank you for your recent letter. Attached is my response. Your attention to this matter is appreciated.

Bob Livingston



The Livingston Group, LLC  
499 S. Capitol Street, SW  
Suite 600  
Washington, DC 20003  
(202) 289-9881  
[www.livingstongroupdc.com](http://www.livingstongroupdc.com)

Confidential – Subject to Mediation Agreement

August 10, 2017

Patrick Davis  
Deputy Assistant Administrator  
Office of Land and Emergency Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Re: Former Sylcor Facility, Hicksville, New York and  
New Cassel Hicksville Groundwater Contamination Superfund Site

Dear Mr. Davis:

Thank you for your response dated July 19, 2017 to my letter to Mr. Kelly and our June 14, 2017 meeting. While we are disappointed with the response, we do appreciate your willingness to discuss this matter with me and your prompt response. I do, however, fear that there are some misunderstandings about the facts and Verizon's motives in seeking a full settlement that I would like to clarify.

Most importantly, Verizon is not seeking to obtain a preferential deal through an early cash out. Rather, the company has offered to substantially overpay the Federal Government for any CERCLA liability that it may have for any contamination that has resulted from the operation of the former Sylcor facility, by waiving over \$200 million in past response costs and paying tens of millions of additional dollars to the United States, in order to receive a release from further CERCLA liability (but subject to "standard re-openers.") Verizon is making this generous offer for three reasons: First, Verizon believes that its team's efforts are better devoted to business issues than litigating liability issues relating to a business that has not operated for over six decades. Second, Verizon wants the Federal Government to have ample funds to quickly address the contamination from this former facility which the public unjustly attributes to Verizon. Verizon is convinced that there is no reasonable likelihood that allowing any Superfund activities to play out will result in liability to Verizon in an amount anywhere close to the amounts that it has been offering to pay. Indeed, it is far more probable that full Superfund litigation will result in a very substantial payment to Verizon. Third and finally, Verizon seeks the certainty that comes with a full settlement. Simply put, Verizon is willing to pay a premium that is far more than its potential "fair share" in return for resolving, once and for all, its potential

responsibility for the Sylcor facility (subject, of course, to the standard CERCLA “reopeners” required in any settlement).

Verizon also believes that the distinction that the EPA is making with respect to the soil remediation and groundwater studies is misplaced. Verizon recognizes that the EPA is addressing a number of groundwater sites in the general area in Hicksville that the Agency believes could potentially have some relationship to the former Sylcor facility and that the EPA is not actively involved with the soil remediation at the former Sylcor Site. However, it is important to understand that the US Army Corps of Engineers is not limiting its efforts to soil remediation. Rather, as it has stated on many occasions, the Corps will follow the contamination from the Sylcor facility wherever it goes. Thus, the Army Corps of Engineers will address the groundwater in any or all of the Sites that the EPA is investigating if, in fact, contamination from the former Sylcor Site has impacted those Sites. The settlement that the parties had nearly reached was based upon what the parties believed to be an absolute worst case analysis of the costs to address both the soils and the groundwater. Thus in the unlikely event the contamination from the former Sylcor Site does have some contribution to these other Sites, the amount proposed to be paid by Verizon will more than cover the amounts that could be attributed to the former Sylcor facility and the Army Corps of Engineers would take responsibility for such contamination. I should note that Verizon had even offered to increase its payment with the excess directed for use by the EPA for these Sites even if there is no connection discovered.

As noted in my earlier letter, rather than providing substantial resources to the Federal Government, the recently filed lawsuit may well force Verizon to shift its efforts from offering a generous settlement with the government to instead seeking to have the Federal Government reimburse it for all of the over \$200 million that Verizon has already expended to address contamination at the Sylcor facility – conditions that the Federal Government agreed to take responsibility for when the Sylcor plant was in operation and which resulted from practices mandated by the U.S. Atomic Energy Commission. In addition, Verizon may be compelled to seek a declaration holding the Federal Government responsible for any amounts that the EPA or others seek to attribute to the former Sylcor Site.

I have passed your letter on to the Verizon attorneys responsible for this matter and I am sure that they will continue to remain in contact with Ms. Kivowitz as well as the Justice Department and Army Corps lawyers about this matter. I know that the lawyers continue to hold out some hope that rather than litigate, the EPA will join with the Justice Department and the Army Corps of Engineers to reach a full settlement of this matter in a way that will benefit both the Government and Verizon.

I again wish to again thank you and Mr. Kelly for your time and consideration.

Sincerely,



Robert L. Livingston  
Founding Partner  
The Livingston Group, LLC.

Message

---

**From:** Gioffre, Patricia [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31F5C89E985847ECAEEC14283E8FC914-PFLEMI02]  
**Sent:** 10/3/2017 8:16:04 PM  
**To:** danielleg@fb.org; andreww@fb.org  
**CC:** Jennings, Kim [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7eeab2bece9b461e949b23d538b7964a-kjenning]; Hostage, Barbara [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13c503d29e7a4eceb13c449d182eca25-BHostage]; Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]; Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]; Hull, George [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f6dd2fab273845218756495c7a2d94ad-ghull]  
**Subject:** Agricultural Air Quality Conservation Measures Reference Guide for Poultry and Livestock Production Systems

All-

Thank you for taking the time to meet with us today. As promised, I am sending a link to the reference guide, developed by EPA and USDA, that provides options for improving air quality from livestock and poultry operations.

<https://www.epa.gov/afos-air/agricultural-air-quality-conservation-measures-reference-guide-poultry-and-livestock>

Best wishes!

-----  
Patty Gioffre  
Acting Deputy Division Director  
USEPA (OLEM/OEM/RID)  
1200 Pennsylvania Ave. NW (5104A)  
Washington, DC 20460  
202-564-1972

**Ex. 6** (cell)

-----Original Appointment-----

**From:** Davis, Patrick  
**Sent:** Monday, October 02, 2017 12:02 PM  
**To:** Davis, Patrick; Brooks, Becky; Jennings, Kim; Gioffre, Patricia; Clark, Becki; Bennett, Tate; danielleg@fb.org; Gordon, Stephen; donp@fb.org; andreww@fb.org; Hostage, Barbara  
**Cc:** Cogliano, Gerain  
**Subject:** EPCRA/CERCLA w/Farm Bureau  
**When:** Tuesday, October 03, 2017 2:30 PM-3:15 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** 1301 Constitution Avenue, NW, DC 20004, Room 3146 West Building

**Security:**

Please have the guards call OLEM's main number **202-566-0200** for an escort when you arrive.

Closest Metro Station - Federal Triangle Metro on the Orange/Blue/Silver lines

**Our Address:**

William J. Clinton Building West  
1301 Constitution Ave, NW

(On Constitution between 14<sup>th</sup> and 13<sup>th</sup> across from the National Museum of American History)

POC: Becky Brooks - 566-2762  
Caroline Kenely – 566-2235

Message

---

**From:** Robert Helminiak [helminiakr@socma.com]  
**Sent:** 5/26/2017 2:51:09 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**Subject:** Thank You

Patrick,

Thank you for taking the time to meet with us earlier this week.

We are very happy with the overall direction of EPA and very impressed with your understanding of our issues and the steps you have already taken to help resolve our concerns.

Our main concern was explaining how unique the specialty chemical industry is and precisely why we need a seat at the table. We are very excited to participate in groups like the Sector Strategy group and be partners with EPA.

We were very pleased to hear about the plans to eliminate the TSCA Pre-Manufacture Notices by the end of July. Also, the current progress on the RMP rule, and the additional scrutiny you suggested is very encouraging.

Again, thank you for a terrific meeting. I'm personally very much looking forward to working with EPA in this new environment.

Regards,  
Robby

Robert F. Helminiak | *Managing Director, Government Relations*

Society of Chemical Manufacturers & Affiliates (SOCMA)

1400 Crystal Drive | Suite 630 | Arlington, VA 22202

D: 571.348.5107 | M: Ex. 6

Message

---

**From:** Davis, Patrick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7FCA02D1EC544FBBD6FB2E7674E06B2-DAVIS, PATR]  
**Sent:** 4/18/2017 7:45:26 PM  
**To:** Baur, Don (Perkins Coie) [DBaur@perkinscoie.com]  
**CC:** Andrew Colosimo (acolosimo@csu.org) [acolosimo@csu.org]  
**Subject:** RE: Thank you for meeting

10 a.m. on either the 3<sup>rd</sup> or 4<sup>th</sup>.

Patrick Davis  
EPA  
Special Assistant to the Administrator  
202-564-3103 office  
Ex. 6 cell

Information sent to this email address may be subject to FOIA.

---

**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Tuesday, April 18, 2017 3:44 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** RE: Thank you for meeting

Thanks -- is there a best time either day?

---

**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Tuesday, April 18, 2017 3:42 PM  
**To:** Baur, Don (WDC)  
**Cc:** Andrew Colosimo (acolosimo@csu.org)  
**Subject:** RE: Thank you for meeting

That should work.

Patrick Davis  
EPA  
Special Assistant to the Administrator  
202-564-3103 office  
Ex. 6 cell

Information sent to this email address may be subject to FOIA.

---

**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Tuesday, April 18, 2017 3:15 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** RE: Thank you for meeting

Thank you Patrick. I expect we could be ready to do so in about two weeks -- so perhaps around May 3 or 4?



---

**From:** Davis, Patrick [<mailto:davis.patrick@epa.gov>]  
**Sent:** Tuesday, April 18, 2017 3:09 PM  
**To:** Baur, Don (WDC)  
**Cc:** Andrew Colosimo ([acolosimo@csu.org](mailto:acolosimo@csu.org))  
**Subject:** RE: Thank you for meeting

Hi Don,

I would welcome the discussion regarding administrative reform issues. When would you like to come by and visit with us?

Sincerely,

Patrick Davis  
EPA  
Special Assistant to the Administrator  
202-564-3103 office  
Ex. 6 cell

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---

**From:** Baur, Don (Perkins Coie) [<mailto:DBaur@perkinscoie.com>]  
**Sent:** Friday, April 14, 2017 2:00 PM  
**To:** Davis, Patrick <[davis.patrick@epa.gov](mailto:davis.patrick@epa.gov)>  
**Cc:** Andrew Colosimo ([acolosimo@csu.org](mailto:acolosimo@csu.org)) <[acolosimo@csu.org](mailto:acolosimo@csu.org)>  
**Subject:** Thank you for meeting

Patrick,

On behalf of the Western Urban Water Coalition (WUWC), we want to thank you for meeting with the Coalition members last week at EPA and talking about western water. We very much appreciate this meeting with you, Mike Shapiro and others EPA staff, and the opportunity to introduce ourselves. The members greatly enjoyed your presentation and look forward to working with you and your agency on the important water issues of the Western states.

The Coalition has developed a short list of its priority administrative reform issues, and we would be happy to speak with you or your staff about this at any time. Please let us know if there is a time that is convenient for us to do so.

Thank you again for meeting the Coalition last week.

Best regards,

Don Baur

---

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Message

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**From:** Davis, Patrick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7FCA02D1EC544FBBD6FB2E7674E06B2-DAVIS, PATR]  
**Sent:** 4/18/2017 7:41:54 PM  
**To:** Baur, Don (Perkins Coie) [DBaur@perkinscoie.com]  
**CC:** Andrew Colosimo (acolosimo@csu.org) [acolosimo@csu.org]  
**Subject:** RE: Thank you for meeting

That should work.

Patrick Davis  
EPA  
Special Assistant to the Administrator  
202-564-3103 office  
Ex. 6 cell

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---

**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Tuesday, April 18, 2017 3:15 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** RE: Thank you for meeting

Thank you Patrick. I expect we could be ready to do so in about two weeks -- so perhaps around May 3 or 4?

---

**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Tuesday, April 18, 2017 3:09 PM  
**To:** Baur, Don (WDC)  
**Cc:** Andrew Colosimo (acolosimo@csu.org)  
**Subject:** RE: Thank you for meeting

Hi Don,

I would welcome the discussion regarding administrative reform issues. When would you like to come by and visit with us?

Sincerely,

Patrick Davis  
EPA  
Special Assistant to the Administrator  
202-564-3103 office  
Ex. 6 cell

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---

**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Friday, April 14, 2017 2:00 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>

**Cc:** Andrew Colosimo ([acolosimo@csu.org](mailto:acolosimo@csu.org)) <[acolosimo@csu.org](mailto:acolosimo@csu.org)>

**Subject:** Thank you for meeting

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The Coalition has developed a short list of its priority administrative reform issues, and we would be happy to speak with you or your staff about this at any time. Please let us know if there is a time that is convenient for us to do so.

Thank you again for meeting the Coalition last week.

Best regards,

Don Baur

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Message

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**From:** Davis, Patrick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7FCA02D1EC544FBBBD6FB2E7674E06B2-DAVIS, PATR]  
**Sent:** 5/3/2017 1:03:38 PM  
**To:** Baur, Don (Perkins Coie) [DBaur@perkinscoie.com]  
**CC:** Andrew Colosimo (acolosimo@csu.org) [acolosimo@csu.org]  
**Subject:** RE: Thank you for meeting

Hi Don,

When you arrive please have security call Caroline Kenely at 202-566-0200.

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office

**Ex. 6** cell

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**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Wednesday, May 3, 2017 8:50 AM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** RE: Thank you for meeting

Thanks Patrick -- we will see you there.

---

**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Wednesday, May 03, 2017 8:47 AM  
**To:** Baur, Don (WDC)  
**Cc:** Andrew Colosimo (acolosimo@csu.org)  
**Subject:** RE: Thank you for meeting

Hi Don,

Thank you for the clarification. We will meet in 4150 west. Please come to the west building entrance located at 1301 Constitution Avenue. Looking forward to seeing you. I will ask Mike Shapiro to recommend a representative from the water office to join us.

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office

**Ex. 6** cell

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**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Wednesday, May 3, 2017 8:23 AM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** RE: Thank you for meeting

Thanks Patrick -- tomorrow at 10 will be great. We have a similar meeting at Interior at 2.

---

**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Wednesday, May 03, 2017 8:22 AM  
**To:** Baur, Don (WDC)  
**Cc:** Andrew Colosimo (acolosimo@csu.org)  
**Subject:** RE: Thank you for meeting

Hi Don,

I am holding time on my schedule to meet with today and tomorrow. Which date and time did we settle on?

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office  
Ex. 6 cell

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---

**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Friday, April 14, 2017 2:00 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** Thank you for meeting

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Thank you again for meeting the Coalition last week.

Best regards,

Don Baur

---

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Message

---

**From:** Davis, Patrick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7FCA02D1EC544FBBD6FB2E7674E06B2-DAVIS, PATR]  
**Sent:** 5/3/2017 12:46:58 PM  
**To:** Baur, Don (Perkins Coie) [DBaur@perkinscoie.com]  
**CC:** Andrew Colosimo (acolosimo@csu.org) [acolosimo@csu.org]  
**Subject:** RE: Thank you for meeting

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Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office  
Ex. 6 cell

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**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Wednesday, May 3, 2017 8:23 AM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** RE: Thank you for meeting

Thanks Patrick -- tomorrow at 10 will be great. We have a similar meeting at Interior at 2.

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**From:** Davis, Patrick [mailto:davis.patrick@epa.gov]  
**Sent:** Wednesday, May 03, 2017 8:22 AM  
**To:** Baur, Don (WDC)  
**Cc:** Andrew Colosimo (acolosimo@csu.org)  
**Subject:** RE: Thank you for meeting

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Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103 office  
Ex. 6 cell

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---

**From:** Baur, Don (Perkins Coie) [mailto:DBaur@perkinscoie.com]  
**Sent:** Friday, April 14, 2017 2:00 PM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Cc:** Andrew Colosimo (acolosimo@csu.org) <acolosimo@csu.org>  
**Subject:** Thank you for meeting

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Thank you again for meeting the Coalition last week.

Best regards,

Don Baur

---

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Message

---

**From:** Davis, Patrick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7FCA02D1EC544FBBD6FB2E7674E06B2-DAVIS, PATR]  
**Sent:** 8/2/2017 7:45:06 PM  
**To:** Oman, Daniel [DOman@haleyaldrich.com]  
**CC:** Rees, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Rees, Sarah]; Dowd, Jr, Roddey [rdowdjr@charlottepipe.com]; jbye@dotson.com; Tom.Teske@ejco.com; James M. Proctor [jim.proctor@mcwane.com]; Eric R. Meyers [ermeyers@ociw.com]; Justice, Max E. [maxjustice@parkerpoe.com]; Stuart Jolly - Sonoran Policy Group, LLC (stuart.jolly@cox.net) [stuart.jolly@cox.net]; Stephanie Salmon [ssalmon@afsinc.org]; Muller, Brad [BMuller@charlottepipe.com]; jhannapel@thepolicygroup.com [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=02e73026873e4e39ac26777c9b39f776-jhannapel@thepolicygroup.com]  
**Subject:** Re: AFS / Metalcasting Industry Summary of Important Air Issues

Dan,

Thank you for sharing this letter with us. I will be sure to share it with Barnes Johnson as well.

All the best,

Patrick Davis  
Environmental Protection Agency  
Deputy Associate Administrator, Office of Land and Emergency Management  
202-564-3103 office

**Ex. 6** cell

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Jul 28, 2017, at 8:26 AM, Oman, Daniel <[DOman@haleyaldrich.com](mailto:DOman@haleyaldrich.com)> wrote:

Sarah and Patrick,

First of all thank you for meeting with our metalcasting industry delegation on June 20<sup>th</sup> during the American Foundry Society (AFS) Governmental Affairs Conference. At the conclusion of our meeting, Sarah asked if we would summarize the air regulations (especially those associated with PSD/NSR Permitting) that were imposing a significant burden on the metalcasting industry. Attached is a letter prepared by a working group of the AFS Air Quality Committee and others which summarizes our major issues with current air quality regulations and includes recommendations as to how they could be improved/modified. We have also echoed our support for reinstating the Sector Strategies Program which we felt was very beneficial not only to industry, but also to the agency.

While we have attempted to summarize our issues in this letter, we realize that there may be additional questions regarding these issues and some additional detail may be necessary in order to fully understand our perspective and our suggestions for improvement. Toward that end we want you to know that we would be willing to follow up this letter with a meeting between staff from the USEPA and technical experts from the metalcasting industry at a mutually acceptable date and time in order to facilitate a better understanding of our issues and our suggested improvements/modifications.

Again, thanks for meeting with us and for your willingness to consider issues of importance to the metalcasting industry.

Dan

**Dan Oman, P.E.**

Senior Associate

**Haley & Aldrich, Inc.**

455 E. Eisenhower Parkway, Suite 210

Ann Arbor, MI 48108-3323

T: (734) 887.8404

C: Ex. 6

[www.haleyaldrich.com](http://www.haleyaldrich.com)

<2017\_0729\_AFS Letter\_Sarah Rees.pdf>

Message

**From:** Davis, Patrick [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7FCA02D1EC544FBBD6FB2E7674E06B2-DAVIS, PATR]  
**Sent:** 6/1/2017 8:51:58 PM  
**To:** Laws, Elliott [ELaws@crowell.com]  
**CC:** Brooks, Becky [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6f369a2ef33e4a87af349210a3915a57-BBrooks]  
**Subject:** RE:

Hi Elliott,

I would welcome the opportunity to meet Liz and see you again. Our time together the last time was too short.

Becky Brooks will coordinate a time when we can get together.

Thanks,

Patrick Davis  
Environmental Protection Agency  
Deputy Assistant Administrator, Office of Land and Emergency Management  
202-564-3103, office  
Ex. 6 cell

Information sent to this email address may be subject to FOIA.

-----Original Message-----

**From:** Laws, Elliott [mailto:ELaws@crowell.com]  
**Sent:** Thursday, June 1, 2017 11:49 AM  
**To:** Davis, Patrick <davis.patrick@epa.gov>  
**Subject:** Re:

Hi Patrick. I'm just checking in to see if there's any update on the invitation to the Administrator or whether we should connect with his scheduler. Associated with that, I'd like to bring Liz Davis from FMC in to meet with you and provide some history and background on the site.

Thnx,  
Elliott

Elliott P. Laws  
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On May 17, 2017, at 3:45 PM, Davis, Patrick <davis.patrick@epa.gov<mailto:davis.patrick@epa.gov>> wrote:  
Got it. Thank you. I have submitted it to the Administrator . All the best.

Patrick Davis

Sent from my iPhone

On May 17, 2017, at 3:17 PM, Lizanne Davis <Lizanne.Davis@fmc.com<mailto:Lizanne.Davis@fmc.com>> wrote:

Dear Administrator Pruitt,

FMC Corporation and ValleyAgronomics, LLC would like to invite you to visit the FMC OU of the Eastern Michaud Superfund Site in Idaho - please see attached invitation.

FMC is remediating the Site and ValleyAgronomics has located Idaho's largest fertilizer distribution facility on the property, with plans for additional development. Through our experience, FMC and Valley

may have some suggestions for enhancing redevelopment opportunities at CERCLA Sites before, during and after remediation occurs.

The Site is an outstanding example of how CERCLA can work to ensure environmental protection at Superfund Sites, while allowing these properties to once again contribute to the local community. We hope you will be able to accept this invitation, and please feel free to call me with any questions.

Best,  
Liz Davis

Lizanne H. Davis  
Director, Government Affairs  
FMC Corporation  
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<Scott Pruitt Invite.pdf>

Message

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**From:** Baur, Don (Perkins Coie) [DBaur@perkinscoie.com]  
**Sent:** 4/14/2017 5:59:36 PM  
**To:** Davis, Patrick [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7fca02d1ec544fbbbd6fb2e7674e06b2-Davis, Patr]  
**CC:** Andrew Colosimo (acolosimo@csu.org) [acolosimo@csu.org]  
**Subject:** Thank you for meeting

Patrick,

On behalf of the Western Urban Water Coalition (WUWC), we want to thank you for meeting with the Coalition members last week at EPA and talking about western water. We very much appreciate this meeting with you, Mike Shapiro and others EPA staff, and the opportunity to introduce ourselves. The members greatly enjoyed your presentation and look forward to working with you and your agency on the important water issues of the Western states.

The Coalition has developed a short list of its priority administrative reform issues, and we would be happy to speak with you or your staff about this at any time. Please let us know if there is a time that is convenient for us to do so.

Thank you again for meeting the Coalition last week.

Best regards,

Don Baur

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