



EXTRA INFORMATION 11/27/06
CONSENT

NOTE TO BOS - WE BELIEVE
THIS IS THE FINAL DRAFT OF
COMMENTS TO EPA/DEP
IN THIS REGARD. IF YOU
AGREE WE HAVE A CLEAN
COPY IN THE SIGNATURE FILE
FOR THE CHAIRMAN'S SIGNATURE.

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Walter M. Foster, Chairman
Board of Selectmen

BY FEDERAL EXPRESS
Daniel Keefe
Bureau of Waste Site Cleanup
Massachusetts Department of Environmental
Protection
1 Winter Street
Boston, Massachusetts 02108

BY FEDERAL EXPRESS
Derrick Golden
US Environmental Protection Agency
1 Congress Street
Boston, Massachusetts 02114-2023

RE: W.R. Grace (Acton Plant) Site
Schedule for Comments on Remedial Design/Remedial Action (RD/RA) Phase

Dear Mr. Keefe and Mr. Golden:

As you know, the Environmental Protection Agency (EPA) and the Massachusetts Department of Environmental Protection (MassDEP) (collectively the "GPs") proposed that the Town of Acton (acting through the Board of Selectmen), the Acton Water District (AWD), and the Acton Citizens for Environmental Safety (ACES) (collectively the Stakeholders) commit to a Memorandum of Agreement (MOA) pursuant to which each of the Stakeholders may comment on deliverables to be submitted by or on behalf of W.R. Grace & Co. - Conn. (Grace) concerning the Remedial Design/Remedial Action (RD/RA) Phase of the Remedial Actions outlined in EPA's September 30, 2005 Record of Decision (ROD). As explained in Mr. Golden's email discussing the proposed MOA, EPA and DEP anticipated that the proposed MOA would outline a schedule for commenting on the deliverables based on the approved RD/RA Statement of Work. However, the MOA would be non-binding; it would not be signed by any of the Stakeholders; it would not be signed by the GPs; and EPA and DEP would not commit to any time frame for action on the various deliverables.

While the Selectmen appreciate the effort EPA and DEP have devoted to develop the draft MOA, the Selectmen believe that the procedure outlined in this letter below would be a more effective way to address the schedule for public comment. The purpose of this procedure is to encourage allow EPA and DEP both to consider meaningful and timely community input on Grace's deliverables and to act on those deliverables in a way that encourages expeditious remedial actions concerning the releases of hazardous substances at and from the Grace facility.

Accordingly, except in the case of an emergency in which the GPs must act unilaterally to protect the public health, safety, welfare and the environment, the Selectmen will abide by – and encourage the AWD, ACES, and the GPs to abide by – the following procedure for public comment on the Grace deliverables:

1. Once a deliverable is submitted EPA and/or MassDEP will then provide the Stakeholders with an e-mail to document the receipt of the deliverable by EPA and/or MassDEP. The email will specify whether the GPs consider the submission to be a “routine deliverable” or an “extraordinary deliverable.” That designation will be made in good faith by EPA and DEP depending on the nature of the deliverable, the complexity of the information it contains, and the importance of the deliverable to discretionary decisions that may be made by the GPs concerning the Remedial Design and Remedial Action at the Grace facility.
2. The Town will (and each Stakeholder should) promptly respond to the email, confirming receipt of the deliverable. For each deliverable, the deadlines described below will be calculated from the later of (a) the date of the EPA and/or DEP email, or (b) the date upon which the deliverable has been received by the public repository in the Town (the “Commencement Date”).
3. For a “routine deliverable”, within 15 days after the Commencement Date, the Town will (and each Stakeholder should) independently notify (via e-mail) EPA, MassDEP and the other Stakeholders if it intends to comment on that particular deliverable. In the event a Stakeholder intends to comment on a “routine deliverable,” those comments need to be received by EPA and MADEP within 30 days after the Commencement Date.
4. For an “extraordinary deliverable,” within 20 days after the Commencement Date, the Town will (and each Stakeholder should) independently notify (via e-mail) EPA, MassDEP and the other Stakeholders if it intends to comment on that particular deliverable. For an “extraordinary deliverable.” in the event a Stakeholder intends to comment, those comments need to be received by EPA and MADEP within 45 days after the Commencement Date.
5. The Town will (and each Stakeholder should) focus its comments on areas it considers to be of particular importance (e.g. the Northeast Plume Area; proposed institutional controls, etc). However, each Stakeholder retains the right to review and comment on all aspects of all respective deliverables.
6. The Selectmen urge EPA and MassDEP to review and consider all timely Stakeholder comments on a deliverable when arriving at the final GP comments to W.R. Grace on that deliverable. The Selectmen also encourage the GPs to attach the Stakeholders’ comments to the GPs’ comments on each Grace deliverable.
7. The Town, ACES and AWD have overlapping but not identical interests and areas of concern. The Selectmen understand that the GPs encourage ACES, AWD and the Town to coordinate their comments, to the extent practicable.

8. The Selectmen urge EPA and MassDEP to make themselves available to participate in a conference call or meeting with the Stakeholders approximately every other month. The purpose of each conference call or meeting will be to discuss the overall status of the RD/RA, recently submitted deliverables, and answers to general questions.
9. The Selectmen believe that, periodically, such a conference call or meeting should also include Grace (or its representatives) in order to discuss upcoming RD/RA activities and/or answer question pertaining to any recently submitted deliverable.
10. The Selectmen urge the GPs to review and act upon Grace deliverables and Stakeholders' comments expeditiously with a view toward accomplishing remedial objectives as soon as reasonably possible.

This letter attempts to streamline the exchange of information between the GPs and the Stakeholders in order to lay the framework for timely and meaningful public participation that expedites the overall RD/RA schedule. Periodically during the RD/RA process, the Selectmen will re-evaluate this process and, if need be, propose adjustments to the schedule.

Very truly yours,

Walter M. Foster, Chairman
Acton Board of Selectmen

cc: Acton Water District
Acton Citizens for Environmental Safety