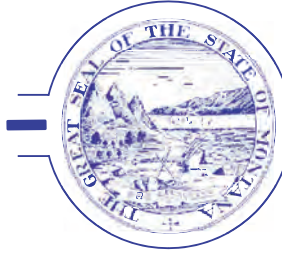


DEPARTMENT OF JUSTICE
NATURAL RESOURCE DAMAGE PROGRAM



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September 2, 2022

Mr. Nikia Greene
Remedial Project Manager
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Helena, MT 59626

Ms. Erin Agee
U.S. EPA Region 8
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sent via email:
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agee.erin@epa.gov

Re: 2022 and 2023 Coordination Issues Concerning the Parrot Tailings Waste Removal Project (Parrot Project) and BPSOU Remedial Activities

Dear Mr. Green and Ms. Agee:

We would like to coordinate the remaining Parrot Project work with any planned or likely BPSOU remedy actions such as waste haul routes through our project area. We are aware of multiple potential BPSOU remedial plans that could impact the Parrot Project (depending on location, timing, etc.), and it would be good to identify these issues now and coordinate solutions with EPA and BP-AR as appropriate.

NRDP is committed to coordinating restoration with remedy to ensure the best outcome for Butte. There may be opportunities to coordinate work to be more efficient and save everyone some time and money. We would like to ensure coordination in a way that does not result in negative contractual, financial, or schedule impacts to the Parrot Project.

Our current schedule for this phase of work ends in October of 2023 and includes, among other things, complete reconstruction of Civic Center Road, paving parking areas, removal of the haul roads, removal of site security fencing, and removal of the railroad crossing. It should also be noted that the access agreement between NRDP and BNSF ends in October 2023, and the current agreement requires removal of the crossing, haul road and spur road by then. Any access on BNSF property after this date would need to be covered under a separate access agreement. It has been our experience that negotiating access agreements with BNSF can take some time. It may be worth exploring with BNSF whether the process may be expedited if our crossing is extended before its removed, since we have gone through the extensive safety review already. If EPA and BP-AR have any plans to use these facilities or constructed areas in 2023 or beyond, then we need to work on coordination now with all of the parties.

Here are the items we are aware of as potential coordination items, organized by Parrot Project Phase II Bid Items:

General Activities/Oversight/General Requirements

- Nothing specific here at this time, but just a reminder that any extension of the project timeline beyond the current approved substantial completion date would impact ICS's insurance and bonding requirements and could result in possible additional project overhead costs.
- Any impacts or adjustments to ICS's required one year warranty responsibilities would need to be defined for substantial and final completion.
- Depending on what is proposed, it may require additional engineering time, oversight work, and/or changes to the existing bid documents.

Erosion Control

- Nothing specific here at this time, but just a reminder that any extension of the project timeline beyond the current approved substantial completion date would impact ICS's SWPPP permit, required BMP maintenance, and Notice of Termination.

Site Security

- The interim and final fencing plans may be impacted by any haul road and/or haul traffic through the site.

Dust Control

- Nothing specific here at this time, but just a reminder that any extension of the project timeline beyond the current approved substantial completion date could impact ICS's dust control activities.

Dewatering Systems

- We have had preliminary discussions with BP-AR on potentially continuing the existing Interim Dewatering (IDW) system, as well as design/installation of a more long-term

system that is intended to run year-round. Either of these scenarios would impact the Parrot Project.

- Continuation of existing IDW system: ICS is planning to turn off this system when all waste excavation has been completed, which will be sometime this fall. BP-AR would need to assume operation, maintenance, and sampling of this system if it is intended to keep running or accommodate ICS to continue with these activities. An agreement would need to be prepared between NDRP, BP-AR, BSB, and MR, with electrical power worked out and coordinated with NWE.
- Design of New Dewatering System: Depending on final design, this work could impact parking lot and road construction, ET cover construction, and potentially other activities. We could have ICS install sleeves under Civic Center Road if this is a possibility, which would avoid having to dig up the new road.
- Both Scenarios: The agreement to accept water between NRDP and Montana Resources ends in October 2023. Any dewatering after this date would need to be covered under a separate agreement.
- What do we do with the pipeline going to MR? It would need to be buried in a trench below the frost line and bored under Farrel Street.

Demolition

- There should not be impacts to this bid item unless demolition of new infrastructure were required. We anticipate that all parties agree that demolition of new infrastructure is inefficient and should be avoided where possible.

Traffic Control

- Nothing specific here at this time, but just a reminder that any extension of the project timeline beyond the current approved substantial completion date would impact ICS's traffic control requirements.

Railroad Coordination

- The access agreement between NRDP and BNSF ends in October 2023. Any access on BNSF property after this date would need to be covered under a separate agreement. Also, any workers crossing BNSF property will have to complete BNSF safety training.

Excavation and Backfill

- Any changes to the proposed final grade of the site would impact excavation/backfill activities and would have to be coordinated with BSB, including the Civic Center.

Soil Cover Borrow Source

- Any use of the Ueland Borrow source material would require a new access/purchase agreement. It could also impact reclamation activities and the existing Opencut Mine permit on the Ueland Ranch near Ramsay.

Haul Road

- The Parrot Project Phase II contract will reclaim the existing haul road, fencing, railroad, and drainage to pre-existing conditions. If BP-AR intends to use any part of the haul road, it would be nice to know this before ICS starts reclamation work. Additionally, BP-AR would need to secure approval across BSB, BNSF, and MR property. There are specific utility and railroad crossings that must be reclaimed, including the remaining utility crossing bridge that is to be returned to the Phase I Parrot Contractor.
- Proposed haul equipment should be vetted with Northwestern Energy and landowners to ensure that all utilities (underground and overhead) are safe.
- We assumed ~5,000 CY of haul road gravel would be salvaged and used as backfill/base course – if we leave the haul road in place, we will need to import more backfill material. BP-AR should cover the cost of this extra material.

Civic Center Road

- If a haul road is intended to run through the Parrot Site, it may not make sense to fully complete Civic Center Road. Asphalt, sidewalk, etc. would likely be impacted and have to be reconstructed.
- All utilities should be evaluated and installed prior to any new haul road construction through the site.

Civic Center Road Water Main

- Any proposed remedy work should be evaluated to determine if there will be impacts to the new water line infrastructure being placed under the new Civic Center Road.

Civic Center Road Stormwater Main

- Any proposed remedy work should be evaluated to determine if there will be impacts to the stormwater line infrastructure.

Warren Avenue Stormwater Main

- Any proposed remedy work should be evaluated to determine if there will be impacts to the new Warren Ave stormwater infrastructure.

Sanitary Sewer Replacement

- Any proposed remedy work should be evaluated to determine if there will be impacts to the sewer line infrastructure.

Parking Lot Construction

- If a haul road is intended to run through the Parrot Site, it may not make sense to fully complete Civic Center parking lot construction. Asphalt, sidewalk, etc. would likely be impacted and have to be reconstructed.
- Any proposed remedy work should be coordinated with BSB and the Civic Center to determine impacts to public access and traffic.

Parking Lot Stormwater System

- Any proposed remedy work should be evaluated to determine if there will be impacts the parking lot stormwater infrastructure.

Reclamation Work

- ICS is in the process of constructing ET covers as well as temporary seeded areas.
- If BP-AR intends to use the haul road route, it would be nice to know this before ICS starts reclamation work. This will eliminate having to tear up and reconstruct ET or temporary covers. Access would need to be maintained to non-impacted ET areas.
- If the haul road remains, we will not be able to fully construct the 2nd St ET area or the area on the West side of the Patriot rail slope. So, we would need to leave a stockpile of ET soil on site for future use once BP-AR is done.

Please let us know if there are opportunities to confirm some of the discussed activities and/or coordinate any proposed work. We also would welcome discussion of any additional coordination issues you may have identified that are not outlined in this letter.

Jim Ford
Parrot Tailings Waste Removal Project Manager
Natural Resource Damage Program

cc, sent via email:

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Pat Cunneen; NRDP
Katherine Hausrath; NRDP
Josh Vincent, WET
Stephen Frazee, WET
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John Gallagher, BSBC
Jim Kambich, BSBC
Eric Hassler; BSBC
Bill Melvin, BSBC
Anne Walsh; UP
Josh Bryson; BP-AR
Jean Martin; Counsel BP-AR
Mave Gasaway; attorney for BP-AR
David Shanight, CDM Smith
Curt Coover, CDM Smith
Ian Magruder; CTEC
Elizabeth Erickson; BNRC
Jon Sesso, BNRC