

ATTACHMENT 4

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March 21, 1994

Marcia Preston, Esq.
United States Environmental
Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Re: Lorentz Shallow Groundwater Task Force

Dear Marcia:

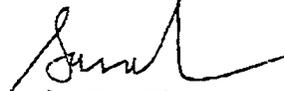
This will confirm the conversation that you and I had last week. The Task Force's out-of-pocket expenses through mid-March are roughly \$2,313,000 for design and construction and \$477,000 for O&M (not counting disputed billings). As we discussed, these cost figures do not include the substantial design and project management services provided by Task Force members' in-house technical personnel (principally Steve Henshaw and Michael Parr) or legal advice provided to the consultants relating to various requirements for the project. Also, we have not been billed for any EPA oversight activities. In addition, the fact that the Task Force incurred substantial expenses several years ago bears on the value of these expenses for purposes of comparison with 1994-95 payments.

Future O&M is estimated at \$200,000 to \$250,000 per year. We strongly urge EPA to consider removing future O&M from Task Force settlement activities and adding it to the activities that need to be funded by others so that, even if the Task Force is not provided with the rewards of early settlement contemplated in our discussions with the agency in 1989-90, its members will not be punished for early settlement by paying more per drum than others at the site are now being asked to pay. Please let me know what further steps, if any, the Task Force needs to take

Marcia Preston, Esq.
March 21, 1994
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to have the EPA consider modifying our settlement obligations to reflect a more appropriate share of total site costs.

Very truly yours,



Sarah G. Flanagan



ATTACHMENT 5

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

July 18, 1994

MEMORANDUM

SUBJECT: Lorentz Barrel and Drum

FROM: Marcia Preston, Assistant Regional Counsel 

TO: Darrin Swartz-Larson, Remedial Project Manager

This is to confirm information I previously provided to you. On March 17, 1994 I had a telephone conversation with Sara Flanagan, counsel to Du Pont, regarding the costs incurred by her client and the other entities conducting the groundwater pump and treat remedy. Ms. Flanagan agreed to provide in writing an estimate of those costs. Ms. Flanagan stated that the operation and maintenance costs to be included in the estimate began in roughly May 1992.

ATTACHMENT 6

ORRICK, HERRINGTON
& SUTCLIFFE

March 3, 1994

Direct Dial

(415) 773-5576

FAX AND MAIL

Ms. Marcia Preston
Assistant Regional Counsel
U.S. Environmental Protection Agency
75 Hawthorne St.
San Francisco, Ca. 94105

Re: Lorentz Barrel & Drum Site, San Jose, Ca.

Dear Marcia:

This is in response to your request for information regarding the removal action underway at the above-referenced site. This letter is submitted on behalf of all of the member companies in the "Removal Action Group", i.e. the parties to the Administrative Order On Consent No. 92-29.

As of our last accounting in mid-February, the Removal Action Group has spent \$656,312.76 on the Lorentz removal action. It is presently estimated that Phase II of the action will cost an additional \$918,000, bringing the Group's total costs to nearly \$1.6 million dollars. If that estimate proves to be correct, the Removal Action Group will have spent in excess of \$34.00 per barrel on the removal action. These figures do not include EPA oversight costs nor any allowance for unforeseen contingencies.

Based upon your description of the de minimis settlement proposal being prepared by the agency, the Removal Action Group has reservations about the fairness of the proposal. Where a PRP group is voluntarily expending in excess of \$34.00 per barrel, it is unfair for EPA to settle with other PRPs at a significantly lower sum per barrel and to release those same parties from further liability. EPA's policy on CERCLA Settlements With De Minimis Waste Contributors (OSWER #9834.7-1D, 7/30/93) suggests that de minimis settlers will generally be asked to pay an amount based upon total past costs and estimated

ORRICK, HERRINGTON
& SUTCLIFFE

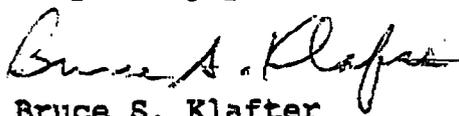
Ms. Marcia Preston
March 3, 1994
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future costs plus a premium of 50-100%. Our understanding is that premiums have been routinely required from de minimis contributors.

As we discussed, the Group would like to meet with you to discuss the de minimis settlement proposal further. You indicated you would check to see if March 17, 1994 at 10:00 a.m. fits your schedule.

I will look forward to hearing from you and to our meeting. Thank you.

Very truly yours,


Bruce S. Klafter

BSK:ew

cc: Removal Action Group