

## Danielle R. Taber

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**From:** Laura L. Malone  
**Sent:** Friday, October 03, 2014 5:24 PM  
**To:** Danielle R. Taber  
**Subject:** FW: FS Reports  
**Attachments:** WVBA WQARF Site FS Reports; WVBA WQARF Site FS Reports

Please add this email and the attached emails to the website. Thanks

Laura

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**From:** Kimball III, David P. [<mailto:DPK@gknet.com>]  
**Sent:** Thursday, August 28, 2014 4:37 PM  
**To:** Laura L. Malone  
**Subject:** FS Reports

Laura,

It now has been more than 6 (six) weeks since the FS Reports for the WVBA WQARF Site were submitted to ADEQ. Could you please advise RID on the process ADEQ is following and the expected timetable to make the "administrative completeness" determination on the FS Report as provided in ADEQ's FS review process?

Thanks,  
Dave

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## Danielle R. Taber

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**From:** Laura L. Malone  
**Sent:** Monday, October 06, 2014 12:49 PM  
**To:** 'Anthony Young'  
**Cc:** Danielle R. Taber; Scott R. Green  
**Subject:** FW: WVBA WQARF Site FS Reports

Anthony, let's talk.

Danielle, for the website.

Thanks

Laura

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**From:** Kimball III, David P. [mailto:DPK@gknet.com]  
**Sent:** Monday, October 06, 2014 10:53 AM  
**To:** Laura L. Malone  
**Subject:** RE: WVBA WQARF Site FS Reports

Laura,

Thank you for the email last Friday. We are happy to hear that ADEQ has completed the first step in the review process for both FS reports. Based on your email, it appears that the scope of ADEQ's "initial review," which included a "review of the required elements for an FS Report," was consistent with the existing statutory definition for "administrative completeness review" that is applicable to nearly all other state agency approvals. That definition, which used to apply to the WQARF program, requires that an application for approval "contains all components required by statute or rule." ARS § 41-1072.1. Although ADEQ notes that the Department's "review was beyond just the requirements listed in AAC R18-16-413," AAC R18-16-413 does require a "demonstration of how the remedial action complied, or will comply, with this Article," which includes the required elements for an FS report. For that reason, we thought ADEQ would find the charts helpful as a comparative analysis of the mandatory Arizona WQARF FS requirements, as well as the federal CERCLA remedial selection requirements, for an FS report. RID anxiously awaits the results of ADEQ's review process on both FS reports.

Dave

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**From:** Laura L. Malone [mailto:Malone.Laura@azdeq.gov]  
**Sent:** Friday, October 03, 2014 5:42 PM  
**To:** Kimball III, David P.  
**Cc:** 'Anthony Young'; Scott R. Green; Danielle R. Taber  
**Subject:** RE: WVBA WQARF Site FS Reports

David,

ADEQ recently completed our “administrative completeness review” for both FS reports submitted to the agency. We’re preparing our comments and will be briefing Director Darwin on our findings in the next couple of days. Although there is no statutory/rule definition in WQARF for what constitutes an “administrative completeness review”, ADEQ conducted an initial review of the required elements for an FS Report. This review was beyond just the requirements listed in AAC R18-16-413 you reference in previous emails. This may explain the difference in expectations for completing this step of the review. I appreciate your patience as ADEQ diligently works through the review process for both FS reports.

Thanks,

Laura

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**From:** Kimball III, David P. [<mailto:DPK@gknet.com>]  
**Sent:** Tuesday, September 30, 2014 3:07 PM  
**To:** Laura L. Malone  
**Subject:** WVBA WQARF Site FS Reports

Laura,

Today marks seventy-seven (77) days since the July 15, 2014 deadline for submittal of the Feasibility Study (FS) Reports for the WVBA WQARF Site. ADEQ has yet to issue an “administrative completeness review” determination on either of the two submitted FS Reports. Seventy-seven (77) days is far beyond the former maximum time frame of 21 business days (or approximately 30 calendar days) for an FS “administrative completeness review” determination and is not far from the former maximum time frame of 63 business days (or approximately 90 calendar days) for completing the “substantive review” of an FS. As mentioned in RID’s previous correspondence to ADEQ, each day of delay results in increased contamination of RID’s water supplies and increased remediation costs incurred by RID.

As discussed in earlier correspondence to ADEQ, Arizona law requires “any person who seeks approval of a remedial action [including any FS proposed remedy] at a [WQARF] site or a portion of a site on the registry...shall submit a written request to the Department that contains all of the following:...6. A demonstration of how the remedial action complied, or will comply, with this [WQARF] Article.” AAC R18-16-413.A (emphasis added). For a feasibility study, compliance with AAC R18-16-413 requires submittal of a written request to ADEQ that includes a “demonstration of how” the “reference remedy and alternative remedies” are capable of achieving [the] remedial objectives [for the site] and...that complies with [the mandatory remedial action criteria in] ARS § 49-282.06.” AAC R18-16-407.A. Failure to provide the required written request that demonstrates how the proposed FS remedies achieve the WVBA WQARF Site remedial objectives and the mandatory remedial action criteria in ARS § 49-282.06 should preclude any “administrative completeness review” determination and any further “substantive” review of that FS for the WVBA WQARF Site.

In an effort to facilitate ADEQ’s “administrative completeness review” determination on both FS Reports, RID has attached three tables to assist ADEQ in its review that provide a comparative analysis of both FS Reports to the

mandatory Arizona WQARF FS requirements, as well as to the federal CERCLA remedial selection requirements. The CERCLA requirements are referenced because, pursuant to state law, the CERCLA requirements are applicable or relevant and appropriate remedial action guidelines and standards. See ARS §§ 49-221.C and 282.06.B and AAR at 1492 (2002). More importantly, failure of a WQARF remedial action to substantially comply with CERCLA requirements could provide EPA the opportunity to overfile and take over control of the WVBA WQARF Site, as EPA did on the East Washington WQARF Site, due to the directly upgradient and adjacent Motorola 52<sup>nd</sup> Street federal Superfund Site whose groundwater contamination enters the WVBA WQARF Site.

Citations to the applicable WQARF and CERCLA requirements are provided so ADEQ can independently confirm the accuracy of the comparative analysis. Your prompt action in making an “administrative completeness review” determination on both FS Reports is appreciated.

Dave

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