

Danielle R. Taber

From: Laura L. Malone
Sent: Tuesday, February 24, 2015 6:23 PM
To: Danielle R. Taber
Subject: FW: Conditional Approval of ERA/MERA
Attachments: RSCELIB-#444749-v1-Synergy_Resp_to_City_of_Phoenix_Comments_dated_1-24-13.PDF

For the file and website

Laura L. Malone, Director

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From: Jerry Worsham [mailto:JWorsham@rhlfirm.com]
Sent: Friday, February 20, 2015 9:54 AM
To: Anthony E. Young (anthony.young@azag.gov)
Cc: Henry Darwin; Laura L. Malone
Subject: Conditional Approval of ERA/MERA

Tony:

As you can see, I have previously asked ADEQ to clarify their position on the ERA conditions (Tasks 1-4) associated with the RID's ERA/MERA "conditional approvals". I believe the attached correspondence from RID's representative states their prior position on January 24, 2013 that the ADEQ's prior conditions (Tasks 1-4) are carried forward in the MERA which states:

"The Modified ERA Work Plan is not a new ERA but, as discussed previously, simply modifies the design of the water treatment facilities in order to achieve a more efficient and cost-effective approach to accomplish the objectives of the original ADEQ approved-ERA. The modifications in the Modified ERA Work Plan were submitted pursuant to AAC R18-16-405, which authorizes modifications to the original ADEQ-approved ERA to address unknown or changed conditions."

Recently, RID has asserted:

1. That ADEQ's **conditional approval** of the Modified Early Response Action (MERA), by using the words "supersedes" was meant to eliminate the conditional requirements attached to the original Early Response Action (ERA) conditions 1-4.

Please give me ADEQ's official position on this matter. It has become critical to our evaluation and comments on the current Feasibility Studies (FS) which have been submitted to ADEQ for consideration. As you know, one FS has a net present value of approximately \$ 8.7 million vs. the RID's FS has a net present value of approximately \$ 51 million.

Jerry

Jerry D. Worsham II

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From: Jerry Worsham

Sent: Friday, June 27, 2014 10:35 AM

To: Anthony E. Young (anthony.young@azag.gov)

Subject: RID's ERA Approval vs. MERA Approval

Tony:

See attached. By letter dated **June 24, 2010**, ADEQ originally "approved with conditions" (4 specific including Public Health Threat, RID Wells Investigation, Groundwater Modeling and Pump and Treat System) the RID's Early Response Action (ERA) proposal dated February 3, 2010. By letter dated **February 1, 2013**, ADEQ again "conditionally approved" the RID's Modified ERA Work Plan dated October 2012. In the MERA conditional approval, there were two separate conditions listed. ADEQ stated, "This approval **supercedes** ADEQ's approval of the previous ERA Work Plan dated February 3, 2010." The word "supercede" is an alternative spelling for supersede. By using the term supercede, did ADEQ mean to "...annul, make void or repeal by taking the place of another" the conditional ERA for the conditional MERA?

If so, what was ADEQ's determination on the viability of the **4 specific conditions** including Public Health Threat, RID Wells Investigation, Groundwater Modeling and Pump and Treat System? Have the **4 specific conditions** been abandoned or do they still exist as ADEQ conditions for the MERA and in addition to the **two separate conditions** listed in the MERA. In the letter dated February 1, 2013, where ADEQ again "conditionally approved" the RID's Modified ERA Work Plan it is not clear what ADEQ did with the conditions. Could you give me a regulatory interpretation? This issue has remained as a source of debate.

Jerry D. Worsham II

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January 24, 2013



Mr. Henry Darwin
Director
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
1110 West Washington Street
Phoenix, Arizona 85007

Re: Response to City of Phoenix Comments, dated December 3, 2012, on RID's Modified ERA Work Plan

Dear Director Darwin:

The Roosevelt Irrigation District (RID) has reviewed the December 3, 2012 comments submitted by the City of Phoenix, on behalf of a number of other parties (City of Phoenix and Other PRPs' Comments), regarding RID's Modified Early Response Action (Modified ERA). RID submitted the Modified ERA Work Plan to ADEQ to address unknown or changed conditions since the Arizona Department of Environmental Quality (ADEQ) approved RID's Early Response Action Work Plan, dated February 3, 2010, (ADEQ-approved ERA) on June 24, 2010. The modifications contained in the Modified ERA Work Plan are the result of technical discussions with ADEQ, information developed during the implementation of the ADEQ-approved ERA, and data obtained from testing under the RID-95 Wellhead Pilot Treatment System Proposal, dated August 18, 2011, whose implementation was agreed to by ADEQ by letter, dated September 2, 2011.

The ADEQ-approved ERA will mitigate the impacts and threatened impacts on RID's water supply production wells from the widespread groundwater contamination of hazardous volatile organic compounds (VOCs) in the West Van Buren Area (WVBA) Water Quality Assurance Revolving Fund (WQARF) Site and entering the WVBA from the West Central Phoenix Area (WCPA) WQARF site and the Motorola 52nd Street (M52) federal Superfund Site. The ADEQ-approved ERA also will mitigate the public health issues associated with that contamination. As evidenced by ADEQ's approval of RID's original ERA Work Plan and the legal criteria for said approval, RID's ADEQ-approved ERA is not only consistent with the requirements of state law, but RID's ERA is extremely reasonable and cost-effective when compared to the other ERAs that would be allowed under state law. The Modified ERA Work Plan modifies the original ADEQ-approved ERA to be even more reasonable and cost-effective and to more expeditiously address the contamination.

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Tina LePage

- reduces the ongoing operation and maintenance costs by nearly 50%,
- eliminates more than 5 miles of lateral pipelines, and
- increases the total volume of contaminated well water that will meet applicable drinking water standards by approximately 50%.

As a result, RID believes that the Modified ERA could be fully operational years earlier than the time that would be required to construct the additional infrastructure and central liquid-phase granulated activated carbon (IGAC) plant approved by ADEQ in RID's original ERA. The Modified ERA Work Plan still uses the basic equipment set and applies IGAC as the remedial technology. Application of IGAC complies with the WQARF regulation requiring any water treatment facility to be designed to "assure protection of public health against ... potential treatment system failure," as IGAC has been accepted, even preferred, by EPA and ADEQ at other Arizona groundwater contamination sites as a Best Available Demonstrated Control Technology because of its proven fail-safe reliability.

The Modified ERA Work Plan does not affect ADEQ's approval of RID's original ERA. As RID discussed at the December 6, 2012 WVBA Community Advisory Board (CAB) meeting, if ADEQ does not agree to the modifications in the Modified ERA Work Plan, RID will move forward in implementing the more expensive and lengthy ADEQ-approved ERA. However, RID fully agrees with the sentiments expressed by one member of the public in attendance at the WVBA CAB meeting that ADEQ should not impose any unnecessary procedures that could delay the cleanup of the WVBA WQARF Site.

RID has Fulfilled All of its Community Involvement Requirements and More

As noted in RID's letter to ADEQ, dated October 22, 2012, RID's original ADEQ-approved ERA was prepared in accordance with AAC R18-16-405 and submitted for approval under AAC R18-16-413. Consistent with AAC R18-16-413, ADEQ provided public notice of RID's request for approval and allowed significant community involvement on the ERA, including nearly six months of public comments.¹³ The Modified ERA Work Plan is not a new ERA but, as discussed previously, simply modifies the design of the water treatment facilities in order to achieve a more efficient and cost-effective approach to accomplish the objectives of the original ADEQ-approved ERA. The modifications in the Modified ERA Work Plan were submitted pursuant to AAC R18-16-405, which authorizes modifications to the original ADEQ-approved ERA to address unknown or changed conditions. The modifications contained in the Modified ERA Work Plan are the result of technical discussions with ADEQ, information developed during the implementation of the ADEQ-approved ERA, and data obtained from testing under the RID-95 Wellhead Pilot Treatment System Proposal, dated August 18, 2011, whose implementation was agreed to by ADEQ by letter, dated September 2, 2011.

¹³ Contrary to the City of Phoenix and Other PRPs' Comments that "the only noticed opportunity for the public to provide comments on RID's ERA proposal" was subsequent to a March 23, 2010 meeting, the PRPs submitted numerous comments to ADEQ and met on numerous occasions with ADEQ on RID's ERA proposal. A simple review of ADEQ's website would note a number of meetings and comments submitted by parties identified in the City of Phoenix and Other PRPs' Comments during the period of early December 2009 to February 2010, which does not include the comments submitted by PRPs between February 4, 2010 and April 2010.