

MEJO Meeting with DNR Remediation and Redevelopment Staff, January 29, 2014

DNR Staff present: Mark Aquino (Regional Director, South Central Region), Linda Hanefeld (Remediation and Redevelopment Team Supervisor, South Central Region), Bruce Urben (Remediation and Redevelopment Supervisor), John Budzinski (Air Waste and Remediation Program Manager)

MEJO members present: Maria Powell, Jim Powell

Other citizens present: Anne Chacon

Maria Powell: Can you explain the rationale for charging citizens \$700 to answer questions?

Bruce Urben: Sure. I'll take that first, give a higher level overview. A number of years ago, the Legislature passed some legislation that directed the department, specifically the remediation and redevelopment program, to charge fees for various technical assistance. That was in regard to (the DNR) continually coming to the Legislature asking for additional full time employees, because during that period of time, we weren't able to hire and we had a lot of work. So they gave the authority, this is how we want you to do it, they directed us to draft administrative rules. So, generally, we have the ability to charge fees for technical assistance. Most of the time when we're working with a responsible party, or a company for which there's been a release for, they can follow the administrative rules to clean it up, it's a voluntary process for them, as long as they follow them. And when they get to the end and they want closure that's when the DNR involvement is and there's a fee to get closure, it's closed out and then we'll move on. We found over the course of time that there's been a lot of people that, they either had contaminated sites that wanted our direct oversight, review and approval of everything, or people that may be associated with a site, live next to it, or looking at purchasing it, and also has an interest in asking questions about it, and wants them answered. The intent of the fee is there to offset, to allow us to give the answers that folks want, where we have to spend additional staff time where we have to summarize, to prepare those, versus being able to use the money to offset the work that we would be doing when we're doing that. So that in theory is what the fee law was based on. Our intent certainly isn't to...we want to be open with all of our records, in fact all of the records we have are open. We have a repository where everything that's going on in this case, we have a website. We want people to have the information. Where it becomes an issue is when we're asked questions, and usually of a very technical nature, where we have to do research, pull stuff out of reports, develop it ourselves, and that's where we would usually look to say, we can do that but we're going to have to charge a fee because, to offset the costs that we're losing in the time that we would be providing oversight in another place. So that's at a really high level—Linda, is there anything more that you would like to add?

Linda Hanefeld: I think that's pretty good. You've covered it pretty well.

Maria Powell: You send a link to the policy, NR 749. Looking at that, it looks applicable to industries, and facilities. So I was wondering-- how is this relevant to citizens? And if it is relevant to citizens, why is it just being applied to us now, when it was first implemented in 1999? Explain how this is relevant to citizens.

Bruce Urben: Well it isn't specific to industries, it's anyone that's requesting a fee-related request that would be regulated under that rule. Many times they are firms, companies that have releases, but sometimes we have requests from neighbors, offsite from the contamination, that want a technical assistance letter to say what the liability is, which we can do but we have to charge a fee for it. It's been in place for a relatively long time. I don't recall when the rules went in place, but it's been at least five years.

Maria Powell: So can you point to situations in which citizens like us, grassroots, had to pay \$700 to get their questions answered? We've been asking questions like this for years, since the 1990s, and have never ever been told this before by DNR.

Bruce Urben: Normally what we would do is, when an external group like this would ask questions, we try to focus them and their questions into the information we have and then provide them with the resources and documents that are out there so they can look at those and determine and get their questions answered, from that point. Statewide, unfortunately, I'm not going to be able to tell you, because I'm just now doing the acting portion of this, I don't know of other situations where we have charged fees. I believe we have, but I think it was to work with these groups to try to...our attempt wasn't to try to get money from you, or to stifle what you need, but focus what you're needing so perhaps we don't have to spend the time doing the summaries, gathering the data, giving an opinion about the question you have but rather to refer you to the actual document so that you can glean that information.

Maria Powell: As you all know, we have come in here many, many times and looked at files. There are situations where we look at files and still can't find the answers to our questions. Also, I'm curious to know if there's a limit to how many questions we can ask. It seems like we crossed a limit. We've been asking questions and you've been providing some answers to them, but it seems we crossed a certain limit. So I guess we'd like more clarity on that. We've been engaging with Mike and others on this for years, and sometimes we get answers and sometimes we don't, so we're trying to understand—did we cross a threshold, and is there a policy that clarifies where you cross that threshold?

Jim Powell: After today, have we used up our questions, will we have to pay a fee to ask more questions about Kipp?

(After an awkward silence) Bruce Urben: to answer your question, there is no number of questions that you can ask and all of a sudden you've crossed a threshold and we're going to charge fees. We become concerned when there are questions that were asked before and were answered, I think that we tend to ask, have we answered those before, and if we have, or are they in documents that we have, are they on the website, is there something out there where we've tried to address that? So we'd probably have some concern about that. But it's really from the technical side, where we have to spend staff time that we normally wouldn't, to prepare an answer to a technical question, to go back and review data or review another report that's out there somewhere else, to get an opinion, where we have to prepare something that we normally wouldn't. I think that's the key.

Mark Aquino: I think that the few instances I've been involved in, they're relatively similar. It's somewhat subjective. I think that it depends on what phase the project is in. Typically what I've seen is...we want to be extremely transparent, we want to be comprehensive in our analysis. We know we don't know everything there is to know about cleanup. Early on, in midstream, we probably answer a lot more questions from interested citizens, making sure they know what we're looking at... listening to..."OK, now you have some science, you have a study, can you bring it to us so we can incorporate it into our work?" As time goes on, and we are in close consultation with the EPA, and the state department of health, you've seen some of that, as the project matures, and those three partners say, OK now we believe we understand the contamination extent, the nature, pathways, things of that nature. As those partners become comfortable with the appropriate standards, and think they're on the right track...we have to be mindful of making sure that any additional

staff time, when we reach that level of confidence, it's going to be as efficient and productive as we can, because there are any number of sites across the state that these same folks need to be paying attention to. And some of those are at the very front end, where we don't know much of what's going on, and potential risk to public health, and environmental concern, is larger and less known. So when I've seen this happen is when we have a relatively mature project, there's a pretty good confidence level among the three consulting partners, and as Bruce says, it's getting to the point where, were happy to provide information about anything that's at hand, but we have to be mindful of the effectiveness of investing more staff time in regards to what additional benefit in regards to public safety or environmental concern would be reached by putting in more staff time.

Maria Powell: Would you be willing to point to situations where you had to charge someone—another citizen group, or citizen--\$700 to answer their questions?

Mark Aquino: We haven't done it, the ones that I've been involved in, we have not charged, essentially we have done I think what was done here, very similar—you know, said "Look, we've worked with you over a decade or two decades. Here's where we are, we've provided all the information." One instance I'll just put on the table that's something I have been working on quite a bit, the Badger Army Ammunition plant. A lot of concerned citizens the local government, we went the extra mile or two on that one because we wanted to be transparent. We put all of the information that we felt was pertinent to cleanup on our website, just as this team did for Kipp, which is not the normal practice. That is a step that is above and beyond what we typically would do. But we want to do it with these projects that are high visibility and high interest level. But we did recently get to a point where we were kind of at that same juncture, in terms of, "look, EPA is comfortable, DHS is comfortable, we're seeing redundancy in a lot of the questions they were asking, we were answering the for the second or third time"...there was a point where, the folks who were concerned on that side of the table, they hired a professional hydrogeologist. (Maria—you're talking about Badger right? Aquino, yes, exactly.) They wanted to have some technical discussions about how we arrived at this cleanup standard or that process, and we said, we're very happy to talk to you, here's the open records, we put all the stuff on the web, but to be efficient, if you believe that we missed something, or there's some science out there that really needs to be applied but wasn't taken into consideration, we're happy to look at it, but we would ask that you bring the science forward, provide it to us and kind of highlight the sections, help us make the connections between that science and what's going on here. That saves our folks the time, you know, someone comes to us and says you know there's a report out from so-and-so that we think is really pertinent. That way we can efficiently look at it, we don't have to spend a lot of staff time, going out searching it down, evaluating it, kind of making those links. So we can reach the same objective, but do so more efficiently from a DNR staff time perspective. Because we have to balance the site with sites throughout the state.