



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ENVIRONMENTAL
CLEANUP

DEC -3 2014

The Honorable Nathan Small
Chairman
Fort Hall Business Council
Shoshone Bannock Tribes
P.O. Box 306
Fort Hall, Idaho 83203

Dear Chairman Small:

The purpose of this letter is to formally offer the Shoshone-Bannock Tribes the opportunity to consult on a government-to-government basis with the Environmental Protection Agency, Region 10 regarding the EPA's evaluation of a construction activity at the J.R. Simplot Don Plant. As you are aware, the J.R. Simplot Company has proposed to expand their gypsum stack, adding an additional storage cell to the northwest of the existing stack. The new cell would be located between the existing stack and the Don Plant. Over time, Simplot proposes to build up the cell against the north slope of the existing stack.

In 2010 the EPA issued a CERCLA Record of Decision Amendment that required remedial measures be implemented at the Simplot Operable Unit of the Eastern Michaud Flats Superfund site to control phosphorus releases to the groundwater and the Portneuf River. Also in 2010, Simplot entered into an amended judicial Consent Decree with the EPA that requires Simplot to implement the measures identified in the 2010 IRODA. This Amended Consent Decree prohibits Simplot from taking actions at their operating facility that would disturb any of the remedial measures implemented pursuant to the Consent Decree. In other words, it prohibits Simplot from taking actions that threaten the integrity of the CERCLA remedy.

When Simplot proposed to add an additional cell to the gypsum stack in early 2014, pursuant to the Amended Consent Decree the EPA requested they evaluate the proposed project to determine if it would disturb any of the ongoing remedial measures. Simplot has recently provided the EPA a document containing this evaluation. The EPA is currently reviewing the evaluation to determine if the proposed action is likely to threaten the integrity of the CERCLA remedy. The Tribes were also provided a copy of this document for review in late October 2014. As such, I would like to offer government-to-government consultation between the EPA and the Shoshone-Bannock Tribes Fort Hall Business Council so that the EPA may hear and consider any concerns the Tribes may have regarding any threats that Simplot's proposed expansion may pose to current CERCLA activities.

Ms. Jannine Jennings, EPA's Remedial Project Manager, has been actively coordinating with Mr. Kelly Wright, Environmental Waste Management Program Manager, and has been available to listen to and address technical concerns the Tribes might have regarding Simplot's proposed action. She has made sure that he has received all documents (including Simplot's evaluation of their proposed project) that have been sent to the EPA on this matter, provided him with copies of EPA's comments to date and provided opportunities for him to share his concerns regarding the proposed project. She remains available to answer questions about the proposed project or listen to tribal concerns at any time.

If the Business Council wishes to schedule a government-to-government consultation meeting to provide the EPA with additional information on potential threats the proposed project may have on the CERCLA action, we respectfully request your staff contact Ms. Jennings by December 12, 2014 to schedule a mutually acceptable date and time and to determine the agenda. If we don't hear from you, we will assume you do not wish to consult on this matter. Regardless of whether the Tribes wish to engage in consultation, we will continue to keep the Tribes informed and to consider concerns raised by the Tribes through interaction between our staff.

If you have any questions, please feel free to call me at 206-553-1847 or have your staff contact Jannine Jennings at 206-553-2724 or jennings.jannine@epa.gov.

Sincerely,



Richard Albright, Director
Office of Environmental Cleanup

cc: Mr. Kelly Wright, Environmental Waste Management Program Manager
Mr. Jim Woods, EPA Region 10
Mr. Jim Zokan, EPA Region 10