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From: Bill Rainey [REDACTED]
Sent: Tuesday, 23 May 2017 9:53 p.m.
To: Christina Smits [REDACTED]
Cc: Wade Morris [REDACTED]; Phil Mitchell [REDACTED]; Rob Lieffering [REDACTED]
Subject: Planning Joint Conference

Dear Christina,

I am reporting on the conference held with Dr Phil Mitchell and Dr Rob Lieffering on 23 May (today) concerning planning and the conditions of consent.

Because of the need to report promptly, and that both witnesses will be giving evidence on 24 May, it was considered an email report would be preferable to the signed joint statement.

Progress of drafts:

There have been substantial changes made to the most recent draft conditions provided to the DCM reflecting:

- a. Additional work by Dr Mitchell outlined in his supplementary evidence, and providing adding certainty to condition 6.
- b. Work by Dr Lieffering outlined in his latest analysis report.
- c. Agreements reached during the experts' conference on 23 May.

Agreement

As a general summary, subject to final checking and editing, there was substantial agreement reached at the conference on suggested wording and other changes to the conditions apart from the areas outlined below.

Dr Mitchell will provide an updated draft in his evidence tomorrow (24 May), which will incorporate all agreed changes, and he will highlight remaining areas where agreement is not reached.

Disagreement

Subject to careful proof reading, the only areas of disagreement between Dr Lieffering and Dr Mitchell are:

1. **Dr Lieffering** considers that the details in respect of monitoring locations, parameters/determinands to be monitored/analysed, and frequency/duration of monitoring (the where, what, and when) for the **Pre-Commencement Environmental Monitoring** (first referred to in Condition 41), **Operational Environmental Monitoring** (first referred to in Condition 49) and **Post-Extraction Benthic Recovery Monitoring** (first referred to in Condition 52) should be specifically included ('hard coded') in the conditions of consent or in Schedules to the consent.

Dr Mitchell considers this unnecessary and that these can be referred to in conditions and contained in "Management Plans".

2. **Dr Lieffering** considers that any changes to the monitoring locations, parameters/determinands to be monitored/analysed, and frequency/duration of monitoring should be via a formal application to change conditions application in accordance with sections 87 and 87J of the EEZ Act.

Dr Mitchell considers that the changes can be addressed by changing the Management Plans, as per the process specified in the conditions.

3. **Dr Lieffering** considers that management plans that are required to be prepared in consultation with third parties should be independently peer reviewed prior to being submitted to the EPA and that EPA certification of such plans is not required.

Dr Mitchell considers that an independent peer review of such plans prior to lodgement with the EPA is unnecessary, but such plans should require certification by the EPA.

4. **Dr Lieffering** considers that the Post-extraction Monitoring Plan required by Condition 52 should be independently peer reviewed prior to being submitted to the EPA for certification – this independent peer review process being required for the other monitoring plans (PCEMP and EMMP).

Dr Mitchell considers that a further independent peer review is unnecessary, as a peer review by the Technical Reference Group is required prior to submission to the EPA for certification.

5. **Dr Lieffering** and **Dr Mitchell** are both unable to comment on the appropriateness of the 10% value used in Condition 6 c (as drafted by TTR), but agree that the wording of the condition is sufficiently certain.

6. **Dr Lieffering** and **Dr Mitchell** are both unable to comment on the appropriateness of the 5% values used in Condition 8 (as drafted by TTR). Both agree that further work is required in respect of the drafting of this condition as it is unclear how the pre-commencement monitoring data is to be used for comparative purposes and also how "taking into account natural variation and any wider environmental changes" is to be interpreted and applied, making assessment of compliance difficult and subjective.

7. **Dr Mitchell** does not agree with Dr Lieffering's proposed condition 105, which requires annual independent auditing of consent compliance.

8. **Dr Lieffering** considers that the Advice Notes on Conditions 64 and 86, which **Dr Mitchell** is proposing be included as part of the consent conditions, should be deleted as it puts the EPA in the role of an arbitrator.

Kind regards,

Bill

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Bill

Bill Rainey

Resolution Practitioner

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