

**Kowalewski, William E LRB**

**From:** Walter Garrow |  
**Sent:** Tuesday, June 26, 2007 2:12 PM  
**To:** gardella@  
**Cc:** William Choboy; A WITRYOL; Karen Allen; Mary M. Schreiner; Guy M. Zaczek; Aaron Besecker; Kowalewski, William E LRB; Morrissey, Joan M LRB; Bill Rolland; Paul Dicky; Paulette Glasgow; Rene Rickard; Heather DeCastro; betty.soha ; frsolberg  
**Subject:** RE: Information regarding USACE's stance on tonight's meeting

Bill,

I will need to have our position confirmed by our Steering Committee.

Personally, I understand that DERP-FUDS and FUSRAP define the scope of the USACE involvement.

Relating to your question, I would like to have the USACE be more visible, and deliberate, in including the LOOW RAB in the intercommunication with other agencies on any issue the goes beyond that definition. If there are any issues, observations, discoveries, potentials, etc. that may impact the health, safety, property values, or sense of security of the residents; and, in any way potentially impact on the LOOW Site's perceived risk values, we would want to not only know about those, we also want to know what was communicated to the appropriate other agencies or organizations. We do not want to only know that you would be making a best interest judgment call to determine of such observations, we would like to be part of the judgment call and the subsequent communication.

Relating to the meeting and the attendance of the USACE, we would not want to believe that our challenge would result in a conservative disconnect decision that may be made by the USACE - as a result of our challenge..

Walt

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**From:** Joseph A. Gardella, Jr. [mailto: |  
**Sent:** Tue 6/26/2007 12:49 PM  
**Cc:** William Choboy; Walter Garrow; A WITRYOL; Karen Allen; Mary M. Schreiner; mpm@ : Guy M. Zaczek; Aaron Besecker; Kowalewski, William E LRB; Morrissey, Joan M LRB; Bill Rolland; Paul Dicky; Paulette Glasgow; Rene Rickard; Heather DeCastro; betty.soha@ ; frsolberg  
**Subject:** Information regarding USACE's stance on tonight's meeting

I am forwarding the material below at Bill K.'s request.

Joe

Joe

I ask that you forward this to the Steering Committee members to consider the USACE position regarding our ability to participate in tonight's meeting:

- Its just Joan and myself who have the familiarity to be able to speak for USACE on RAB issues
- Joan is understandably unable to attend. I have to balance the overload of priorities and dea
- I dont think USACE has missed a monthly Steering Commmittee meeting since we re-engaged a year
- Steering Committee decided to hold executive session and asked USACE and the press not to attend last month
- Steering Committed decided to communicate by formal letter direct to our

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district commander (our boss', boss' boss), to the highest level of elected officials, and to t

- It is not appropriate for me or Joan debate, defend or negotiate a response on behalf of USACE

- I request Steering Committee clarification on the question I submitted to Walt on 25 June to e  
Thanks

Bill

Walt

1) I am in receipt of your letter to LTC Hurley which we received 13 Jun 07.

I am tasked with leading the district team's deliberations and formulation of LTC Hurley's respo

- In your comment "7) Enclosure 4 limits the USACE to  
DERP-FUDS/FUSRAP..etc..." you conclude that the scope of our environmental projects are limited

- We read this as

a) you believe we have some other legal authority / responsibility to  
investigate or take action at the site which we are not exercising - that we should be doing som

b) you believe we are withholding information or failing to notify the public about health and s

- To be clear from the federal perspective

a) We have always been, and will be operating under the federal authority  
legislated under DERP-FUDS and FUSRAP

b) We have no legal authority to act beyond the scope of DERP-FUDS and FUSRAP

c) Neither DERP-FUDS nor FUSRAP give us the legal authority to compel a  
property owner to do or not do something on their property (outside our  
Regulatory authority with respect to federally regulated wetland permitting).  
Our authority is limited to conducting voluntary environmental investigations into past federal

2) Determining USACE path forward on these issues from the Steering  
Committee is our number one outreach priority. I have put other outreach  
activities aside to focus on these issues. USACE will not have a  
representative at the Steering Committee meeting - assuming there is one  
tomorrow, 26 June. I am putting all available staff time on answering your letter.

Thanks

Bill

Bill Kowalewski PE, PMP  
Project Manager  
Buffalo District  
US Army Corps of Engineers  
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[william.e.kowalewski@usace.army.mil](mailto:william.e.kowalewski@usace.army.mil)

-----Original Message-----

From: Joseph A. Gardella, Jr. [mailto:]  
Sent: Monday, June 25, 2007 12:36 PM  
To: Kowalewski, William E LRB  
Subject: Re: FW: Steering Committee

Bill:

I am disappointed to hear that you cannot come to the meeting tomorrow.  
It would be important to begin to respond to the letter; since the Steering

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Committee met without USACE participation last time to discuss this and the letter came as a result of that.

I think you should make every effort to be present. Otherwise, I am sure, we will be discussing issues surrounding the letter and your email response without any chance for you to defend these positions.

I will be putting a reminder out later today to the steering committee with a draft agenda.

Joe

Kowalewski, William E LRB wrote:

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> Joe
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> I got an out of office email reply from Walt. Looks like he's out of
> town all week.
>
> Attached below is an email I just sent him regarding the Steering
> Committee's letter. Am copying you as Walt's backup.
>
> Thanks
> Bill
>
> *Bill Kowalewski PE, PMP*
> *Project Manager*
> Buffalo District
> US Army Corps of Engineers
> (716) 879-4418
> william.e.kowalewski@usace.army.mil
> mailto:william.e.kowalewski@usace.army.mil
>
>
>
> -----
> *From: * Kowalewski, William E LRB
> *Sent: * Monday, June 25, 2007 10:24 AM
> *To: * 'Walter Garrow'
> *Cc: * Karsten, James W LRB; Boglione, Fredrick L LRB
> *Subject: * Steering Committee
>
>
> Walt
>
> 1) I am in receipt of your letter to LTC Hurley which we received 13
> Jun 07. I am tasked with leading the district team's deliberations
> and formulation of LTC Hurley's response. I request clarification
> from the Steering Committee on a point in your letter which I do not
> understand.
>
> - In your comment*/ "7) Enclosure 4 limits the USACE to
> DERP-FUDS/FUSRAP..etc..." /* you conclude that the scope of our
> environmental projects are limited to DERP-FUDS and FUSRAP and that
> we're not exploring or notifying the public of other environmental
> health / safety issues...What do you mean? Can you be more specific?
>
> - We read this as
>
> a) you believe we have some other legal authority / responsibility to
> investigate or take action at the site which we are not exercising -
> that we should be doing something above and beyond what we're charged
> with doing in DERP-FUDS / FUSRAP. In what capacity or legal
> authority are we failing to act?
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>  
> b) you believe we are withholding information or failing to notify the  
> public about health and safety hazards...What in your judgment are we  
> specifically failing to do?  
>  
> - To be clear from the federal perspective  
>  
> a) We have always been, and will be operating under the federal  
> authority legislated under DERP-FUDS and FUSRAP  
>  
> b) We have no legal authority to act beyond the scope of DERP-FUDS and  
> FUSRAP  
>  
> c) Neither DERP-FUDS nor FUSRAP give us the legal authority to compel  
> a property owner to do or not do something on their property (outside  
> our Regulatory authority with respect to federally regulated wetland  
> permitting). Our authority is limited to conducting voluntary  
> environmental investigations into past federal activities.  
>  
> 2) Determining USACE path forward on these issues from the Steering  
> Committee is our number one outreach priority. I have put other  
> outreach activities aside to focus on these issues. USACE will not  
> have a representative at the Steering Committee meeting - assuming  
> there is one tomorrow, 26 June. I am putting all available staff time  
> on answering your letter.  
>  
> Thanks  
> Bill  
>  
> **\*Bill Kowalewski PE, PMP\***  
> **\*Project Manager\***  
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> US Army Corps of Engineers  
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