

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 1, 1999

OFFICE OF
THE ADMINISTRATOR

Michael F. Rosenberger
Administrator
City of Portland, Bureau of Water Works
1120 S.W. 5th Avenue
Portland, Oregon 97204

Dear Mr. Rosenberger:

We at EPA wanted to take this opportunity to acknowledge your letter of April 29 and the withdrawal of the Portland Water Bureau from the process of developing an XL for Communities (XLC) Final Project Agreement (FPA). We regret that circumstances prevent the Water Bureau from moving forward with the Lead Hazard Reduction Program (LHRP) as an XLC project. We remain convinced that the LHRP has substantial merit and the potential to achieve the superior public health outcome that is the hallmark of EPA's Project XL.

We also wanted to thank you for providing the resources of the staff at the Portland Water Bureau to bring the project to the point of a well developed draft XLC FPA. We understand that it required a considerable investment of time and resources. We also recognize and are encouraged that, despite the decision not to proceed with XLC, a version of the draft Agreement will continue to be useful to the Water Bureau as an education and outreach tool.

EPA continues to believe that testing the concept presented by the LHRP through an XLC project was, and is a good idea. We support the innovative approach taken by a local water authority to strategically target its resources to address populations at greatest risk and address lead exposure from multiple sources. In addition we believe that the XLC project provided an additional forum for stakeholder participation in the LHRP. Using the XLC stakeholder involvement process as a framework, the Water Bureau successfully recruited and maintained the involvement and participation of a diverse group of community and national stakeholders. We want to acknowledge the contribution that this group has made to the project and encourage their continued involvement in the LHRP. Portland will be well-served by their input and advice.

While continuing to express support for the overall LHRP, we also feel it appropriate to state our position on several of the points raised in your April 29 letter to us that reflect on EPA's goals and intentions related to this XLC project.

First, we would like to respond to your statement that the Water Bureau could not continue with the XLC project without harming the at-risk populations it sought to help. EPA does not believe that any of the program improvements suggested in our comments would have diverted resources to the point of harming at-risk populations in Portland. EPA wants to assure both the Water Bureau and the project stakeholders, that the Agency in no way intended or believed that an investment in XLC would jeopardize the Water Bureau's core services or the services offered through the LHRP. If this did emerge as an issue for the Water Bureau, and EPA had been made aware of it, we would have fully supported an open and complete discussion to assist in working through the competing demands on the Water Bureau's resources.

We would also like to respond to statements made in your letter concerning the March, 1998 meeting with EPA and the Water Bureau's subsequent decision to move forward with the XLC project. We understand that this decision was based on EPA's assurances that the February 1998 updated program proposal did not raise new significant issues and that the information contained in the Update indicated that good progress had been made in implementing the LHRP since March of 1997. However, the Agency's comments in March of 1998 did not supersede or replace the discussion of issues included in EPA's November 26, 1997 letter. In that letter and in a subsequent letter to Rosemary Menard following the March 1998 meeting (dated August 4, 1998, five months prior to the first draft of the FPA), EPA highlighted issues that the Agency sought to have addressed during Final Project Agreement development. The primary issue and one that EPA considers basic to the implementation of any XL project, was an effective evaluation and monitoring program for the LHRP.

In part, your choice to develop and implement the LHRP through an EPA national level program brings with it a commitment to work within the framework and expectations established by that program. Project XL (including XLC) is a set of regulatory experiments that test new approaches in contrast to EPA's existing regulatory programs. EPA's participation in any of these regulatory experiments is not credible without a meaningful evaluation and monitoring program. EPA regrets, that despite offers of Agency assistance to help develop this evaluation plan, we were not able to engage with the Water Bureau and other project stakeholders to fully develop this aspect of the LHRP.

Lastly, you question the relevancy of EPA's concerns about the Final Project Agreement in light of what you perceived to be a lack of stakeholder interest for the issues EPA raised. EPA's position in the group of direct participant stakeholders is unique. EPA's positions on policy and technical issues represent an assortment of Agency interests ranging from programmatic and technical expertise (which EPA had offered to share with the Water Bureau and community stakeholders) to obligations under Federal statutes. No other stakeholder would hold or be responsible for this same range of perspectives. For example, individual community stakeholders also have an important interest in monitoring project results, but may lack the expertise or time to engage in the sort of detailed discussion that EPA had proposed in its comments on the draft FPA. In EPA's view this does not at all negate the community's interest in the issues EPA had raised. In fact, community stakeholders often rely on EPA to provide technical expertise not available locally and consequently to safeguard their interests in that way.

EPA has worked diligently on this project to fulfill the commitments made through the national XLC Program. We have supported the LHRP as an XLC project, both conceptually as a valid and important public health perspective to be tested and also very concretely in providing many hours of staff time and financial resources to facilitate FPA and overall project development. At the same time, the work done through this XLC project has been a learning experience. EPA has gained a broader and deeper understanding of public health issues as viewed and managed from a local perspective. This has also been an opportunity to test and hone our skills for practicing Community-Based Environmental Protection. As such, we have welcomed this opportunity to work with the Portland Water Bureau. Even though the LHRP will no longer be part of EPA's regulatory experiment through XLC, we look forward to the results that promise to emerge from the Water Bureau's lead hazard reduction work.

Sincerely,

Chuck Findley,
Deputy Regional Administrator
Region X

Lisa Lund,
Deputy Associate Administrator for Reinvention
EPA, Headquarters

cc: Rosemary Menard, Portland Water Bureau
Dave Leland, Oregon Health Division
XLC Community Direct Participant Stakeholder Group
Barbara McAllister, Region 10 Office for Innovation
Cynthia Dougherty, Office of Ground Water and Drinking Water
Jim Nelson, Office of General Counsel

Stephen Johnson, Office of Prevention, Pesticides and Toxic Substances
Sylvia Lowrance, Office of Enforcement and Compliance Assurance
Diane Regas, Office of Water