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MEMORANDUM

DATE: April 5, 2002
FROM: William Breetz, Chair
TO: NCCUSL Drafting Committee on Uniform Environmental Covenants Act -
Members, ABA Advisor, Observers, Other Interested Persons

RE: Upcoming Drafting Committee Meeting

I write concerning various matters related to our upcoming meeting. Specifically, this memo touches on these matters:

1. Meeting Schedule
2. Confirmation of the Second Draft of the Act
3. Identification of Additional Observers
4. Transmittal of Current Roster
5. Discussion of contacts with federal agencies
6. Transmittal of two articles about the Committee's work

1. Meeting Schedule

Our meeting begins on Friday, April 19, 2002 at the Wyndham Washington DC Hotel, 1400 M Street, NW, Washington DC. The telephone is 202-429-1700. We will begin at 8:30 am and conclude that day at 5:30 pm. We reconvene on Saturday, April 20, again at 8:30 am, and will again conclude at 5:30 pm. We will likely arrange a group dinner on Saturday evening for those who are so inclined, and observers will be welcome to join the committee for dinner.

If further meeting time is necessary, those of us remaining on Sunday morning will meet again. Having said that, I hope that additional time will not be required on Sunday.

2. Confirmation of the Second Draft of the Act

Each of you should have received an e-mailed copy of the second draft of the Act from Kurt Strasser, together with a memo describing the principal changes which are reflected in the draft. This draft will again form the framework of our discussion and I anticipate some lively discussion regarding many of the provisions of the Draft. If you have not received an e-mailed copy, please let me know. Kurt and I will also have a number of extra 'hard' copies at the meeting.

3. Identification of Additional Observers

In the months since our last meeting, Kurt and I have identified certain interest groups that we felt might be usefully added to our already robust group of observers. Happily, we have been able to encourage several very able representatives of those interests to join us. In alphabetical order, they are:

William Anderson currently serves as General Manager & Senior Counsel for Environmental Health and Safety (EHS) for GE Industrial Systems (GEIS), one of the major business units of the General Electric Company. GEIS employs over 40,000 people in 150 manufacturing facilities in 25 countries and hundreds of sales and service locations throughout the world. Bill's group of 250 EHS and medical professionals is responsible for, among several other major tasks, environmental compliance at GE facilities across the globe. Bill has also previously served as General Counsel to GE's electrical products business in Europe and as Tax Counsel to GE Industrial Systems and the Corporate Staff.

Alex Geisinger teaches environmental law at Valpariso Law School in Indiana. Alex's special field of interest and the subject of his writing is the concept of independent trustees serving as fiduciaries in the management of contaminated sites subject to institutional controls.

William F. Leikin is assistant General Counsel at United Technologies Corporation and is the lead attorney at the UTC Corporate Office for Environment, Health & Safety matters. His primary responsibility is environmental site remediation and general environmental compliance issues. He has been at UTC since 1973, and began working on environmental remediation matters in the early '90's. He has been UTC's lead EH&S attorney since 1995. Bill also represents UTC as a member of two industry associations that work on environmental remediation issues: the Superfund Settlements Project and the RCRA Corrective Action Project. In responding to our invitation, Bill wrote:

"UTC has a very substantial site remediation program involving hundreds of sites in many different states. We recognize that institutional controls are needed to support the most appropriate remedy at many sites and that having a Uniform Environmental Covenants Act would enhance the enforceability and facilitate greater use of and reliance upon institutional controls. We also recognize the importance of not making the process unduly burdensome on the property owner. Accordingly, we are very interested in providing constructive support for this effort."

Joseph Shilling and Danielle Miller-Wagner are responsible for brownfields policy issues at the International City/County Managers Association in Washington, DC.

Cameron Whitman is the Director of Policy and Federal Relations for the National League of Cities in Washington, DC.

Lani Williams is Deputy General Counsel of the International Municipal Lawyers Association, in Washington, DC.

4. Transmittal of Current Roster

Our roster of interested persons has been growing. I attach the most current version. Please check your personal data, and make any appropriate changes. I'll periodically send along an update.

5. Discussion of contacts with federal agencies

Kurt Strasser and I met in Washington, DC in January with representatives of the federal agencies who are involved in this drafting process. That meeting was a follow-up of our offer to try and identify ways in which this Act might be helpful in addressing issues that have a uniquely federal aspect to them. Some of the results of those discussions are reflected in the draft that Kurt distributed to you.

6. Transmittal of two articles about the Committee's work

Attached is an e-mail version of an article that purports to be drafted by both Kurt Strasser and me [Kurt did most of the work]. The article, due to appear this year in an ABA publication on Institutional Controls, attempts to highlight what we think some of the principal issues likely to emerge in the Committee's deliberation. I think we were careful to avoid predicting what the Committee would do.

I also attach an article on our drafting process, and the reaction of representatives from the National League of Cities, that appeared in the January 2002 issue of "American City & County" magazine. I have invited the persons quoted in the article to join us at the April meeting.

ATTACHMENTS

1. current roster of Interested persons
2. Strasser and Breetz Article from ABA publication on Institutional Controls
3. Article on our Process from American City & County (1/02)