To: Schuller, Jennifer[Schuller.Jennifer@epa.gov]; Minter, Douglas[Minter.Douglas@epa.gov]
Cc: Boomgaard, Craig[Boomgaard.Craig@epa.gov]; McWhirter, Lisa[McWhirter.Lisa@epa.gov]
From: Chin, Lucita
Sent: Wed 7/24/2013 1:51:47 PM
Subject: RE: MOA

I think that version would be ok. I'm not sure I'd agree that the distinction is criminal v. non-criminal. I'm assuming this original language is linked to our 1431 authority, and the reason I think we can't commit to what they want is that it would diminish/limit the authority given to us by Congress in 1431, and I don't think we can do that. It says "To *the extent he determines it to be practicable* in light of such imminent endangerment, he shall consult with the State and local authorities in order to confirm the correctness of the information on which action proposed to be taken under this subsection is based and to ascertain the action which such authorities are or will be taken." (Emphasis added).

Happy to talk more, Lucita

Lucita Chin

Associate Regional Counsel

U.S. EPA Region 8

1595 Wynkoop St.

Denver, CO 80202

303.312.7832

From: Schuller, Jennifer
Sent: Tuesday, July 23, 2013 5:08 PM
To: Minter, Douglas
Cc: Chin, Lucita; Boomgaard, Craig
Subject: RE: MOA

Thanks for sharing this, Douglas. Can you please send Lucita's comments, so that I might see the entirety of the language to put your suggested language into context? Thanks! Jennifer

From: Minter, Douglas
Sent: Tuesday, July 23, 2013 4:47 PM
To: Schuller, Jennifer
Cc: Chin, Lucita; Boomgaard, Craig
Subject: FW: MOA
Importance: High

Jennifer: forgot to include you on this per my voicemail.

Thanks,

Douglas K. Minter

Acting Chief

UIC Unit

USEPA Region 8

(303) 312-6079

From: Minter, Douglas
Sent: Tuesday, July 23, 2013 3:59 PM
To: Chin, Lucita; Boomgaard, Craig
Subject: RE: MOA
Importance: High

Lucita/Craig: here is my proposed response to send to Kevin tomorrow. Please note that this version does commit EPA to advanced notification in possibly some (e.g., non-criminal) emergency situations, but does not commit us to doing so in all (e.g., criminal) such situations.

Please respond with any comments, etc. ASAP.

Kevin: thank you for your feedback. After receiving input from our UIC attorney (Lucita), this appears to be a legal standard that, to my knowledge, all 1422 programs are held to, including the North Dakota Department of Health through its MOA with EPA Region 8.

With Lucita's concurrence, we would offer the following revised language at the end of MOA Section VI.I:

"While EPA will make every effort to notify the Commission in advance in emergency situations, there may be emergencies in which EPA may not give the Commission advanced notification. In such cases, the Regional Administrator may waive the seven day advance notification requirement."

If this is not acceptable, then we will need to wait until both Lucita and Craig are back in the office to discuss further with you.

Douglas K. Minter

Acting Chief

UIC Unit

USEPA Region 8

(303) 312-6079

From: Connors, Kevin C. [mailto:kcconnors@nd.gov]
Sent: Monday, July 22, 2013 2:11 PM
To: Minter, Douglas
Cc: Chin, Lucita; Boomgaard, Craig
Subject: RE: MOA

I thought the changes made to the "Inspection and Surveillance" section were reasonable and well thought out. North Dakota needs some sort of notification prior to EPA inspection, if an emergency exists and for some reason it is impossible to give advance notification, we need to be notified before EPA inspects a facility. I have attempted to come up with language that is acceptable for both parties and it appears as if EPA is looking for different/specific language. I would encourage Lucita to provide language that works for her and I will take a look at it. North Dakota needs at a minimum 12 hours notification if an emergency exists and 7 days advanced notification is impossible. Although I would think that if an emergency exists EPA would want to notify us immediately, but that language was unacceptable.

Hope we can find common ground on this one.

Thanks

Kevin C. Connors

CCS Supervisor

Oil and Gas Division

North Dakota Industrial Commission
Phone: (701) 328-8020

Fax: (701) 328-8022

kcconnors@nd.gov

From: Minter, Douglas [mailto:Minter.Douglas@epa.gov]
Sent: Monday, July 22, 2013 2:50 PM
To: Connors, Kevin C.
Cc: Chin, Lucita; Boomgaard, Craig
Subject: FW: MOA

Kevin: see Lucita's comment (second to last page) and confirm that you will be able to incorporate this please. I will also be checking in with Craig by cell phone to ensure there are no other outstanding revisions for EPA. I will then get back in touch with you.

Thanks,

Douglas K. Minter

Acting Chief

UIC Unit

USEPA Region 8

(303) 312-6079

From: Chin, Lucita
Sent: Monday, July 22, 2013 1:42 PM
To: Minter, Douglas
Subject: RE: MOA

Hi Douglas - just one thing on the last page – please see my comment.

Lucita Chin

Associate Regional Counsel

U.S. EPA Region 8

1595 Wynkoop St.

Denver, CO 80202

303.312.7832

From: Minter, Douglas
Sent: Monday, July 22, 2013 1:39 PM
To: Connors, Kevin C.
Cc: Chin, Lucita
Subject: RE: MOA

Greeting Kevin.

I have asked Lucita to review this document ASAP. Craig will be back in the office on Friday. Hopefully, we can respond before then, but I want make sure that our response is definitive so we all can be confident that this version is acceptable to all parties.

Thanks for your patience.

Douglas K. Minter

Acting Chief

UIC Unit

USEPA Region 8

(303) 312-6079

From: Connors, Kevin C. [mailto:kcconnors@nd.gov]

Sent: Monday, July 22, 2013 1:19 PM
To: Minter, Douglas
Cc: Chin, Lucita
Subject: MOA

Douglas and Lucita,

I just received an automatic reply from Craig Boomgaard. I was hoping to finalize this MOA with Region 8 as soon as possible. I made changes to the MOA by incorporating EPA comments sent to me on 7/10/13. I am hoping to get this document final and signed by Lynn Helms by the end of the week. So I can once again mail the hard copy to you for the Regional Administrator's signature and replace the unsigned version in the Class VI primacy application.

Thanks

Kevin C. Connors

CCS Supervisor

Oil and Gas Division

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