To: Brush, Jason[Brush.Jason@epa.gov]; Sam Ziegler (Ziegler.Sam@epa.gov)[Ziegler.Sam@epa.gov]; Goforth, Kathleen[Goforth.Kathleen@epa.gov]
Cc: Leidy, Robert[Leidy.Robert@epa.gov]; Campbell, Rich[Campbell.Rich@epa.gov]
From: Goldmann, Elizabeth
Sent: Fri 5/25/2018 9:40:10 PM
Subject: HQ inquiry: R9 comments on Hudbay correspondence to the Corps

May 8, 2018: R9 received an email inquiry from OFA HQ, per the request of Drew Feeley, Policy Counsel, seeking any comments from the region on Hudbay's letter (2/2/18) to the Corps. Hudbay's letter is a response to EPA's document (11/30/17) on the effects of groundwater drawdown from the proposed Rosemont Copper Mine.

R9 was not aware of the Hudbay letter. William McGrath, Brownstein Hyack Farber Schreck, sent Hudbay's letter to Drew Feeley on February 9, 2018, but it was not forwarded to the region. Hudbay's letter was not forwarded to EPA from the Corps nor were two additional Hudbay comment letters (1/25/18 and 2/1/18) the Corps received from Hudbay regarding EPA analysis of the mine.

May 14, 2018: EPA's Robert Leidy and I scheduled a conference call with William James and Deanna Cummings, Corps, to discuss the letters in question. Although I spoke with Ms. Cummings in April requesting an update on any new information, she did not inform me about the Hudbay letters. When asked on the May call why the Corps did not provide them to EPA, Mr. James stated he "didn't think EPA would be interested in the letters." I reminded the Corps of the federal agency responsibility to coordinate and share material established by the CEQ process in 2015. In addition, I discussed EPA's technical expertise, analysis and coordination with the LA Corps during the permit review process and the fact that if SPD decides to issue a permit, R9 will have 15 days to review the record for our RA to decide 404(q) action.

I informed William James and Deanna Cummings that in reviewing Hudbay's February 2, 2018 letter, I noted several inaccuracies. EPA has provided the Corps with technical comments on the proposed project and its compliance with EPA's 404(b)(1) Guidelines. The Corps failure to share the most recent letters from Hudbay prevented us from providing review of these documents and additional comments to the Corps.

Having now reviewed the three Hudbay comment letters referenced above, R9 has determined that our scientific analysis and conclusions regarding the proposed project remain valid. The proposed project is not in compliance with CWA regulations and will result in significant and irreversible degradation to waters of the U.S.

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