To: Barker, Justin[barker.justin@epa.gov]
From: Stoy, Alyse
Sent: Wed 12/28/2016 5:34:55 PM
Subject: FW: Bridgeton Residential Sampling
EPA response 12-26rsl.pdf

Alyse Stoy

Office of Regional Counsel

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From: Stoy, Alyse
Sent: Tuesday, December 27, 2016 1:56 PM
To: 'Richard S. Lewis' <rlewis@hausfeld.com>
Subject: RE: Bridgeton Residential Sampling [WARNING: DKIM validation failed]

Understood, that sounds fine. I'll let our team know, and if you think it would be helpful to have our technical teams touch base by phone before then I would be happy to arrange that.

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From: Richard S. Lewis [mailto:rlewis@hausfeld.com]
Sent: Tuesday, December 27, 2016 1:53 PM
To: Stoy, Alyse <Stoy.Alyse@epa.gov>
Subject: RE: Bridgeton Residential Sampling [WARNING: DKIM validation failed]

We are shooting for the Jan 9 meeting with the staff who has designed the plan . I can't arrange anything over the next 24 hours due to holiday travel . thank you

From: Stoy, Alyse [mailto:Stoy.Alyse@epa.gov]
Sent: Tuesday, December 27, 2016 2:50 PM
To: Richard S. Lewis <rlewis@hausfeld.com>
Subject: RE: Bridgeton Residential Sampling [WARNING: DKIM validation failed]

Also I will add that I'm about two hours away from Bridgeton so if your team is inclined to meet this evening in person then we'll need to know that within the next hour or so. I can also set up a conference line as well.

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From: Richard S. Lewis [mailto:rlewis@hausfeld.com]
Sent: Tuesday, December 27, 2016 11:45 AM
To: Stoy, Alyse <Stoy.Alyse@epa.gov>
Cc: Daniel DeFeo <ddefeo@defeokolker.com>; Mahler, Tom <mahler.tom@epa.gov>
Subject: RE: Bridgeton Residential Sampling [WARNING: DKIM validation failed]

Thank you , I will reach out to our consultants regarding the possible meeting times . Just to clarify will your experts who designed the sampling program be available for this meeting ?

From: Stoy, Alyse [mailto:Stoy.Alyse@epa.gov]
Sent: Tuesday, December 27, 2016 10:37 AM
To: Richard S. Lewis <rlewis@hausfeld.com>
Cc: Daniel DeFeo <ddefeo@defeokolker.com>; Mahler, Tom <mahler.tom@epa.gov>
Subject: RE: Bridgeton Residential Sampling

Mr. Lewis,

EPA takes our obligation to provide accurate information to the Bridgeton community very seriously, and we find your attempts to mischaracterize EPA's motivation and efforts to collect residential samples in Spanish Village in response to your November 16th request unfortunate. In the spirit of cooperation, however, I offer the following responses to your questions:

- We understand that your team would like additional time to review our QAPP and discuss your plans to be present to collect split samples. EPA staff are proceeding to perform work in Bridgeton this week as planned and are scheduled to be in the field during the days this week. However, if you would like to meet in person with Tom Mahler and me during the evening, Tom and I can make ourselves available in Bridgeton or by telephone after 6:00 C.S.T. tonight or Wednesday night to discuss the sampling plan and the possibility of scheduling sample collection from the Dailey's home in early January. To give your team some additional flexibility, we also offer a meeting in our Kansas City office during the week of January 9th to discuss these issues in person. Ultimately our goal with these conversations is to discuss the points you've raised with the QAPP and resolve any outstanding access issues before EPA schedules to remobilize to perform the sampling of the Dailey's home.

- From the outset EPA indicated our preference to consider all of the data collected from the Dailey's home in developing our QAPP, which is why our agency has been requesting this information from you since mid-November in order to verify the samples previously collected by your team and which you have continued to fail to provide. Many of the erroneous statements made and questions raised in

your emails to me yesterday are specifically addressed in EPA's QAAP, and we can certainly discuss specific sampling locations within the Dailey's home when we talk further over the coming weeks.

- EPA has consulted with other experts in the development of our sampling plan (specifically the U.S. Army Corps of Engineers, ATSDR, MDNR and MDHSS), and has not had contact with other third parties regarding the details of this effort.

- Here is some additional language that we have included in standard access agreements: "EPA's liability for damages to the property or injuries to persons which result from or are caused by the activities on the property shall be, to the extent permitted, limited to the Federal Tort Claims Act, and the Federal Employee's Compensation Act, 28 U.S.C. § 2671, et. seq., 5 U.S.C. §8101 et. seq., and 31 U.S.C. §3701 et. seq."

- EPA can provide a specified time period for allowing access to the Dailey's home. I would suggest one week beginning from the date sampling at the Dailey home begins, but please let me know if you have alternate language to propose.

- EPA determines levels of concern for specific contaminants on a site specific basis based on site conditions and exposure scenarios. Our QAAP for this investigation specifies how we will evaluate the results of this sampling and compare levels to determine the need for any further CERCLA response action.

- EPA has exercised due diligence to ensure that our contractor performing work for the Bridgeton Dust Site Pre-CERCLIS Screening does not have a conflict of interest that would impair its ability to support EPA's sampling effort in Spanish Village.

- Lastly, while our technical team will be prepared to discuss the points your experts have made regarding the QAPP, please note in general that the purpose of this particular sampling effort is to determine if elevated levels of radionuclides are present beyond what is naturally occurring and if further investigation or response under CERCLA may be warranted.

Regards,

Alyse

Alyse Stoy

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From: Richard S. Lewis [mailto:rlewis@hausfeld.com]
Sent: Monday, December 26, 2016 5:23 PM
To: Stoy, Alyse <Stoy.Alyse@epa.gov>
Cc: Daniel DeFeo <ddefeo@defeokolker.com>
Subject: FW: Bridgeton Residential Sampling- response to Ms. Stoy [WARNING: DKIM validation failed]

Dear Ms. Stoy ,

Thank you for the response . I understand you have certain media talking points you are obligated to include in your emails to me. However in addition to doing that , could you please respond to the specific questions from my letter to you earlier today (attached) . They specific questions are :

1. Will EPA reschedule the testing in Spanish village until early January to allow the Daileys and other community members fair notice and a meaningful opportunity to confer with expert scientists to comment on the sampling plan , be heard by the EPA , and allow the scientific experts time to fly to St Louis and take split samples in the sampling activity ? If so , can we meet tomorrow and determine a new date for the testing ?

2. Will EPA consider the known radioactive contamination in the Dailey basement and behind the refrigerator in the kitchen in making their sampling plan for the Dailey home ? If so , please send an amended sampling plan for the Dailey home.

3. Will EPA identify their contacts with the lawsuit defendants regarding the EPA sampling plan and the timing of it over the last 60 days ? If so , please send a list of those contacts .

4. Will EPA provide indemnification to the Daileys and other community members for any damage that occurs to their homes as a result of the sampling ?

5. Will EPA provide a definite time period for allowing access to the EPA instead of an open-ended limitless time period ?

6. Will EPA define "levels of concern" for radioactive material inside the homes of Spanish Village residents ? If so , please send that information .

7. Finally will EPA determine if their sampling contractors have a conflict of interest in this matter? I have been informed but have not yet been able to verify that your sampling contractor actually works for one of the defendants in the lawsuit – Republic . Can you verify if it is true that your contractor works for Republic ? And can you send me the conflict of interest screening protocol you used before hiring your contractor here to sample in Spanish Village ?

Thank you , Rich Lewis

From: Richard S. Lewis
Sent: Monday, December 26, 2016 2:22 PM
To: 'Stoy, Alyse' <Stoy.Alyse@epa.gov>
Cc: Mahler, Tom <mahler.tom@epa.gov>; Daniel DeFeo <ddefeo@defeokolker.com>
Subject: RE: Bridgeton Residential Sampling

Dear Ms. Stoy :

I did receive your email this morning and tried to call you and left a voicemail . My full response to your email is attached to this email . Your proposed timing to start sampling 2 days after Christmas without adequate notice or meaningful opportunity to review , comment and participate is not practical and is not acceptable . Please reschedule all Spanish Village sampling for early January to allow for adequate notice and meaningful opportunity to participate . If you are declaring this a public health emergency and your position is that you cannot allow for adequate notice and opportunity to review , comment and participate , please state that .

Thank you , Rich Lewis .

From: Stoy, Alyse [mailto:Stoy.Alyse@epa.gov]
Sent: Monday, December 26, 2016 8:47 AM
To: Richard S. Lewis <rlewis@hausfeld.com>
Cc: Mahler, Tom <mahler.tom@epa.gov>; Daniel DeFeo <ddefeo@defeokolker.com>
Subject: Bridgeton Residential Sampling

Good Morning Mr. Lewis,

I hope you are enjoying the holidays. In follow up to our previous communications, EPA has prepared the attached Quality Assurance Project Plan (QAPP) to perform radiological sampling at certain homes in Spanish Village, including the Dailey's home. EPA staff and our contractors will arrive in Bridgeton later today and plan to conduct the sampling activities through Thursday of this week. Also attached is a proposed Consent for Access to Property. In summary, EPA's residential sampling effort encompasses the following activities:

- Outdoor sampling will include a real-time gamma survey of surface soils and collection of soil samples for laboratory analysis for radionuclides.
- Indoor sampling will include real-time surveys of interior building surfaces for alpha, beta, and gamma radiation, collection of wipe dust samples for on-site analyses for gross alpha/beta followed by laboratory analysis for radionuclides, and collection of bulk dust samples for laboratory radionuclide analysis.
- If elevated levels of radionuclides are detected, EPA will evaluate the results of samples collected to determine if such radionuclides are present beyond what is naturally occurring. Depending on our review of that data, EPA will determine if any further CERCLA action is warranted.
- In addition to providing preliminary screening results, EPA will provide your clients with a receipt of samples obtained from their home and a copy of the analytical results of such samples.
- It is anticipated that we will have a team of up to eight personnel (EPA staff and contractors) that will perform the sampling work, and we anticipate that it will take approximately one full day to complete the sampling of the Dailey's home.

We are available to discuss EPA's QAPP and access agreement by telephone later today, and are happy to address any questions you may have. Also copied on this email is Tom Mahler, EPA's On-Scene Coordinator for this sampling effort, and once he arrives in Bridgeton today he will be available in person to discuss our proposed work with Mr. and Mrs. Dailey to ensure they fully understand our sampling effort. Tom can be reached at 913-551-7416. After you have had a chance to review these documents and discuss with your client, upon execution of the Consent for Access to Property document our team will be able to schedule the collection of these samples from the Dailey's home.

We greatly appreciate your assistance in this effort, and please advise if you would like to schedule a time to discuss this matter in more detail.

Regards,

Alyse

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