12/26/16

Alyse Stoy

Office of Regional counsel

US EPA Region 7

Dear Ms. Stoy:

Thank you for your email regarding EPA Region 7's intentions to do sampling in the Spanish Village neighborhood and the home of our clients, Mr. and Mrs. Dailey. The Dailey's are pleased that the EPA has finally recognized this is an urgent public health matter and are taking action after years of declining to do so .

But we are shocked that you are going about this in such an unprofessional manner. To be clear, you sent me protocols at 8:47 A.M. today (the day after Christmas), informing me that your experts would conduct sampling tomorrow. EPA has been aware of these problems for decades, and has had data finding radiation in the subdivision you plan to test for months. I agree with the need to conduct these samples in a timely and expeditious manner. But the way you have notified us of these protocols has prevented us from any reasonable opportunity review the protocol with scientific experts, comment on the protocol, meet with you to discuss any problems with the protocol, arrange to take split samples, and videotape the sampling.

Without such an analysis, there is no way for the Daileys to know whether the sampling protocol or results will be valid. On its face, the proposed protocol appears insufficient. For example, we provided you data on the Dailey's home identifying excessive radioactivity levels behind the refrigerator and in the basement, but your sampling plan does not even mention these areas of known contamination. This oversight is either the result of carelessness or a decision to ignore scientific evidence that is staring you in the face.

These circumstances add to our clients' concern that EPA is not dedicated here to the public health, but rather is attempting to justify its decades of inaction and to help the defendants in the lawsuit we filed. Such motivations would certainly explain the unprofessional manner in which you have "notified" us of your plans. This latest tactic, coupled with EPA's refusal to meet with us, its refusal to discuss our findings in any detail, and its refusal even to explain what EPA considered to be a "level of concern" for the radioactive contaminants at issue, seem consistent with the community's concerns that EPA is motivated by something other than a genuine concern for public health.

You cannot reasonably expect me to consent to this sampling until you provide a fair opportunity for the scientific experts to assure us that the sampling is designed and carried out in an appropriate manner. Today is the day after Christmas and we have reached out to the scientific experts we work with to arrange for them to travel to St Louis in the first week of January to meet with you to discuss the protocol and participate in the sampling effort by taking split samples and other appropriate steps . Once reasonable notice and meaningful opportunity to review , comment, and participate are allowed, the Dailey's will be prepared to provide consent to the EPA sampling (assuming you add a standard

indemnification clause and you specifically define the term for which access is sought in the agreement).

As you know we represent other residents in the area and on their behalf and the Dailey's , we object to any sampling taking place this holiday week due to the lack of notice and opportunity to for the scientific experts to review the protocols and participate in the sampling. We request that all sampling in Spanish Village be rescheduled for early January consistent with these requests for you to provide adequate notice and meaningful opportunity to participate, so that the our clients and the public have the required input and review opportunities to assure that this sampling is legitimate and not perceived as a "sneak attack, "by the EPA acting in the interests of the defendants in the lawsuit, as opposed to the public interest. On that note, our clients asked if the surprise emergency timing of EPA's actions is motivated by a request from the defendants in the lawsuit. In order to answer that I request that you please identify every communication that EPA Region 7 and/or you have had with the defendants in the lawsuit concerning the sampling and timing of the sampling in the last 60 days.

In sum, we appreciate EPA's getting involved in this public health problem emergency, but we can only consent to the sampling once meaningful notice and opportunity to review, comment and participate are allowed to the scientific experts. Therefore we ask that you reschedule the sampling until early January to accomplish this. If you have any questions or you wish to discuss this further please call me at 202 540 7200.

Sincerely,

Richard Lewis

Cc: Dan DeFeo Esq.