To: Lensink, Andy[Lensink.Andy@epa.gov]
From: Rauchway, Jon
Sent: Wed 9/2/2015 4:54:45 PM
Subject: RE: Christian/Opportunity case

Me neither, but at some point I accepted the fact that this court was not going to affirm this decision. Anyway, next week sounds good, let me know what works for you. Enjoy the holiday weekend.

Jon

Jonathan W. Rauchway

Davis Graham & Stubbs llp

1550 Seventeenth Street, Suite 500

Denver, Colorado 80202

Tel: 303.892.7216

Fax: 303.893.1379

Cell: 303.903.3298

jrauchway@dgslaw.com

vcard

This email message, and its attachment(s), is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

From: Lensink, Andy [mailto:Lensink.Andy@epa.gov]
Sent: Wednesday, September 02, 2015 10:07 AM
To: Rauchway, Jon
Subject: RE: Christian/Opportunity case

Jon:

Thank you. Haven't thought much about this one for a while.

We will look this over and perhaps we can talk next week.

Andy

From: Rauchway, Jon [mailto:Jon.Rauchway@dgslaw.com]
Sent: Wednesday, September 02, 2015 9:59 AM
To: Lensink, Andy
Cc: 'jpd@prrlaw.com'
Subject: Christian/Opportunity case

Hello Andy:

I hope all is well in your world. In case you hadn't already heard, the Montana Supreme Court reversed the Christian decision yesterday. The opinion is attached. It is lengthy, but it is a fairly narrow decision, ruling that Plaintiffs are entitled to go to the jury on their continuing tort theory, and thus summary judgment should not have been granted on statute of limitations grounds.

But the court does discuss much of the history of the site, including the regulatory history (action levels, etc.) and specifically notes that the CERCLA-restoration damages motion has not been ruled on and needs to be ruled on by the trial court. This is primarily in paragraph 45, but also mentioned in paragraph 10 and elsewhere. Let's talk when you have had a chance to digest this.

Jon

Jonathan W. Rauchway

Davis Graham & Stubbs llp

1550 Seventeenth Street, Suite 500

Denver, Colorado 80202

Tel: 303.892.7216

Fax: 303.893.1379

Cell: 303.903.3298

jrauchway@dgslaw.com

vcard

This email message, and its attachment(s), is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.