Message

From: Schwartz, Jerry [Jerry_Schwartz@afandpa.org]
Sent: 6/26/2017 5:49:07 PM
To: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]
CC: Noe, Paul [Paul_Noe@afandpa.org]
Subject: FW: Information We Discussed--One addition
Attachments: EPA Motion for 90 day stay - filed 5 5 17.pdf; 20170227090758285.pdf

Dear Ms. Greenwalt,

I wanted you to know that the issue of the impact of EPA's Human Health Water Quality Criteria on Superfund cleanups was included in a recent letter to Mr. Kelly from an organization providing technical assistance to his office. I have pasted in the relevant portion of the letter below. Please let me know if you have any questions.

Thank you, Jerry Schwartz

> 3. The Agency should revisit the cleanup standard setting process to eliminate overly conservative assumptions made throughout the entire site investigation, remedy evaluation, and selection process that result in unachievable cleanup levels. Recently, EPA adopted policies for the calculation of the Clean Water Act's Human Health Water Quality Criteria that have their own overly conservative assumptions (e.g. the Fish Consumption Rate) that, if applied in the Superfund program, would lead to even more unachievable cleanup levels and would reduce state flexibility in the cleanup level-setting process.

From: Schwartz, Jerry
Sent: Thursday, June 22, 2017 5:02 PM
To: 'Greenwalt.Sarah@Epa.gov' <Greenwalt.Sarah@Epa.gov>
Cc: Noe, Paul <Paul_Noe@afandpa.org>; 'Chris McCabe' <chris@nwpulpandpaper.org>; James Tupper <tupper@tmw-law.com>
Subject: Information We Discussed

Dear Ms. Greenwalt:

Thank you for taking the time to discuss the Human Health Water Quality Criteria issue with us. Below and attached is the information we discussed.

I. **Maine:**

- Contact Information for the Assistant Attorney General handling the case:

  Scott Boak
  Assistant Attorney General
  Scott.Boak@maine.gov
  (207) 626-8566

- Contact Information for the U.S. DOJ attorney handling the case:

DAVID A. CARSON
United States Department of Justice
Environment & Natural Resources Division
South Terrace – Suite 370
999 18th Street

Denver, Colorado 80202
(303) 844-1349
david.a.carson@usdoj.gov

- The EPA Motion for a 90-Day Stay of Proceedings is attached. I do not have the Court Order approving the motion, but I believe the stay expires around August 14th and there is a status conference shortly before the expiration of the stay. Also attached is the Maine Petition for Reconsideration, which includes the State's comments on the proposed federal rule, and the Second Amended Complaint, which includes a detailed analysis of the legal issues in the case.

II. Idaho

The links below contain the documents that comprise the Idaho rulemaking packing submitted to EPA for approval. Idaho Department of Environmental Quality Director John Tippets is aware of this issue and would be the person to contact: John Tippets, 208-373-0240; John.tippets@deq.idaho.gov.

- Cover Letter Dated December 13, 2016
- Summary of Changes in Idaho WQS made by Rule Docket 58-0102-1201
- Idaho Human Health Criteria Update Justification and Compliance with the Clean Water Act
- Attorney General Certification of Amended Idaho Water Quality Standards, Docket No. 58-0102-1201

III. Florida

There are ongoing judicial and administrative proceedings that make it hard to predict when EPA would be called upon to take action on a Florida rule submittal, but it is extremely unlikely that EPA would need to take any formal action this calendar year.

IV. EPA Guidance on Conducting Fish Consumption Surveys

- Here is the link to the guidance that discusses the Washington and Maine rules and the fish consumption "suppression" issue that results in significantly increased Fish Consumption Rates.

Please feel free to contact me if you have any questions or need additional information. Thank you.

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