Message

From: Dygowski, Laurel [Dygowski.Laurel@epa.gov]
Sent: 11/20/2018 3:34:25 PM
To: Livingston, Peggy [Livingston.Peggy@epa.gov]; DeJong, Stephanie [DeJong.Stephanie@epa.gov]
Subject: RE: Dates in early January

I am available any day Mon-Thursday from January 7th onward except for the 8th.

Laurel Dygowski
NPDES Enforcement
EPA Region 8
MC 8-ENF-W-NP
1595 Wynkoop
Denver, CO
303-312-6144

From: Livingston, Peggy
Sent: Monday, November 19, 2018 4:37 PM
To: Dygowski, Laurel <Dygowski.Laurel@epa.gov>; DeJong, Stephanie <DeJong.Stephanie@epa.gov>
Subject: Dates in early January

Looks like we may want to set aside time for a meeting in early January. When you can, would you please let me know when you're available? Thank you.

Peggy Livingston
Senior Enforcement Attorney
Region 8, U.S. EPA
1595 Wynkoop Street
Denver, CO 80202
303-312-6858 (phone)

From: DeVoe, Michelle <Michelle.DeVoe@dgslaw.com>
Sent: Monday, November 19, 2018 4:24 PM
To: Livingston, Peggy <Livingston.Peggy@epa.gov>; Temkin, Betsy <Elizabeth.Temkin@dgslaw.com>
Cc: Dygowski, Laurel <Dygowski.Laurel@epa.gov>; DeJong, Stephanie <DeJong.Stephanie@epa.gov>
Subject: RE: Kiewit - EPA Matter

Peggy,

Thank you for getting back to us about next steps. At this point, Kiewit has completed its review of approximately 150 yellow highlighted items identified by EPA (over half of the approximately 260 items EPA identified). Kiewit plans to provide EPA with an initial written response addressing the 150 items by early December. Kiewit plans to complete the review of the remaining items, and we will get back to you with a schedule for a supplemental response once this initial response has been submitted. We would then suggest scheduling a meeting with EPA in early January at which Kiewit would cover a representative subset of the yellow highlighted items. The presentation would focus on how Kiewit's corrective actions complied with the storm water permit corrective action timing requirements. We hope this will allow us to reach closure regarding EPA's concerns about Kiewit's storm water compliance record on the I-25 Project.

Please let us know a few dates in January that would work for EPA to meet.

Best, Michelle

MICHELLE C. DEVOE ▪ **Of-Counsel**

P: 303.892.7386 ▪ C: 720.839.1972 ▪ F: 303.893.1379 ▪ vcard

Davis Graham & Stubbs LLP
1550 17th Street, Suite 500 ▪ Denver, CO 80202

A **LexMundi** Member

From: Livingston, Peggy <Livingston.Peggy@epa.gov>
Sent: Tuesday, November 13, 2018 3:46 PM
To: DeVoe, Michelle <Michelle.DeVoe@dgslaw.com>; Temkin, Betsy <Elizabeth.Temkin@dgslaw.com>
Cc: Dygowski, Laurel <Dygowski.Laurel@epa.gov>; DeJong, Stephanie <DeJong.Stephanie@epa.gov>
Subject: Kiewit - EPA Matter

Thank you for calling me back on November 8th, regarding the "yellow highlight" items, i.e., the instances in which it appears to EPA Kiewit did not comply with the corrective action requirements of its permits.

You suggested December 11th and/or 12th for Kiewit and EPA to go over Kiewit's response to these instances. I've talked to my clients. Unfortunately, it does not appear everyone is available to meet on those dates. December is already filling up.

Here is what we would like to propose. In the interest of making the best use of your clients' and our time, and moving this case along, we would suggest Kiewit provide EPA a subset or preview of its position on these matters. It would help us to see the types of arguments Kiewit would cite to demonstrate it was, in fact, complying with its permits. That would help us provide feedback to Kiewit in a systematic way.

This does not suggest EPA would not review the complete written submittal you indicated Kiewit would provide next month.

We are especially interested in tying in Kiewit's reasoning to the particular requirements of the storm water permits.

We would also propose extending the tolling agreement to January 31, 2019. In the near future, I hope to email you an agreement with a request for Kiewit to sign it.

Thank you.

Peggy Livingston
Senior Enforcement Attorney
Region 8, U.S. EPA
1595 Wynkoop Street
Denver, CO 80202
303-312-6858 (phone)

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