Message

From: DeVoe, Michelle [Michelle.DeVoe@dgslaw.com]
Sent: 8/23/2018 4:54:35 PM
To: Livingston, Peggy [Livingston.Peggy@epa.gov]
CC: Temkin, Betsy [Elizabeth.Temkin@dgslaw.com]
Subject: Meeting Follow-Up
Attachments: Final PowerPoint Slides for EPA Meeting 8-16-18.pptx

Peggy,

Thank you to you, Laurel and Stephanie for meeting with Kiewit last Thursday. As requested, attached is the PowerPoint from that meeting (with the one date correction we discussed). We are looking forward to EPA's response to the material presented at that meeting and understand you plan to get back to us later this week on the timing of that response.

We hope you found the meeting instructive on the challenges associated with the I-25 project and also on the evidentiary challenges the case presents. As discussed at the meeting, relying on someone else's photographs, without having personally inspected the project, will be problematic for EPA. In that regard, the meeting highlighted for us that we will need to depose Sonja Erickson (the CDOT inspector) as to her experience, the preparation of and findings in her inspection reports, and the photographs associated with those reports to the extent EPA intends to rely on those reports and photos to support its claims. We also believe that a site visit with the hearing officer will be critical. Kiewit feels strongly that it complied with its storm water permit requirements at the I-25 Project, and we hope we can move this matter to a satisfactory resolution in the near term.

Best, Michelle

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