Message

From: Sawyers, Andrew [Sawyers.Andrew@epa.gov]
Sent: 6/19/2015 7:03:50 PM
To: Tingley, Kevin [Tingley.Kevin@epa.gov]
CC: Nagle, Deborah [Nagle.Deborah@epa.gov]
Subject: Fwd: Los Alamos County response regarding the MS4 Permit - EPA should not shift cleanup costs from DOE to a municipality
Attachments: MS4 Designation for Los Alamos.pdf; ATT00001.htm; LAC Response Letter for USEPA MS4 Preliminary Designation.docx; ATT00002.htm

Please pass on the letters.

Sent from my iPhone

Begin forwarded message:

> **From:** "Kirshenberg, Seth D." <Seth.Kirshenberg@KutakRock.com>
> **Date:** June 19, 2015 at 1:38:07 PM EDT
> **To:** "sawyers.andrew@epa.gov" <sawyers.andrew@epa.gov>, "christopher.rebecca@epa.gov" <christopher.rebecca@epa.gov>, "Bertrand, Charlotte" <Bertrand.Charlotte@epa.gov>, "aastanislaus@epa.gov" <aastanislaus@epa.gov>
> **Cc:** "Steinberg, Barry P." <Barry.Steinberg@KutakRock.com>, "Burgess, Harry (harry.burgess@lacnm.us)" <harry.burgess@lacnm.us>, "Powers, Kevin (kevin.powers@lacnm.us)" <kevin.powers@lacnm.us>, "Flynn, Ryan, NMENV" <Ryan.Flynn@state.nm.us>, "Tingley.Kevin@epa.gov" <Tingley.Kevin@epa.gov>, "'kristin.henderson@lacnm.us'" <kristin.henderson@lacnm.us>
> **Subject: RE: Los Alamos County response regarding the MS4 Permit - EPA should not shift cleanup costs from DOE to a municipality**
>
> Attached are the letters
>
> ---
>
> **From:** Kirshenberg, Seth D.
> **Sent:** Friday, June 19, 2015 1:36 PM
> **To:** 'sawyers.andrew@epa.gov'; 'christopher.rebecca@epa.gov'; Bertrand, Charlotte; aastanislaus@epa.gov
> **Cc:** Steinberg, Barry P.; Burgess, Harry (harry.burgess@lacnm.us); Powers, Kevin (kevin.powers@lacnm.us); Flynn, Ryan, NMENV; 'Tingley.Kevin@epa.gov'; 'kristin.henderson@lacnm.us'
> **Subject:** Los Alamos County response regarding the MS4 Permit - EPA should not shift cleanup costs from DOE to a municipality
>
> Dr. Sawyers,
>
> As a follow-up to our meeting several weeks ago, attached is Los Alamos County, NM's response to Region 6 on the Region's MS4 Preliminary Designation of Los Alamos County. As noted in our meeting, the implications for the County – a very small local government -- of this designation are financially and operationally significant. But most concerning is the fact that a federal agency (EPA) would impose upon the County (and hence the local tax payers) the responsibility for addressing the environmental implications of historic (DOE) federal activities (especially since the State regulator –NMED - is already addressing the issues).
>
> The vast majority of contamination giving rise to the underlying MS4 designation arises from the activities of the United States (DOE), not the County or its residents. This includes current run-off from

property still retained by the United States as well as contamination at DOE divested properties (that were once owned by the United States).

The attached letter from the New Mexico Environment Department expresses the concerns and opposition of the State agency with responsibility over this matter. In addition to supporting the County's objections, the State raises important issues related to the premature intervention by the federal government. For broad policy reasons, the State's expression of concern warrants serious reconsideration by Region 6.

Our concern that we expressed at the meeting is if this action goes forward, the citizens of the County – those that are the most impacted population by the historic contamination -- are being required by the federal government (EPA) to pay for the federal government's past activities. This would be an unprecedented action by EPA – which in the past usually supports small local governments and the local citizens that are impacted by historic federal environmental contamination. Further, the State of NM is clearly already addressing the issues as noted in the attached letter.

As the Region goes through the review process we ask that you consider the implications and the comments of the County and the State.

Please contact us with any questions.

Regards,

Seth

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