Message

From: Philip Moffat [pmoffat@verdantlaw.com]
Sent: 7/15/2020 3:54:45 PM
To: Pessetto, Jared [Pessetto.Jared@epa.gov]
CC: pmoffat@verdantlaw.com
Subject: Re: Vogel site in Maurice, IA

Hi, Jared.

Thank you for following up. I've collected most of the technical input, but there's a bit more outstanding, plus final client review and sign-off that I still need.

Thus far, we have two main concerns, which will be addressed in our written comments. I hope to have those to you late next week.

To date, our first main concern is the protectiveness statement for the groundwater. It's confusing and contains unexplained redundant "requirements."

We also are concerned about what's being left out of the memo - any discussion of removing or clarifying the point of compliance language and other related statements that were added (some of them last-minute) to the Five-Year Review Report. The parties remain far apart on this latter item, so they'll need to reach some understanding/resolution relatively soon as the pilot study and north area work will draw to a close fairly soon. Voluntarily undertaking further site work likely depends, in part, on clarity and resolution of this latter item.

Lastly, Vogel will soon be sending its written response to Sandeep's comments on the two draft reports that the company submitted back in February. These have been our primary focus recently. His comments were extensive and highly technical. Many of them did not seem to advance the Agency's or Vogel's overall objectives for this site. This type of exercise is a concern that we discussed during our meeting in February with EPA, but it seems to have gone unaddressed. (I'm being candid; not harsh.)

I look forward to your response.

Best regards,

Phil

On Wed, Jul 15, 2020 at 10:46 AM Pessetto, Jared <Pessetto.Jared@epa.gov> wrote:

> Good morning, Phil. I'm just checking in on the draft memorandum concerning the Fifth Five-Year Review for the Vogel Paint & Wax Site. Does Diamond Vogel have any concerns or comments that you'd like to discuss? We'd like to advance the memo for director signature as soon as all parties are comfortable with the content.
>
> Thanks,
> Jared
>
> Jared Pessetto

Office of Regional Counsel

U.S. EPA, Region 7

(913) 551-7793

From: Philip Moffat <pmoffat@verdantlaw.com>
Sent: Friday, June 19, 2020 9:47 AM
To: Pessetto, Jared <Pessetto.Jared@epa.gov>
Cc: pmoffat@verdantlaw.com
Subject: RE: Vogel site in Maurice, IA

Jared –

No worries. Thank you for responding. I'll update my client accordingly.

Enjoy the weekend and stay safe.

Best,

Phil

From: Pessetto, Jared <Pessetto.Jared@epa.gov>
Sent: Friday, June 19, 2020 9:50 AM
To: pmoffat@verdantlaw.com
Subject: RE: Vogel site in Maurice, IA

Good morning, Phil. I'm very sorry for letting slip my response to your simple request. Please do take the time you need to develop thoughtful comment on the memo. We are available for discussion at any time if you have initial questions or concerns. In the meantime, we'll keep an eye out for response to comments on the February reports.

Have a nice weekend,

Jared

Jared Pessetto

Office of Regional Counsel

U.S. EPA, Region 7

(913) 551-7793

From: Philip Moffat <pmoffat@verdantlaw.com>
Sent: Monday, June 15, 2020 9:11 AM
To: Pessetto, Jared <Pessetto.Jared@epa.gov>
Cc: pmoffat@verdantlaw.com
Subject: Re: Vogel site in Maurice, IA

Hi, Jared.

Yes, we received EPA's comments on the draft technical reports. Although we don't consider them to be significant in nature, we are developing a response. The response should be ready early next week.

Also we will need more than two weeks - probably closer to a month - to respond to the attached memo. EPA has been working on the memo for several months now. It involves several very technical and important issues. So we will be taking the necessary time to prepare a reasoned and considered response. Given the history surrounding this particular Five Year Report, EPA should find our timeline more than acceptable. I'm sure you understand where I'm coming from on this. Happy to discuss further if necessary.

All the best.

Phil

On Mon, Jun 15, 2020 at 9:56 AM Pessetto, Jared <Pessetto.Jared@epa.gov> wrote:

> Dear Phil:

Please see the attached draft memo concerning the Fifth Five-Year Review Report for the Vogel Paint & Wax Site. This memo has also been transmitted to Amie Davidson at Iowa DNR for lead agency input. EPA will appreciate Diamond Vogel's consideration and comment by next Friday, June 25.

Also, in further follow-up, can you confirm Diamond Vogel's receipt of EPA's comments on the technical reports?

Thanks in advance for your time. I hope all is still well in Washington.

Best,
Jared

Jared Pessetto

Office of Regional Counsel

U.S. EPA, Region 7

(913) 551-7793

From: Pessetto, Jared
Sent: Friday, May 29, 2020 10:44 AM
To: pmoffat@verdantlaw.com
Cc: Irene Hantman <ihantman@verdantlaw.com>
Subject: RE: Vogel site in Maurice, IA

Hi Phil – I've been able to confirm that EPA, as the support agency, has reviewed the referenced technical reports and provided comments to IDNR on May 6. We understand that IDNR as the lead agency plans to transmit comments to Diamond Vogel very soon, or may have already done so.

Please don't hesitate to reach back out if you have any questions.

Thanks,
Jared

Jared Pessetto

Office of Regional Counsel

U.S. EPA, Region 7

(913) 551-7793

From: Pessetto, Jared
Sent: Tuesday, May 26, 2020 1:40 PM
To: Philip Moffat <pmoffat@verdantlaw.com>
Cc: pmoffat@verdantlaw.com; Irene Hantman <ihantman@verdantlaw.com>
Subject: RE: Vogel site in Maurice, IA

Good afternoon, Phil, and thanks for checking in. I'm glad to hear you're well in D.C. and hope you had a relaxing and reflective Memorial Day. We've adjusted operations smoothly here in Region 7 and, as of this week, are apparently on a "phased" path back to our office. If things continue as planned, we'll be at our desks by the end of June.

To the second item on your list, we are indeed developing a memorandum to address several corrections and clarifications relative to the Fifth Five-Year Review for the Vogel Paint & Wax Co. Site. As discussed during our February meeting with IDNR, EPA will appreciate both IDNR's and Diamond Vogel's feedback on that memo prior to finalization by the director of Region 7's Superfund & Emergency Management Division. I expect that we'll have a draft prepared for your consideration in the coming month.

Concerning the first and third topics, I am checking in with our Remedial Project Manager to determine if he has any questions or concerns. I'll be back in touch one way or the other later this week.

Thanks again for reaching out.

All the best,

Jared

Jared Pessetto

Office of Regional Counsel

U.S. EPA, Region 7

(913) 551-7793

From: Philip Moffat <pmoffat@verdantlaw.com>
Sent: Thursday, May 21, 2020 2:29 PM
To: Pessetto, Jared <Pessetto.Jared@epa.gov>
Cc: pmoffat@verdantlaw.com; Irene Hantman <ihantman@verdantlaw.com>
Subject: Vogel site in Maurice, IA

Jared –

Good afternoon. I hope you and your family are well and safe. We're holding our own in DC although life is definitely different.

I wanted to follow-up on the Vogel site in Maurice, Iowa. There are a few items about which the company would like updates. My list is set out below, along with a brief update or inquiry on each item. Are there any other items that you and I need to address? If so, please let me know what else is on your list. If you think we need a conference call to coordinate, that is fine. Otherwise, email should suffice.

- Sampling. It's my understanding that the periodic, on-site sampling occurred last week. The company anticipates receiving preliminary results later this month. Vogel would submit the final data and other information to EPA as part of the company's next Semi-Annual Report.

- Amended 5-Year Review Report: It's my understanding that EPA is amending/revising the previous 5-Year Report. Please let me know when Vogel can expect to receive the revised draft.

- February 2020 reports. Vogel submitted two reports to EPA in February – the North Area Groundwater Characterization Report and the 2019 Annual Monitoring Report, which included as an appendix: the Injection Event and Post Injection Monitoring Report. To date, the company has not received comments from EPA. Are we correct in concluding that the Agency does not have comments on those documents?

I look forward to your reply. Thanks in advance.

Best regards,

Philip A. Moffat

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***Note:* Because of school closures for covid-19, I will be assisting with my child's distance learning. Accordingly, my responsiveness may be reduced for the next several weeks, possibly longer. I generally will be available in the early mornings, afternoons and evenings, Eastern Time. Thank you for your understanding.**

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