Message

From: Wells, Kimberly [wells.kimberly@epa.gov]
Sent: 6/21/2017 3:39:52 PM
To: Rodriguez, Roberto [Rodriguez.Roberto@epa.gov]; Hecht, Hillary [Hecht.Hillary@epa.gov]; Magnuson, Janet [Magnuson.Janet@epa.gov]; Rapicavoli, Emmanuelle [Rapicavoli.Emmanuelle@epa.gov]
CC: Chan, Patrick [Chan.Patrick@epa.gov]
Subject: RE: First Mesa Consolidated Villages HAMP MOU/MOA/purchase agreement concerns

Great. Can you respond to Jeff to tell him that we are going to contact USDA to try to better understand the HAMP funding situation?

Also, FYI, in addition to speaking with Loretta (or another appropriate person at USDA) about the adequacy of the new MOAs for the grant application, Emmanuelle is trying to set up a call with Mike Lueker at USDA about the PER comments, which have been delayed but are necessary to move forward with the funding application. After speaking with both of them we should have a better idea of what to expect and what to tell Jeff.

Kimby

Kimberly Wells
Attorney Advisor
Office of Regional Counsel
U.S. EPA Region 9
75 Hawthorne Street, 12th Floor
San Francisco, CA 94105
(415) 972-3056

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confidential and/or protected by the Attorney-Client or other privileges.

From: Rodriguez, Roberto
Sent: Wednesday, June 21, 2017 8:22 AM
To: Wells, Kimberly <wells.kimberly@epa.gov>; Hecht, Hillary <Hecht.Hillary@epa.gov>; Magnuson, Janet <Magnuson.Janet@epa.gov>; Rapicavoli, Emmanuelle <Rapicavoli.Emmanuelle@epa.gov>
Cc: Chan, Patrick <Chan.Patrick@epa.gov>
Subject: RE: First Mesa Consolidated Villages HAMP MOU/MOA/purchase agreement concerns

Fine w/me.

Roberto Rodriguez, Manager
Safe Drinking Water Act Enforcement Office
Enforcement Division, EPA Region 9
75 Hawthorne Street (ENF-3-3)
San Francisco, CA 94105
415-972-3302

From: Wells, Kimberly
Sent: Wednesday, June 21, 2017 8:13 AM
To: Hecht, Hillary <Hecht.Hillary@epa.gov>; Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; Magnuson, Janet <Magnuson.Janet@epa.gov>; Rapicavoli, Emmanuelle <Rapicavoli.Emmanuelle@epa.gov>
Cc: Chan, Patrick <Chan.Patrick@epa.gov>
Subject: RE: First Mesa Consolidated Villages HAMP MOU/MOA/purchase agreement concerns

Enforcement, For now let's tell Jeff Mansfield that we are going to contact USDA to try to better understand the HAMP funding situation.

We can address his fourth and fifth concerns now, since Emmanuelle has the answers, or we can wait and address all five at the same time. I would prefer to address all five at the same time, after we have spoken with USDA.

Emmanuelle, who would be the USDA person to talk with about the adequacy of the new MOAs? Would it be Loretta? If so, can you please schedule a call with her?

Thank you,

Kimby

Kimberly Wells
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San Francisco, CA 94105
(415) 972-3056

This email, including attachments, may contain information that is
confidential and/or protected by the Attorney-Client or other privileges.

From: Hecht, Hillary
Sent: Monday, June 19, 2017 4:27 PM
To: Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; Wells, Kimberly <wells.kimberly@epa.gov>; Magnuson, Janet <Magnuson.Janet@epa.gov>; Rapicavoli, Emmanuelle <Rapicavoli.Emmanuelle@epa.gov>
Cc: Chan, Patrick <Chan.Patrick@epa.gov>
Subject: RE: First Mesa Consolidated Villages HAMP MOU/MOA/purchase agreement concerns

Ex. 5 Deliberative Process (DP)

Thanks,
Hillary

From: Rodriguez, Roberto
Sent: Monday, June 19, 2017 1:36 PM
To: Wells, Kimberly <wells.kimberly@epa.gov>; Magnuson, Janet <Magnuson.Janet@epa.gov>
Cc: Hecht, Hillary <Hecht.Hillary@epa.gov>; Chan, Patrick <Chan.Patrick@epa.gov>
Subject: FW: First Mesa Consolidated Villages HAMP MOU/MOA/purchase agreement concerns

FYI: Good timing for our meeting tomorrow. Thoughts?

Roberto Rodriguez, Manager
Safe Drinking Water Act Enforcement Office
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415-972-3302

From: Jeff Mansfield [mailto:jlmansfield1981@gmail.com]
Sent: Monday, June 19, 2017 1:29 PM
To: Rodriguez, Roberto <Rodriguez.Roberto@epa.gov>; Hecht, Hillary <Hecht.Hillary@epa.gov>; Rapicavoli, Emmanuelle <Rapicavoli.Emmanuelle@epa.gov>
Subject: First Mesa Consolidated Villages HAMP MOU/MOA/purchase agreement concerns

EPA Region 9 Enforcement,

Jeff Mansfield here again, I have just touched basis with my Client, FMCV/ Ivan Sidney Sr. in regards to their PWS#09-0400106 as it relates to the Hopi Tribe's HAMP efforts. Mr. Sidney, who speaks on behalf of the Traditional Leadership, who are the actul owners of the PWS#09-0400106, has brought to my attention several key factors that are of paramount concern to FMCV as it pertains to HAMP MOUs/MOAs & other legally binding commitment agreements. These concerns are as follows:

1) Presently, no specific (or even general estimations) dates for either the "starting" or the "completion" of the HAMP have yet to be given within various MOUs/MOAs produced by the new "Hopi Utility Corp/HUC.". Specifically, what expected timeframe for the completion of the Transmission Line from HardRock to the FMCV Water Storage Tanks.

2) No specific/detailed "Purchase Agreements btwn the Villages/HUC for the wholesale cost of HAMP H20" have been produced by the HUC for FMCV to review, revise, negotiate, & obligate themselves to as of today.

3) No specified obligations by the Tribe/HUC in regards to the Village's PWS, & HAMP. As well as a lack of any "tangible PWS assets" for any of the 4 PWSs currently in Violation of the SDWA/NPDWR.

4) The impending loss of 2 FMCV (per Project MOAs) HAMP-related Tribal Set-Aside Projects on July 1st, 2017 in the amount of $2.3m plus the 2004 IHS Project PH04S63 @$800k.

5) Most importantly, the newest HUC Charter of Incorporation which I am attaching to this email. This Charter gives the assumption that this new Utility for the Hopi Tribe via the HUC, is a "for-profit" entity that gives the disguise as being a separate Utility Entity from the Hopi Tribe but as the fine print illustrates, contradicts the EPA's Tribal Set-Aside Program's Guideline Directives (Per 2013's Revised EPA TSA Guidelines). In addition to the majority of funds being issued by EPA for Drinking Water Compliance, which thus far, has only produced various documents that are geared solely for USDA-RD grant/loan apts pre-requisites & 2 wells at the expense of the 4 affected Villages.

In short, the Hopi Tribe's attempt to characterize FMCV as non-participants in the HAMP is erroneous. FMCV is committed to providing its community with the most beneficial course of action as it pertains to Safe Drinking Water here in Polacca, AZ. By taking actions such as signing HUC MOAs/MOUs and/or Purchase Agreements without specified terms, provisions, liabilities, commitments, timetables, and other legally binding formalities would be both negligent, and un-fiduciary on the part of the FMCV staff & Traditional Leaders.

FMCV is committed to the HAMP, but only if such specific details to this commitment are given, negotiated, & agreed upon by both the Tribe and FMCV.

Since FMCV is composed of 3 Villages, FMCV has had 2 public outreach forums that they have hosted to inform FMCV's community of what is being done to remedy this Arsenic issue. So with that, it has taken FMCV a bit more time to adequately evaluate what course of actions FMCV will take with the HAMP, & EPA Compliance.

EPA Region 9 has been adamant towards FMCV's continual cooperation with the Hop Tribe, HUC, HWRP, & IHS in hopes of achieving EPA Drinking Water Compliance. This email should re-affirm that continual participation by FMCV with the HAMP, but these are the concerns of FMCV thus far.

I will immediately email Mr. Tim Bodell (HUC Director) stating these same FMCV concerns today. I am proud to say that Mr. Bodell and myself do have an ongoing correspondence among HUC & FMCV. Thanks
Jeff Mansfield
FMCV Business Consultant