Message

From: Fogarty, Johnpc [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8546B387C687410D88EEEE387DADDF56-JFOGAR02]
Sent: 1/17/2017 5:58:47 PM
To: Welles, Laura [Welles.Laura@epa.gov]
Subject: RE: EPA CAFO/SEP

Ok thx

From: Welles, Laura
Sent: Tuesday, January 17, 2017 12:30 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: EPA CAFO/SEP

List of items to cover, etc. Let me know if I've left anything out.

CAFO

Ex. 5 AC/AWP/DP

Audit

Ex. 5 AC/AWP/DP

SEP

Ex. 5 AC/AWP/DP

State notice

Ex. 5 AC/AWP/DP

GPRA reporting

- Ask about 399 CAFO stores.

From: Fogarty, Johnpc
Sent: Tuesday, January 17, 2017 9:13 AM
To: Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: EPA CAFO/SEP

I wonder if they are including the R6 stores – the difference in the numbers seems to be just about what was covered in the earlier settlements. We can ask on the call later today. Can you come up with a list of items we need to go over/clarify with them? Thx!

From: Welles, Laura
Sent: Tuesday, January 17, 2017 9:10 AM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: EPA CAFO/SEP

I'm confused – in the table below they have total annual waste for 399 CAFO stores (# in Appendix A that they sent us prior to 12/21). I thought the corrected number of CAFO stores was 373 stores...

From: Fogarty, Johnpc
Sent: Tuesday, January 17, 2017 8:37 AM
To: Jennifer Hartman King <JHartmanKing@kingwilliamslaw.com>; Welles, Laura <Welles.Laura@epa.gov>; John Hempfling (CE CEN) <John.Hempfling@wholefoods.com>
Subject: RE: EPA CAFO/SEP

Great- thank you! How does 1pm eastern/10am pacific work for everyone?

From: Jennifer Hartman King [mailto:JHartmanKing@kingwilliamslaw.com]
Sent: Monday, January 16, 2017 9:04 PM
To: Welles, Laura <Welles.Laura@epa.gov>; John Hempfling (CE CEN) <John.Hempfling@wholefoods.com>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: EPA CAFO/SEP

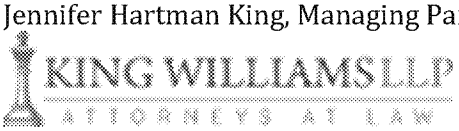
Hi, all. I think a call could be very helpful in tying up the final remaining loose ends. We are down to the wire now, so I will make myself available whenever it works for the group to have a call.

In the meantime, John and Laura, here is the information you requested for GPRA reporting:

Formula	Total
Ex. 4 CBI	176,678.4 lbs.
Ex. 4 CBI	11,748 lbs.
Ex. 4 CBI	31,996.8 lbs.
Total Annual Waste Volume for 399 CAFO stores	**220,423.2 lbs.**

We separated California and Washington because stores located in those states generate state-specific (i.e., non-RCRA) hazardous/dangerous waste. These are rough numbers based on an approximate average, but I believe they should give you what you need. Please let me know if you have any questions or need anything more on this.

Jennifer Hartman King, Managing Partner



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From: Welles, Laura [mailto:Welles.Laura@epa.gov]
Sent: Friday, January 13, 2017 12:08 PM
To: Jennifer Hartman King <JHartmanKing@kingwilliamslaw.com>; John Hempfling (CE CEN) <John.Hempfling@wholefoods.com>
Cc: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: RE: EPA CAFO/SEP

Jennifer and John,

Are you available for a quick call early next week (like Tuesday) just to wrap up any loose ends (draft final CAFO, audit, Appendices, etc.)? We were thinking a call might be faster than going back and forth via email.

Let us know.

Thanks,
Laura

Laura Welles
Attorney Advisor
Waste and Chemical Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
(202) 564-2754

From: Fogarty, Johnpc
Sent: Friday, January 13, 2017 9:44 AM
To: Jennifer Hartman King <JHartmanKing@kingwilliamslaw.com>; Welles, Laura <Welles.Laura@epa.gov>
Cc: John Hempfling (CE CEN) <John.Hempfling@wholefoods.com>
Subject: RE: EPA CAFO/SEP

Thanks – these edits look fine, but one clarifying question on the change to the last sentence of Paragraph 3, which was changed as follows:

> "Schools or community centers to be selected for lighting replacements and training under this SEP shall be located in ~~each region~~ the regions of the United States (*e.g.,* Northeast, Mid-Atlantic, Pacific Northwest, etc.) where Whole Foods Market Stores are located …"

We were trying to make sure that the projects would be more or less distributed throughout the country (or, put differently, wouldn't all be concentrated in a single area). I assume that the edit above is intended to cover the situation that some small regions may not have a suitable candidate because they are smaller, or that the funds won't be sufficient to cover at least on project in each of the regions, etc. If that's the case, I can understand that. Is there still a way to accommodate the "concentration" concern (such as, can we say that they will be located in "multiple regions")?

Thx!

From: Jennifer Hartman King [mailto:JHartmanKing@kingwilliamslaw.com]
Sent: Thursday, January 12, 2017 6:45 PM
To: Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Welles, Laura <Welles.Laura@epa.gov>
Cc: John Hempfling (CE CEN) <John.Hempfling@wholefoods.com>; Jennifer Hartman King <JHartmanKing@kingwilliamslaw.com>
Subject: RE: EPA CAFO/SEP

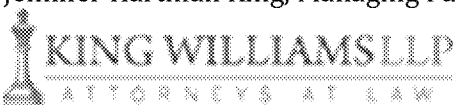
Hi, all. No problem at all. I understand what is needed and will work on pulling the information together as quickly as possible. I'll do my best to get it to you by tomorrow.

In the meantime, attached for your review is the SEP Addendum and a mark-up showing our revisions. Here are a few things to note:

- We listed the deadline for completing the SEP as 3 years (see paragraph 7), per your suggestion.
- We extended the timeframe for submitting the SEP Completion Report from 30 to 90 days (see paragraph 8). This report will require quite a bit of information, so we think we will need this amount of time to prepare it. Hopefully, this is acceptable to you.
- In paragraph 9, we borrowed from the language that we agreed to add to the CAFO regarding the certification approval process. This is our effort to clarify the process/timing for obtaining EPA's response to WFM's SEP Completion Report. Hopefully, this is acceptable to you, as well.

Many thanks,
Jennifer

Jennifer Hartman King, Managing Partner



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From: Fogarty, Johnpc [mailto:Fogarty.Johnpc@epa.gov]
Sent: Thursday, January 12, 2017 2:09 PM
To: John Hempfling (CE CEN) <John.Hempfling@wholefoods.com>; Jennifer Hartman King <JHartmanKing@kingwilliamslaw.com>; Welles, Laura <Welles.Laura@epa.gov>
Subject: RE: EPA CAFO/SEP

GPRA = Government Performance and Results Act. We have to report up the results of our actions to OMB. All we're looking for here is an estimate of how many pounds of haz waste will be properly managed under the settlement. A rough estimate is fine (avg # lbs per store in a year times the number of stores). We don't want to ourselves make a wild guess at it, as it would be better to have it come from you all. Not looking for a rocket-science estimate, just a reasoned one you're comfortable with. Thanks!

From: John Hempfling (CE CEN) [mailto:John.Hempfling@wholefoods.com]
Sent: Thursday, January 12, 2017 5:00 PM
To: Jennifer Hartman King <jhartmanking@kingwilliamslaw.com>; Welles, Laura <Welles.Laura@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>
Subject: EPA CAFO/SEP

Hey Jenn:

I just talked to Laura and told her that the delay on the SEP appendix was my fault, but that I'd returned it to you about 30 minutes ago and it should be good to go today or tomorrow.

Also, Laura told me that for the Government Performance and Results Act ("GPRA") reporting requirement, they need to get the average pounds of hazardous materials handled through our program per store covered by the CAFO (so pounds of material multiplied by store covered under the CAFO). I told her I had no idea what that was, but it was probably something you knew off the top of your head. (Frankly, when she first asked, I thought "GPRA" was the average I left the University of Texas with that resulted in me not attending law school at Harvard...)

Laura: As we discussed, if I screwed any of that up please feel free to jump in and correct my mistakes.

Jenn: Let me know if you need me to help round anything up.

Thanks,

John

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