Message

From: Baptista, Chrisna [Baptista.Chrisna@epa.gov]
Sent: 6/1/2020 5:55:14 PM
To: Wilson, Dane [Wilson.Dane@epa.gov]
Subject: RE: Awareness Briefing for Dave Ross on the Lower Umatilla Basin Groundwater Management Area

Thanks so much, Dane!

Chrisna Baptista, Attorney-Adviser
Office of Civil Enforcement
Phone: (202) 564-4272
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From: Wilson, Dane <Wilson.Dane@epa.gov>
Sent: Monday, June 01, 2020 12:57 PM
To: King, Carol <King.Carol@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Cc: Rausch, Heidi <Rausch.Heidi@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>
Subject: RE: Awareness Briefing for Dave Ross on the Lower Umatilla Basin Groundwater Management Area

In the Region 5 Armenia Growers Coalition (AGC) matter, EPA did receive a petition from community members. I should note that though the statute does not have a formal petition process, EPA has been responding to these requests to investigate their claims and help seek remedies to the potential impacts on human health. While the AGC petition was less formal and provided much less detail than that received in Lower Umatilla Basin (LUB), it did ask the agency to exercise its authority under 1431 like that in LUB (attached AGC petition "EPA letter every day scan (1) and (2)"). I've also included a timeline of events that WED staff created while working on AGC, briefing materials that were used for the Region 5 RA that provides additional background, and the initial responses made to the petitioners.

Despite much of the fact patterns being are the same: high nitrate levels in ground water; contaminated private drinking water sources; surrounding dairies; and a petition from community members asking EPA to exercise its SDWA 1431 authority, there are differences too. One of the main differences is the level of information that was received from the agency by the petitioners. The AGC petition was a single paragraph that thanked EPA for providing a ground water study and asks the agency to invoke 1431 and included the signatures of the community members. However the LUB petition was voluminous and included background information, state performed study results, timelines, photographs, and various other forms of data.

The other main difference between these two matters is the opportunity for state action. In AGC, the study was very recent and the state was still taking its action. The state of Wisconsin did not prefer to take an enforcement action and instead sought to resolve the issue through a voluntary agreement among the parties (attached MOU). Nonetheless the state was seeking a resolution that would act to protect human health. However, in LUB, the state has had ample time to act to protect the health of such persons. The Lower Umatilla Basin Groundwater Management Area was established 30 years ago. But despite the efforts of state and local authorities to provide public outreach, education, and voluntary measures, studies have shown that the contamination issues in the region remain. In the 1990s, a survey of groundwater monitoring wells showed that nearly one-third of groundwater samples from monitoring wells exceed the state trigger level, while a more recently study from 2015 shows that nearly 60% exceeded that same level.

I hope this is helpful. Please let me know if you have any additional questions.

Thank you,

Dane A. Wilson
Attorney - Advisor

U. S. Environmental Protection Agency
OECA - OCE - Water Enforcement Division
(202) 564-0544

From: King, Carol <King.Carol@epa.gov>
Sent: Monday, June 01, 2020 11:15 AM
To: Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>
Cc: Wilson, Dane <Wilson.Dane@epa.gov>; Rausch, Heidi <Rausch.Heidi@epa.gov>; Baptista, Chrisna <Baptista.Chrisna@epa.gov>
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Can we discuss before responding to Susan? Two quick things that come to mind --- the letter is only meant to ask for more information about the wells and the Region Ex. 5 Deliberative Process (DP) Also, I did not work directly on Armenia Growers, but my recollection Ex. 5 Deliberative Process (DP) Ex. 5 Deliberative Process (DP) Adding Chrisna b/c I think she was involved in the Region 5 matter.

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Monday, June 01, 2020 10:53 AM
To: King, Carol <King.Carol@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Rausch, Heidi <Rausch.Heidi@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: RE: Awareness Briefing for Dave Ross on the Lower Umatilla Basin Groundwater Management Area

The draft letter reads like an inexorable drive towards a 1431. That is not the approach that R5 took in Wisconsin with the Armenia Growers.

From: King, Carol <King.Carol@epa.gov>
Sent: Friday, May 29, 2020 9:01 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Koslow, Karin <Koslow.Karin@epa.gov>; Denton, Loren <Denton.Loren@epa.gov>; Pollins, Mark <Pollins.Mark@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Wilson, Dane <Wilson.Dane@epa.gov>; Rausch, Heidi <Rausch.Heidi@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: FW: Awareness Briefing for Dave Ross on the Lower Umatilla Basin Groundwater Management Area

Susan and Larry,

As discussed during the May 28 OCE Weekly, OW leadership has requested an informational briefing in the Lower Umatilla matter. The briefing is currently scheduled for Thursday, June 4 at 2:30 pm EST. (Separately, we'll forward you the invite that WED received for the 4th.) As noted below, Region 10 prepared the attached briefing paper for next week's meeting.

Additionally, attached is the latest draft of the letter to the Oregon state agencies, asking for additional information. The proposed letter to ODA, OHA and ODEQ includes WED's feedback on an earlier version that the Region sent us in April. After finishing its initial assessment of the January petition and having a series of informal calls with the state agencies by March, Region 10 proposed sending a letter to the Oregon agencies in an effort to help fill in some gaps in understanding, especially related to the private wells in the area.

Over the past few months, WED has joined multiple discussions with Region 10 ECAD, WDD, ORC, OGC and OGWDW. We've offered technical and legal assistance as the Region did a deep dive into all of the information. We continue to monitor the matter. Please let us know if we can provide any additional information.

Thanks,
Carol

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From: Martinson, Mathew <martinson.mathew@epa.gov>
Sent: Thursday, May 28, 2020 1:57 PM
To: Kenknight, Jeff <Kenknight.Jeff@epa.gov>; King, Carol <King.Carol@epa.gov>; Contreras, Peter <Contreras.Peter@epa.gov>
Cc: Pollins, Mark <Pollins.Mark@epa.gov>
Subject: RE: Awareness Briefing for Dave Ross on the Lower Umatilla Basin Groundwater Management Area

These are the documents sent to OW Leadership via the established briefing process. The 2nd document is the briefing paper. The LUBGWMA briefing has been collaboratively developed within R10, and the RA reviewed it before it was sent. Please let me know if you have any questions.

Mat

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