Message

From: Hurld, Kathy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F3B04131F1145FCB4CCF5B0A64C1AC4-KHURLD]
Sent: 1/18/2018 8:49:26 PM
To: Brown, Angela (IDEM) [ABrown@idem.IN.gov]
CC: CLARK METTLER, MARTHA [MCLARK@idem.IN.gov]; Swenson, Peter [swenson.peter@epa.gov]; Burdick, Melanie [Burdick.Melanie@epa.gov]; Melgin, Wendy [melgin.wendy@epa.gov]; Pallesen, Reginald A. [pallesen.reginald@epa.gov]
Subject: Re: Conference call with Indiana - FOLLOW UP
Attachments: Assumption 101 IN.pdf

Angela,

My apologies and THANK YOU for the reminder. With the holiday, school delays and cancelations, etc, it slipped of my urgent to do list.

Here you go.

_____
From: Brown, Angela (IDEM) <ABrown@idem.IN.gov>
Sent: Thursday, January 18, 2018 2:48 PM
To: Hurld, Kathy
Cc: CLARK METTLER, MARTHA
Subject: FW: Conference call with Indiana - FOLLOW UP

Hi Kathy,

I just wanted to follow up with you on the Power Point slides you were going to send to us as a result of last week's call. Any chance we might be able to get our hands on those soon?

Angie Brown, OWQ Special Projects Coordinator
(317) 233-7328

-----Original Message-----
From: Hurld, Kathy [mailto:Hurld.Kathy@epa.gov]
Sent: Wednesday, January 03, 2018 12:58 PM
To: Brown, Angela (IDEM) <ABrown@idem.IN.gov>
Cc: CLARK METTLER, MARTHA <MCLARK@idem.IN.gov>; Melgin, Wendy <melgin.wendy@epa.gov>; Swenson, Peter <swenson.peter@epa.gov>; Burdick, Melanie <Burdick.Melanie@epa.gov>; Pallesen, Reginald A. <pallesen.reginald@epa.gov>
Subject: RE: Conference call with Indiana

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Angela and Martha,

Wonderful, next week it is.

The call-in number is: Ex. 6 Personal Privacy (PP)

I will add you to our meeting invite so we all have the same information and time.

All the best,

Kathy

-----Original Message-----
From: Brown, Angela (IDEM) [mailto:ABrown@idem.IN.gov]
Sent: Wednesday, January 03, 2018 10:48 AM
To: Hurld, Kathy <Hurld.Kathy@epa.gov>
Cc: CLARK METTLER, MARTHA <MCLARK@idem.IN.gov>; Melgin, Wendy <melgin.wendy@epa.gov>; Swenson, Peter <swenson.peter@epa.gov>; Burdick, Melanie <Burdick.Melanie@epa.gov>; Pallesen, Reginald A. <pallesen.reginald@epa.gov>
Subject: RE: Conference call with Indiana

Kathy et al.,

Thank you for your willingness to work with us! Let's plan on having our call on January 11 at 11:00 Eastern. Since we will have so many participants, we'd like to take you up on your offer to provide a call-in number. One very specific question we have is related to assuming general permits (40 CFR 233.14(b)(3)). Currently we use our 401 WQC authority to condition nationwide and regional permits administered by the Corps. We'd like to discuss acceptable means by which, should we assume the program, we might include these conditions. We'd also be interested in any references EPA could suggest to help us fulfill the requirement of 40 CFR 233.11(i) (include in the program description a description of the specific best management practices proposed to be used to satisfy the exemption provisions of section 404(f)(1)(E) of the Act for construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment.) If additional questions come to mind before the call, we will send them along, but I anticipate that our conversation will generate questions that we can discuss as they arise.

Looking forward to our discussion,

Angie Brown, OWQ Special Projects Coordinator
(317) 233-7328

-----Original Message-----
From: Hurld, Kathy [mailto:Hurld.Kathy@epa.gov]
Sent: Wednesday, January 03, 2018 9:37 AM
To: Brown, Angela (IDEM) <ABrown@idem.IN.gov>
Cc: CLARK METTLER, MARTHA <MCLARK@idem.IN.gov>; Melgin, Wendy <melgin.wendy@epa.gov>; Swenson, Peter <swenson.peter@epa.gov>; Burdick, Melanie <Burdick.Melanie@epa.gov>; Pallesen, Reginald A. <pallesen.reginald@epa.gov>
Subject: RE: Conference call with Indiana

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Dear Angela:

Happy New Year! I hope you were able to take some time off over the holidays and relax with family and friends. Yes, I do recall sending IDEM some basic information, and I'm pleased to hear from you all again. EPA is ready and willing to have a call with you and Martha to answer any questions you may have and to assist with IDEM's effort. Thank you for offering so many possible time slots!

During your research on assumption, you probably came across the regulations that say the Regional Administrator is the lead in approving a state's request to assume the program. As the lead office, it is important that EPA's Region 5 staff be engaged in these calls; thus, I have copied Peter Swenson, Wendy Melgin, Melanie Burdick and Reg Pallesen so they can participate on the call too. The EPA Regions and I work together closely to assist states and tribes interested in assuming the Clean Water Act Section 404 permitting program.

We are all back from vacations and available for a call on January 11 between 10 and 12 (Eastern) or January 16th between 9 and 11 (Eastern). Please let us know your preferred time to talk during these time slots and we will put a hold on our calendars. If it makes it easier for everyone to participate, I can provide a call-in number, just let me know.

You mentioned you have some process and technical questions to ask. If you want to send those to us ahead of time we can be better prepared to fully discuss them; but we also understand if you're not sure quite what to ask and thus the request for a call. Either way, we look forward to talking with you soon and to working with you as IN looks to pursue assumption of the program.

Happy New Year!

Sincerely,

Kathy

Kathy Hurld
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-----Original Message-----
From: Brown, Angela (IDEM) [mailto:ABrown@idem.IN.gov]
Sent: Friday, December 29, 2017 2:57 PM
To: Hurld, Kathy <Hurld.Kathy@epa.gov>
Cc: CLARK METTLER, MARTHA <MCLARK@idem.IN.gov>
Subject: Conference call with Indiana

Hello Kathy,

Several months ago you had some correspondence with the Indiana Department of Environmental Management's Office of Legal Counsel regarding our investigation into assuming the Clean Water Act 404 program from the Corps (below). Up to this point Legal Counsel and the Office of Water Quality have been working to understand what we need to do prior to submitting an application for assumption and formulating some questions for EPA and others who are willing to help. The Office of Water Quality would like to set up a 30-minute conference call with you in order to introduce ourselves and ask one or two technical questions that will help us to move forward. It would be you, me and Martha Clark Mettler (Assistant Commissioner of the Office of Water Quality) involved in the call. Do you have availability in January? I'm currently looking at the following possible dates and times (Eastern):

1/8 - between 9 and 11
1/11 - between 10 and 12
1/16 - between 9 and 12
1/19 - between 10:30 and 12
1/25 - between 10 and 4
1/26 - between 9 and 12
1/31 - between 2 and 4

Thank you and looking forward to speaking with you!

Angie Brown, OWQ Special Projects Coordinator IDEM Office of Water Quality
100 N Senate Avenue
Indianapolis, IN 46204-2251
317-233-7328

-----Original Message-----
From: Willard, Daniel
Sent: Friday, October 27, 2017 2:01 PM
To: Brown, Angela (IDEM) <ABrown@idem.IN.gov>
Subject: FW: 404 Assumption Templates

-----Original Message-----
From: Hurld, Kathy [mailto:Hurld.Kathy@epa.gov]
Sent: Wednesday, September 13, 2017 2:49 PM
To: Willard, Daniel <DWillard@idem.IN.gov>
Cc: Swenson, Peter <swenson.peter@epa.gov>; Melgin, Wendy <melgin.wendy@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>
Subject: FW: 404 Assumption Templates

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Dear Daniel,

First sorry for the delay in getting back to you. It is wonderful to hear IN is actively pursuing assumption of the CWA section 404 program. I think I have some good but slightly frustrating news for you. Because each state program is different, based upon the state's statutes and regulations, we do not have templates to follow or fill out. This means there is no single format we expect to see; which gives you the flexibility to demonstrate how the IN program complies with the requirements of the Act.

I'd be curious to know which guidance materials you have found for CWA section 404(g) as the EPA has not published guidance for this program. We do have individual letters or positions regarding certain aspects of the program requirements and the Association of State Wetland Managers put together a handbook to help states as they consider assumption.

I am happy to share the position letters with you (e.g., the attached letter which clarifies EPA does not need to undertake ESA section 7 consultation when approving a state CWA section 404 program). I have also attached a draft chart some states have found helpful as they begin evaluating their authorities. The chart is provided for informational purposes only. If you find it useful, wonderful, if not, just delete it. I have provided two versions of the chart one is blank while the other has some examples of (anonymous) state authorities informally reviewed by the EPA that are included in the third and fourth columns to demonstrate how some states have used this. You'll note these are short notations and not a full description of the state authority, which is why it is a tool and not a template.

What we do strongly recommend is that you work with EPA prior to submitting an application request. We have very knowledgeable folks in our Chicago office (Wendy Melgin, Peter Swenson and their staff) who are

ready, willing and able to provide technical assistance to you as you develop your package. I too am available to answer questions and help. Successful efforts looking into assumption (by successful, I mean those that have assumed the program and those that took a serious look at it but may have chosen not to assume) have all had a strong relationship between the state and EPA, discussing the requirements, identifying any potential program gaps and discussing ideas of how to potentially address any gaps.

EPA is ready and willing to help you and answer any additional questions you may have.

Sincerely,

Kathy Hurld

From: Willard, Daniel <DWillard@idem.IN.gov>
Sent: Monday, September 11, 2017 10:15 AM
To: Hurld, Kathy
Cc: Melgin, Wendy; Swenson, Peter
Subject: 404 Assumption Templates

Kathy,

I've been working on Indiana's AG letter as we begin putting together our assumption package. I have been modelling it on New Jersey's letter.

I've found a lot of guidance materials for assumption, but wondered if there are any templates that you recommend that we use at any point in the process (apart from the wetlands WQS templates).

Thank you,

Daniel Willard
OLC | Staff Attorney
Indiana Department of Environmental Management dwillard@idem.in.gov<mailto:dwillard@idem.in.gov>
317.233.1385