Message

From: Ludmer, Margo [ludmer.margo@epa.gov]
Sent: 5/24/2021 8:49:25 PM
To: Frank C. Pavia [fpavia@HarrisBeach.com]; Joseph A. Gregg (jagregg@eastmansmith.com) [jagregg@eastmansmith.com]
CC: Doyle, James [Doyle.James@epa.gov]
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Frank and Joe,

Thank you again for your time last week. Following up on one question raised during our call, EPA conferred with the U.S. Department of Justice regarding EPA's ability to draw on a Syracuse China letter of credit that was established by JPMorgan Chase Bank for a maximum amount of $185,714.29, and which serves as Syracuse China's financial assurance for the Lower Ley Creek remedial design. Per the terms of the letter of credit, in order for EPA to draw on this instrument, EPA must present JPMorgan with a signed statement certifying that the amount of the draft is "payable pursuant to that certain administrative order on consent, dated July 18, 2016, EPA docket number CERCLA-02-2016-2014, between the United States and Syracuse China" (i.e., the RD AOC). As explained on the call, the RD AOC was rejected as an executory contract in the consolidated Chapter 11 bankruptcy proceedings of Libbey Glass, Syracuse China, and Libbey's other U.S.-based subsidiaries. Therefore, EPA is unable to draw on the letter of credit. However, as I mentioned during the call, EPA did file a proof of claim in the bankruptcy for both RD and anticipated RA costs in connection with Lower Ley Creek, and we have made significant effort to broker a resolution of our claim that will maximize EPA's recovery of the funds set aside for unsecured creditors.

Thank you,
Margo

Margo Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
212.637.3187

From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Sunday, May 16, 2021 10:26 AM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Cc: Joseph A. Gregg (jagregg@eastmansmith.com) <jagregg@eastmansmith.com>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Margo,

I know we are scheduled for a call tomorrow at 1:30 pm, but I was hoping we could reschedule to Tuesday at 3:00 pm in order to permit Joseph Gregg to participate in our discussion. Because Joe's firm represents Carrier, and our office represents the Town of Salina, we believe our discussion will better represent the interests of both the private and municipal parties that make up the PRP group for the Lower Ley Creek subsite.

I know this is a somewhat last minute change, but I do believe Joe's participation in the call will result in a more productive discussion. Please let us know if that day and time works for you. Thank you.

Frank

Frank C. Pavia
Partner

HARRIS BEACH PLLC

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99 Garnsey Road
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p r a c t i c e G R E E N
Save a tree. Read, don't print, emails.

From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Thursday, May 13, 2021 4:04 PM
To: Frank C. Pavia <fpavia@HarrisBeach.com>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Thank you, Frank. Monday at 1:30pm works well. Speak then.

Margo Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
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From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Thursday, May 13, 2021 2:23 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Absolutely. I hope everything works out OK. Would 1:30 pm work for you on Monday?

Frank

Frank C. Pavia
Partner

HARRIS BEACH PLLC

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From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Thursday, May 13, 2021 2:13 PM

To: Frank C. Pavia <fpavia@HarrisBeach.com>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Frank,

Due to a personal emergency, I will need to reschedule our call. Are you available Monday afternoon?

Thank you,
Margo

Margo Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
212.637.3187

From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Tuesday, May 11, 2021 12:44 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Ok. Please call my direct line.

Frank C. Pavia
Partner

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From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Tuesday, May 11, 2021 12:42 PM
To: Frank C. Pavia <fpavia@HarrisBeach.com>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

That would work well. I will plan to call you at 3:00pm on Thursday.

Margo Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
212.637.3187

From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Tuesday, May 11, 2021 12:39 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

3:00 pm?

Frank C. Pavia
Partner

HARRIS BEACH PLLC

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From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Tuesday, May 11, 2021 12:38 PM
To: Frank C. Pavia <fpavia@HarrisBeach.com>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Frank,

Thank you for your message. Might you be available Thursday afternoon? My calendar tomorrow is quite full.

Regards,

Margo

Margo Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
212.637.3187

From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Tuesday, May 11, 2021 10:20 AM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Cc: Sacks, Victoria <Sacks.Victoria@epa.gov>
Subject: RE: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Ms. Ludmer,

As you know, I am special counsel to the Town of Salina concerning the Lower Ley Creek subsite. I left you a voice mail message on Friday, and was wondering whether we could get on a short call tomorrow morning to discuss the notice letter and some additional questions my client has regarding the process.

Would 9:30 am tomorrow work for you? Thank you.

Frank

Frank C. Pavia
Partner

HARRIS BEACH PLLC

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p r a c t i c e G R E E N
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From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Friday, April 30, 2021 3:17 PM
To: Frank C. Pavia <fpavia@HarrisBeach.com>
Cc: Sacks, Victoria <Sacks.Victoria@epa.gov>
Subject: Notice of Potential Liability and Request to Perform Remedial Activities for Lower Ley Creek

Dear Mr. Pavia,

Please see the attached notice letter and enclosures, and do not hesitate to contact me with any questions.

Thank you,

Margo Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
212.637.3187

Statement of Confidentiality
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