Message

From: Ward-Willis, Nicholas M. [NWard-Willis@kblaw.com]
Sent: 10/15/2018 2:31:07 PM
To: Ludmer, Margo [ludmer.margo@epa.gov]; Doyle, James [Doyle.James@epa.gov]
CC: Sachs, Joel H. [JSachs@kblaw.com]
Subject: RE: Canadian Radium and Uranium Site

Margo, the property, Tenant and property owner are all in Mt. Kisco. To have a meaningful meeting, the meeting must be at the site so the property owner and contractor can discuss and observe the site. While the contractor may be generally familiar with the area, it is not familiar with the specific property.

So, I suggest the contractor meet with our client in person and we can arrange for you and anyone else who does not wish to travel to meet with our client in person, to participate on the phone. As the contractor is the one performing the work and our client has significant concerns about the performance of the site work interrupting the Tenant's business, we believe the EPA should have the contractor meet in Mt. Kisco, in person.

Please provide a few dates in the next weeks so we can coordinate. Thank you.

Nick

Nicholas M. Ward-Willis
Principal Member

KEANE & BEANE P.C.
445 Hamilton Avenue, Suite 1500
White Plains, New York 10601
(914) 946-4777 Ext:323
(914) 946-6868 (Fax)
nward-willis@kblaw.com
www.kblaw.com

PERSONAL & CONFIDENTIAL
The information transmitted herein may contain privileged and/or confidential material. Any disclosure, copying, distribution or other use of, or taking of any action in reliance upon, information contained herein or attached hereto by persons or entities other than the intended recipient(s) is prohibited. Any misdirection or other error in the transmission of this information is not and shall not be considered a waiver of any applicable privileges. If you have received this transmission in error, please immediately notify the sender and destroy the original transmission and its attachments without saving, distributing or copying in any manner.

IRS CIRCULAR 230 DISCLOSURE
Any tax advice contained in this communication (including any attachments or enclosures) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication. (The foregoing disclaimer has been affixed pursuant to U.S. Treasury regulations governing tax practitioners.)

Please consider the environment before printing this email message.

-----Original Message-----
From: Ludmer, Margo [mailto:ludmer.margo@epa.gov]
Sent: Tuesday, October 9, 2018 1:24 PM
To: Doyle, James; Ward-Willis, Nicholas M.
Cc: Sachs, Joel H.
Subject: RE: Canadian Radium and Uranium Site

Nick and Joel,

Following up on my e-mail below.

Thank you,

Margo

Margo B. Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel

U.S. Environmental Protection Agency, Region 2
(212) 637-3187

-----Original Message-----
From: Ludmer, Margo
Sent: Wednesday, October 03, 2018 3:25 PM
To: Doyle, James <Doyle.James@epa.gov>; Ward-Willis, Nicholas M. <NWard-Willis@kblaw.com>
Cc: Sachs, Joel H. <JSachs@kblaw.com>
Subject: RE: Canadian Radium and Uranium Site

Nick and Joel,

Please let us know your availability next week for the proposed meeting. If your preference is to conduct the meeting in person, we can meet at EPA's offices in NYC. As Jim mentioned, our clients and the contractor will likely participate by phone either way.

Thank you,

Margo

Margo B. Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
(212) 637-3187

-----Original Message-----
From: Doyle, James
Sent: Friday, September 21, 2018 1:07 PM
To: Ward-Willis, Nicholas M. <NWard-Willis@kblaw.com>; Ludmer, Margo <ludmer.margo@epa.gov>
Cc: Sachs, Joel H. <JSachs@kblaw.com>
Subject: RE: Canadian Radium and Uranium Site

We regret that you are disappointed. Our access policy is quite clear, and certain of your requests were well beyond the norm.

I've sent a message out to see when in early October we can meet. Our clients and their contractor will likely be patched in by phone. You may want to consider whether the entire meeting can be conducted by conference call, but we will accommodate your request either way.

-----Original Message-----
From: Ward-Willis, Nicholas M. [mailto:NWard-Willis@kblaw.com]
Sent: Friday, September 21, 2018 12:32 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Cc: Sachs, Joel H. <JSachs@kblaw.com>; Doyle, James <Doyle.James@epa.gov>
Subject: RE: Canadian Radium and Uranium Site

Margo & Jim,

We are disappointed in EPA's position rejecting our client's offer to allow EPA access to the property as detailed in our August 29th letter. We believe it would be productive to meet in our office with you and EPA's contractor to further discuss our client's concerns and see if a mutually agreeable understanding can be reached. Please advise of some dates that you and the contractor are available to meet with us and our clients. Thank you.

Nick

Nicholas M. Ward-Willis
Principal Member

KEANE & BEANE P.C.
445 Hamilton Avenue, Suite 1500
White Plains, New York 10601
(914) 946-4777 Ext:323
(914) 946-6868 (Fax)
nward-willis@kblaw.com
www.kblaw.com

PERSONAL & CONFIDENTIAL
The information transmitted herein may contain privileged and/or confidential material. Any disclosure, copying, distribution or other use of, or taking of any action in reliance upon, information contained herein or attached hereto by persons or entities other than the intended recipient(s) is prohibited. Any misdirection or other error in the transmission of this information is not and shall not be considered a waiver of any applicable privileges. If you have received this transmission in error, please immediately

notify the sender and destroy the original transmission and its attachments without saving, distributing or copying in any manner.

IRS CIRCULAR 230 DISCLOSURE
Any tax advice contained in this communication (including any attachments or enclosures) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication. (The foregoing disclaimer has been affixed pursuant to U.S. Treasury regulations governing tax practitioners.)

Please consider the environment before printing this email message.

-----Original Message-----
From: Ludmer, Margo [mailto:ludmer.margo@epa.gov]
Sent: Monday, September 17, 2018 11:49 AM
To: Ward-Willis, Nicholas M.
Cc: Sachs, Joel H.; Doyle, James
Subject: RE: Canadian Radium and Uranium Site

Nick,

Please let me know your client's position with respect to EPA access. I will be away from the office beginning September 19 through the end of the month and hope we can touch base before my departure. Jim Doyle (cc'ed) will be handling this matter in my absence.

Thank you,

Margo

Margo B. Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
(212) 637-3187

-----Original Message-----
From: Ludmer, Margo
Sent: Wednesday, September 05, 2018 10:27 AM
To: 'Ward-Willis, Nicholas M.' <NWard-Willis@kblaw.com>
Cc: Sachs, Joel H. <JSachs@kblaw.com>
Subject: RE: Canadian Radium and Uranium Site

Nick,

EPA can accommodate conditions 3, 4, and 5 of your August 29 letter. With respect to 1(a), EPA can provide the dates and times of access in advance, but will not limit performance of the work to dates/times when the Tesla facility is closed. With respect to 1(d), EPA has already provided a detailed overview of the work to be performed, including a draft QAPP. EPA will not agree to conditions 1(b), 1(c), 1(e), 1(f), 1(g), and 2. EPA does not anticipate that the work will take more than four days to complete, but unforeseen circumstances, such as a storm event, may prolong the sampling another day or so.

Thank you,

Margo

Margo B. Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
(212) 637-3187

-----Original Message-----
From: Ward-Willis, Nicholas M. [mailto:NWard-Willis@kblaw.com]
Sent: Friday, August 31, 2018 12:02 AM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Cc: Sachs, Joel H. <JSachs@kblaw.com>
Subject: Re: Canadian Radium and Uranium Site

Margo, in order for us to discuss with our client, we need to know which of the items set forth in our letter are accepted, rejected or ok subject to further discussion. Please advise with reference to the numbered items set forth in the letter. Thank you.

Nicholas M. Ward-Willis
Keane & Beane, P.C.

Www.kblaw.com
Sent from my iPhone

>

Nicholas M. Ward-Willis
Principal Member

KEANE & BEANE P.C.
445 Hamilton Avenue, Suite 1500
White Plains, New York 10601
(914) 946-4777 Ext:323
(914) 946-6868 (Fax)
nward-willis@kblaw.com
www.kblaw.com

PERSONAL & CONFIDENTIAL
The information transmitted herein may contain privileged and/or confidential material. Any disclosure, copying, distribution or other use of, or taking of any action in reliance upon, information contained herein or attached hereto by persons or entities other than the intended recipient(s) is prohibited. Any misdirection or other error in the transmission of this information is not and shall not be considered a waiver of any applicable privileges. If you have received this transmission in error, please immediately notify the sender and destroy the original transmission and its attachments without saving, distributing or copying in any manner.

IRS CIRCULAR 230 DISCLOSURE
Any tax advice contained in this communication (including any attachments or enclosures) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication. (The foregoing disclaimer has been affixed pursuant to U.S. Treasury regulations governing tax practitioners.)

Please consider the environment before printing this email message.

On Aug 30, 2018, at 10:22 AM, Ludmer, Margo <ludmer.margo@epa.gov> wrote:
>
> Nick,
>
> EPA is in receipt of your letter dated August 29, 2018, regarding the Canadian Radium and Uranium Site. Over the past several months, EPA has had numerous discussions with you and your colleague, Joel Sachs, regarding the scope of EPA's planned sampling at your client's Kisco Avenue property. EPA provided you with a draft QAPP and explained in detail the work to be performed. We also reviewed many of the points raised in your August 29 letter to us.
>
> As discussed, we can meet several of the conditions itemized in your letter (e.g., EPA can provide the specific dates and times of access, provide a description of the work to be undertaken, and provide advance notice of entry). However, as has been made clear, many of the conditions in your letter are unacceptable to EPA, including that EPA indemnify your client for any loss of income or termination of leasehold interest, that EPA perform the work outside of the Tesla facility's hours of operation (Monday to Saturday, 10 a.m. to 7 p.m., and Sunday, 11:00 a.m. to 6:00 p.m.), and that EPA delay soil sampling until after air sampling and gamma surveying has been performed and the results of that work have been analyzed.
>
> In accordance with EPA guidance, conditions that restrict or impede the manner or extent of EPA response work, or that precondition access on indemnity or compensatory obligations, are to be treated as denial of consent to EPA access. Your August 29 letter indicates that all conditions listed in that letter must be included in any access document signed by your client. Please confirm that your client is firm in his denial of access subject to the preconditions unacceptable to EPA, as set forth in this correspondence. If so, please be advised that EPA will be forced to consider its enforcement options with respect to its investigation of your client's property.
>
> Thank you,
>
> Margo
>
> Margo B. Ludmer
> Assistant Regional Counsel
> New York/Caribbean Superfund Branch
> Office of Regional Counsel
> U.S. Environmental Protection Agency, Region 2
> (212) 637-3187
>
> -----Original Message-----
> From: Ward-Willis, Nicholas M. [mailto:NWard-Willis@kblaw.com]
> Sent: Monday, August 27, 2018 5:30 PM
> To: Ludmer, Margo <ludmer.margo@epa.gov>
> Subject:

>
>
> Margo, I have to leave for a meeting, but will finalize tonight so you have the document to review tomorrow. Thank you.
>
> Nick
>
> Nicholas M. Ward-Willis
> Keane & Beane, P.C.
> Www.kblaw.com
> Sent from my iPhone
>
>
> Nicholas M. Ward-Willis
> Principal Member
>
> KEANE & BEANE P.C.
> 445 Hamilton Avenue, Suite 1500
> White Plains, New York 10601
> (914) 946-4777 Ext:323
> (914) 946-6868 (Fax)
> nward-willis@kblaw.com
> www.kblaw.com
>
> PERSONAL & CONFIDENTIAL
> The information transmitted herein may contain privileged and/or confidential material. Any disclosure, copying, distribution or other use of, or taking of any action in reliance upon, information contained herein or attached hereto by persons or entities other than the intended recipient(s) is prohibited. Any misdirection or other error in the transmission of this information is not and shall not be considered a waiver of any applicable privileges. If you have received this transmission in error, please immediately notify the sender and destroy the original transmission and its attachments without saving, distributing or copying in any manner.
>
> IRS CIRCULAR 230 DISCLOSURE
> Any tax advice contained in this communication (including any attachments or enclosures) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication. (The foregoing disclaimer has been affixed pursuant to U.S. Treasury regulations governing tax practitioners.)
>
> Please consider the environment before printing this email message.
>