Message

From: Ludmer, Margo [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7C4035E304CD4CB689EE512402E13DC3-LUDMER, MAR]
Sent: 8/30/2018 2:22:30 PM
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 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

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