Message

From: Schoellkopf, Lynde [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=739D462E81EF4540A4994C7D907C2595-SCHOELLKOPF, LYNDE]
Sent: 11/2/2021 3:52:13 PM
To: Baizel, Bruce, NMENV [Bruce.Baizel@state.nm.us]; Jacqueline Ortiz [jortiz@nmag.gov]
CC: Cholla Khoury [ckhoury@nmag.gov]
Subject: RE: [EXTERNAL] RE: [EXT]

Thank you! I will share with our Headquarters counterparts and appreciate your offer for any additional information and discussion. I will circle back with you all. Many thanks for a quick reply.
Lynde

From: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Sent: Tuesday, November 02, 2021 10:42 AM
To: Jacqueline Ortiz <jortiz@nmag.gov>; Schoellkopf, Lynde <Schoellkopf.Lynde@epa.gov>
Cc: Cholla Khoury <ckhoury@nmag.gov>
Subject: RE: [EXTERNAL] RE: [EXT]

Thank you for responding, Jackie.

Bruce

From: Jacqueline Ortiz <jortiz@nmag.gov>
Sent: Tuesday, November 2, 2021 9:37 AM
To: Schoellkopf.Lynde@epa.gov
Cc: Cholla Khoury <ckhoury@nmag.gov>; Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Subject: [EXTERNAL] RE: [EXT]

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Good morning,

I'm one of the attorneys working on the Sterigenics matter. Cholla asked me to reach out to you to provide an update on this case.

By the June 2021 injunction order, the parties were required to meet and confer to discuss an appropriate protocol to monitor Sterigenics' compliance with the injunction order. Unfortunately, we weren't able to agree on a protocol and on October 28, we had a hearing at which we presented several options for monitoring for the Judge to decide.

Also on October 28, the Judge heard arguments on the defendants two motions to dismiss. One motion to dismissed was based on lack of jurisdiction. For that motion, the judge stayed a hearing on the motion until we were allowed to do jurisdictional discovery (the discovery is out, we're meeting and conferring and anticipate a motion to compel soon). The second motion was for failure to state a claim. The judge denied that motion. I'm attaching a copy of the proposed order we submitted to the judge yesterday. Please let me know if you'd like copies of the briefing on these two motions.

I'm attaching their proposed monitoring protocol that they filed. Since the judge did not request that we file the protocols, we did not file ours, but I'm happy to set up a call to talk about our proposals if you'd like.

Please let me know if you'd like any further information or if you'd like to discuss any of this further.

Regards,

Jackie

Jacqueline N. Ortiz, Esq.
Assistant Attorney General, Consumer and Environmental Protection Division
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From: Khoury, Cholla <ckhoury@nmag.gov>
Sent: Monday, November 1, 2021 3:02 PM
To: Jackie Ortiz <jortiz@nmag.gov>
Subject: Fwd: [EXT]

Can you please provide an update to EPA?

---------- Forwarded message ---------
From: **Schoellkopf, Lynde** <Schoellkopf.Lynde@epa.gov>
Date: Mon, Nov 1, 2021 at 11:39 AM
Subject: RE: [EXT]
To: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>, Khoury, Cholla <ckhoury@nmag.gov>
Cc: McGuire, James <McGuire.James@epa.gov>, Andrews, Suzanne <Andrews.Suzanne@epa.gov>

Good Afternoon Bruce and Cholla,

I am reaching out to you all to check on the status of the NM Santa Teresa facility/Sterigenics state EtO matter that was filed in the 3rd Judicial District Ct. Our Office of Air & Radiation in Washington D.C. has asked Region 6 for any updates in the case (recent filings). If you have any information that you could please share with us – much appreciated!! The last filing we saw was a June 2021 injunction (attached) where the company was to file an air monitoring protocol for fugitive emissions. I am wondering if there has been movement on that front? Many thanks for any updates that we can share with our Office of Air counterparts.

Lynde Schoellkopf

From: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Sent: Tuesday, May 04, 2021 11:15 AM
To: Khoury, Cholla <ckhoury@nmag.gov>; Schoellkopf, Lynde <Schoellkopf.Lynde@epa.gov>
Cc: McGuire, James <McGuire.James@epa.gov>
Subject: RE: [EXT]

Thank you for providing those to EPA, Cholla. Would you copy me please when they are sent?

Thank you

Bruce

From: Khoury, Cholla <ckhoury@nmag.gov>
Sent: Tuesday, May 4, 2021 9:18 AM
To: Schoellkopf, Lynde <Schoellkopf.Lynde@epa.gov>
Cc: McGuire, James <McGuire.James@epa.gov>; Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Subject: Re: [EXT]

Good morning,

I will have my office send you the pleadings/docket in this matter, at which point we would be happy to discuss further.

Thanks,

Cholla

On Mon, May 3, 2021 at 11:46 AM Schoellkopf, Lynde <Schoellkopf.Lynde@epa.gov> wrote:

> Good Afternoon,
>
> I serve as the Branch Chief for ORC's Multimedia Counseling Division. To date, our section has not received any information on the state case. This could be a symptom of office closure, delays in mail, etc. Unfortunately, we also do not have access to PACER or access to state law matters on Westlaw. To get caught up and to best determine when/where/how EPA has been brought into the matter – I am hoping there is

someone from your respective offices that could please send the entire state case file (pleadings, filings, etc.). That will help determine a path forward and better understand where any correspondence may have been mailed. I am a bit surprised to see that EPA is subject to an order to file an amicus brief and the timing of such – if you all have been in touch with someone from our Headquarters office on the matter, please let us know. I will need to coordinate with our Office of General Counsel who typically has the lead on litigation matters in coordination with DOJ – but here were are not in the typical Petitioner/Respondent context. Thank you in advance for any assistance and information you can provide.

Lynde Schoellkopf

Lynde Schoellkopf | US EPA Region 6 | Office of Regional Counsel | Multimedia Counseling | 1201 Elm Street, Suite 500 | Dallas, Texas 75270 | phone: w: (214) 665-7359/c: (469) 597-0603

From: McGuire, James <McGuire.James@epa.gov>
Sent: Monday, May 03, 2021 12:33 PM
To: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Cc: Khoury, Cholla <ckhoury@nmag.gov>; Schoellkopf, Lynde <Schoellkopf.Lynde@epa.gov>
Subject: RE: [EXT]

Thanks Bruce and Cholla. Lynde Schoellkopf is lead on this for EPA Region 6 so I am copying her as well.

Thanks,

James McGuire

Regional Counsel, EPA Region 6

214-665-6560

From: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Sent: Monday, May 3, 2021 11:59 AM
To: McGuire, James <McGuire.James@epa.gov>
Cc: Khoury, Cholla <ckhoury@nmag.gov>
Subject: RE: [EXT]

You are welcome. Cholla Khoury, copied here, would be the appropriate contact at the NM AG's office. I am the appropriate point of contact here at NMED.

Bruce

From: McGuire, James <McGuire.James@epa.gov>
Sent: Monday, May 3, 2021 10:50 AM
To: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Subject: RE: [EXT]

Received, many thanks Bruce! Is there a case attorney at NMED or NM AG's office we could use as an appropriate point of contact?

Thanks,

James McGuire

Regional Counsel, EPA Region 6

214-665-6560

From: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Sent: Monday, May 3, 2021 11:47 AM
To: McGuire, James <McGuire.James@epa.gov>
Subject: RE: [EXT]

Here is the order, James. 45 days from April 22. Let me know if you need the pleadings to see the issues. I think in part this stems from the question of assertion of primary jurisdiction, or not.

Bruce

From: McGuire, James <McGuire.James@epa.gov>
Sent: Monday, May 3, 2021 10:31 AM
To: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Subject: RE: [EXT]

Great, I am in a meeting right now that should wrap up in the next 10-15 minutes. What is the best number to reach you at?

Thanks,

James McGuire

Regional Counsel, EPA Region 6

214-665-6560

From: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Sent: Monday, May 3, 2021 11:29 AM
To: McGuire, James <McGuire.James@epa.gov>
Subject: RE: [EXT]

Morning James

Yes, this morning is unscheduled so I am able to talk.

Bruce

From: McGuire, James <McGuire.James@epa.gov>
Sent: Monday, May 3, 2021 10:24 AM
To: Baizel, Bruce, NMENV <Bruce.Baizel@state.nm.us>
Subject: [EXT]

Bruce-

Do you have a minute today? I have a quick question for you.

Thanks,

James McGuire

Regional Counsel

U.S. Environmental Protection Agency, Region 6

1201 Elm Street, Suite 500

Dallas, Texas 75270-2102

214-665-6560

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Cholla Khoury, CIPP/US
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