Message

From: Frank C. Pavia [fpavia@HarrisBeach.com]
Sent: 4/27/2022 8:17:21 PM
To: Ludmer, Margo [ludmer.margo@epa.gov]
CC: Doyle, James [Doyle.James@epa.gov]; Joseph A. Gregg [jagregg@eastmansmith.com]; Kevin Murphy [KMurphy@WladisLawFirm.com]; Nick Paro [nparo@salina.ny.us]; Burns, Chris [CBurns@chacompanies.com]
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment
Attachments: 2022-4-12_Salina Town Landfill Technical_Requirements_Discussion.pdf

Margo,

Hope you are well too.

Since our conversation, things have progressed well with DEC regarding its technical issues/questions on the use of the former Salina landfill site for local disposal. In February, representatives of the Town, County, City and Carrier participated in an initial zoom call with Matt Marko and Margaret Sheen of DEC to discuss the technical issues raised by the Albany office of DEC and how best the regional DEC office could assist in addressing those concerns.

Subsequent to that call, Chris Burns of CHA (the Town's engineering consultant) and Travis Glazier of the County participated in a technical discussion with Jacky Lou and Jason Pelton from DEC's Albany office, as well as Matt Marko, regarding the Salina landfill. That discussion was very productive from a technical perspective. I am attaching for your review a copy of the follow-up letter Chris Burns sent to Jacky Lou summarizing the discussion points and responses. Chris intends to have further discussions with Jacky in order to understand what additional information DEC needs to review.

Although the steps already taken have progressed well, it is clear that a number of moving parts still need to be addressed before any final decision is made regarding the use of the Salina landfill for local disposal.

First, the technical discussions between the Town, DEC and the PRP group need to move to the next level, with plans and data prepared in response to DEC's directives. The PRP group's consultant, Arcadis, will also need to be engaged in that effort since DEC needs to better understand some of the technical aspects of the proposed RD for the Lower Ley Creek Subsite.

Secondly, additional cost information may need to be assessed in light of anticipated changes or requests made by DEC. Moreover, the current inflationary pressures on the economy will impact the initial cost estimates prepared by the Town (as well as any cost estimates made for non-local disposal options). These factors will also impact previous proposals the PRP group has considered regarding the Salina landfill being used for local disposal.

Lastly, although it appears we are gaining ground on the technical front, we still have the challenge of convincing legal counsel for DEC on the regulatory framework by which DEC will

permit the use of the Salina landfill for local disposal. Toward that end, I will be contacting Margaret Sheen this week to begin that conversation.

In the end, it will take considerable time to address DEC's concerns, prepare any necessary plans and cost information, and get DEC and the PRP group on board as to the approach going forward. Fortunately, there appears to be ample time to undertake these efforts.

On another note, the PRP group is again interested in learning if and when EPA can assist the cost recovery effort by issuing General Notice Letters to other PRPs. We would be happy to get on a call with you to discuss further this particular topic at your earliest convenience.

If you have any questions regarding the above, please feel free to contact me.

Frank

Frank C. Pavia
Partner

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-----Original Message-----
From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Wednesday, April 27, 2022 10:50 AM
To: Kevin Murphy <KMurphy@WladisLawFirm.Com>; Frank C. Pavia <fpavia@HarrisBeach.com>; Joseph A. Gregg <jagregg@eastmansmith.com>
Cc: Doyle, James <Doyle.James@epa.gov>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Kevin, Frank, and Joe,

I hope all is well.

Are there any updates regarding the respondents' conversations with DEC on the matter of local disposal?

Best,
Margo

Margo Ludmer (she/her)
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: Kevin Murphy <KMurphy@WladisLawFirm.Com>
Sent: Wednesday, March 2, 2022 3:31 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>; Frank C. Pavia <fpavia@HarrisBeach.com>; Joseph A. Gregg <jagregg@eastmansmith.com>
Cc: Doyle, James <Doyle.James@epa.gov>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Thank you, Margo.

We will inform all the respondents and I know they will appreciate getting the time necessary to resolve the local disposal question. We will keep you informed as to where we stand as things move forward with NYSDEC.

Kevin C. Murphy
The Wladis Law Firm, P.C.
P.O. Box 245, Syracuse, NY 13214
6312 Fly Road, East Syracuse, NY 13057

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F 315/251-1073
kmurphy@wladislawfirm.com

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-----Original Message-----
From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Wednesday, March 02, 2022 2:13 PM
To: Frank C. Pavia <fpavia@HarrisBeach.com>; Joseph A. Gregg <jagregg@eastmansmith.com>; Kevin Murphy <KMurphy@WladisLawFirm.Com>
Cc: Doyle, James <Doyle.James@epa.gov>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Frank, Kevin, and Joe,

Thank you again for coordinating a call to discuss the Lower Ley Creek OU and local disposal of excavated material that is not TSCA-regulated and not a characteristic hazardous waste. During the call, you asked that EPA reconsider the deadline for submission of a Local Disposal Agreement given the need for the PRPs to further confer with DEC regarding the local disposal alternatives and to submit a revised Local Disposal Assessment to EPA for approval. We understand that the PRPs will need more time than was initially contemplated to perform this work. Further, practically speaking, we recognize that the anticipated schedule for the upstream Ley Creek Deferred Media remediation affords some flexibility with respect to the Lower Ley Creek RD timetable.

Pursuant to the Lower Ley Creek RD AOC SOW, the Intermediate (60%) RD is due to EPA 60 days after EPA provides comments to the PRPs on the Preliminary (30%) RD. EPA is currently experiencing delays in obtaining an RD oversight contractor, and we expect that it will be a matter of a couple months or more before EPA is able to provide comments on the Preliminary (30%) RD, triggering the Intermediate (60%) RD submission deadline. At that point, once the due date for the Intermediate (60%) RD is known, if the PRPs believe that more time is needed to enter into a Local Disposal Agreement or otherwise determine that local disposal is non-viable, EPA will be willing to provide a reasonable extension for the submission of the Intermediate (60%) RD. We do believe that it is necessary to resolve the matter of local disposal in advance of the 60% RD submission given how critical it is to the design of the remedy.

We appreciate the PRPs' cooperation and timeliness thus far with respect to the RD and look forward to continued progress on this disposal matter.

Thank you,
Margo

Margo Ludmer (she/her)
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
US EPA Region 2
Phone: 212-637-3187

-----Original Message-----
From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Friday, February 11, 2022 10:14 AM
To: Ludmer, Margo <ludmer.margo@epa.gov>; Joseph A. Gregg <jagregg@eastmansmith.com>
Cc: Doyle, James <Doyle.James@epa.gov>; Kevin Murphy <KMurphy@wladislawfirm.com>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Thank you. Have a great weekend.

Frank C. Pavia
Partner

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-----Original Message-----
From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Friday, February 11, 2022 10:13 AM
To: Frank C. Pavia <fpavia@HarrisBeach.com>; Joseph A. Gregg <jagregg@eastmansmith.com>
Cc: Doyle, James <Doyle.James@epa.gov>; Kevin Murphy <KMurphy@wladislawfirm.com>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Thursday at 10:00am works well. Thank you, Frank.

-----Original Message-----
From: Frank C. Pavia <fpavia@HarrisBeach.com>
Sent: Friday, February 11, 2022 10:08 AM
To: Ludmer, Margo <ludmer.margo@epa.gov>; Joseph A. Gregg <jagregg@eastmansmith.com>
Cc: Doyle, James <Doyle.James@epa.gov>; Kevin Murphy <KMurphy@wladislawfirm.com>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Margo,

We can do 10:00 am next Thursday. If that works for you and James, I will circulate a Webex invite. Thank you.

Frank

Frank C. Pavia
Partner

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-----Original Message-----
From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Friday, February 11, 2022 9:19 AM
To: Joseph A. Gregg <jagregg@eastmansmith.com>; Frank C. Pavia <fpavia@HarrisBeach.com>
Cc: Doyle, James <Doyle.James@epa.gov>; Kevin Murphy <KMurphy@wladislawfirm.com>
Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Unfortunately, we have a conflict at 2pm on Tuesday. Would a time on Thursday work?

-----Original Message-----
From: Joseph A. Gregg <jagregg@eastmansmith.com>
Sent: Thursday, February 10, 2022 7:17 PM
To: Frank C. Pavia <fpavia@harrisbeach.com>
Cc: Ludmer, Margo <ludmer.margo@epa.gov>; Doyle, James <Doyle.James@epa.gov>; Kevin Murphy <KMurphy@wladislawfirm.com>
Subject: Re: Lower Ley Creek Subsite, County on Onondaga, Local Disposal Assessment

Good for me.

Sent from my iPhone

> On Feb 10, 2022, at 6:22 PM, Frank C. Pavia <fpavia@harrisbeach.com> wrote:
>
> Margo,
>
> Is there anyway we could do Tuesday at 2:00 pm?
>
> Frank
>
>> On Feb 10, 2022, at 4:43 PM, Ludmer, Margo <ludmer.margo@epa.gov> wrote:
>>
>> Understood, Frank. Jim and I are generally available tomorrow and Monday, Tuesday between 11am and 2pm, and Wednesday after 11am. Please let us know what works best for you, Kevin, and Joe.
>>
>> Best,
>> Margo
>>
>> -----Original Message-----
>> From: Frank C. Pavia <fpavia@HarrisBeach.com>
>> Sent: Thursday, February 10, 2022 4:37 PM
>> To: Ludmer, Margo <ludmer.margo@epa.gov>
>> Cc: Doyle, James <Doyle.James@epa.gov>; Kevin Murphy
>> <KMurphy@WladisLawFirm.Com>; Joseph A. Gregg

>> <jagregg@eastmansmith.com>
>> Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local
>> Disposal Assessment
>>
>> Margo,
>>
>> I apologize for the delay in getting back to you. We would like the first call to be only between you, James, and counsel for the Town, the County and Carrier to bring you up to speed on the current issues. During the call, we can discuss scheduling a broader call with all of the PRP representatives and the consultants.
>>
>> Can you please send your and James' available dates and times over the next week? Thank you.
>>
>> Frank
>>
>>
>>
>>
>> Frank C. Pavia
>> Partner
>>
>> HARRIS BEACH PLLC
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>> -----Original Message-----
>> From: Ludmer, Margo <ludmer.margo@epa.gov>
>> Sent: Thursday, February 10, 2022 11:30 AM
>> To: Frank C. Pavia <fpavia@HarrisBeach.com>
>> Cc: Nick Paro <nparo@salina.ny.us>; Doug Wickman
>> <dwickman@salina.ny.us>; Doyle, James <Doyle.James@epa.gov>
>> Subject: RE: Lower Ley Creek Subsite, County on Onondaga, Local
>> Disposal Assessment
>>
>> Frank,
>>
>> We would be happy to set up a time to speak about this matter. I will touch base with Jim Doyle and circle back with our availability. Will your consultants be participating in the proposed meeting?
>>
>> Thank you,
>>
>> Margo
>>
>> Margo Ludmer (she/her)
>> 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: Frank C. Pavia <fpavia@HarrisBeach.com>
>> Sent: Thursday, February 10, 2022 9:13 AM
>> To: Ludmer, Margo <ludmer.margo@epa.gov>

>> Cc: Nick Paro <nparo@salina.ny.us>; Doug Wickman
>> <dwickman@salina.ny.us>; Doyle, James <Doyle.James@epa.gov>
>> Subject: Lower Ley Creek Subsite, County on Onondaga, Local Disposal
>> Assessment
>>
>> Margo,
>>
>> I left a voice mail message with you several days ago about DEC's most recent position regarding the Town's local disposal proposal for the Lower Ley Creek Subsite. The PRP group's consultant, Arcadis, informed us yesterday that Ms. Sacks has communicated that DEC's requirements are now part of the local disposal criteria. This decision was made without input from the PRP group, the Town of Salina's technical consultants, or Arcadis. Attached is a copy of Ms. Sacks' email which we received last night.
>>
>> We believe that DEC's position is unwarranted from both technical and legal standpoints. It is also inconsistent with DEC's historical discussions concerning the use of the former landfill site and, more importantly, now puts the site as the chosen local disposal option in jeopardy.
>>
>> We would like the opportunity to discuss this recent development with you and Jim Doyle at your earliest convenience. Representatives of the other PRP members would also like to participate in the discussion. If you and Jim could send me your available dates and times over the next week or so, I will coordinate with my client and the other members of the PRP group, and set up a Webex or Zoom call.
>>
>> Thank you.
>>
>> Frank
>>
>>
>> Frank C. Pavia
>> Partner
>>
>> HARRIS BEACH PLLC
>> ATTORNEYS AT LAW
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>> -----Original Message-----
>> From: Ludmer, Margo <ludmer.margo@epa.gov>
>> Sent: Tuesday, June 8, 2021 5:22 PM
>> To: Nancy O'Neil <NONeil@salina.ny.us>
>> Cc: V. James Magnarelli (Councilor) <vjmags@gmail.com>; Nick Paro
>> <Nick.Paro1stWard@gmail.com>; Daniel Ciciarelli

>> <ciciarelli3rdward@gmail.com>; David Carnie
>> <councilorcarnie@gmail.com>; Doug Wickman <dwickman@salina.ny.us>;
>> Frank C. Pavia <fpavia@HarrisBeach.com>; Colleen Gunnip
>> <cgunnip@salina.ny.us>
>> Subject: RE: Response to EPA General Notice Letter
>>
>> Ms. O'Neil,
>>
>> EPA acknowledges receipt of the Town's response.
>>
>> 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
>>
>> -----Original Message-----
>> From: Nancy O'Neil <NONeil@salina.ny.us>
>> Sent: Monday, June 7, 2021 4:45 PM
>> To: Ludmer, Margo <ludmer.margo@epa.gov>
>> Cc: V. James Magnarelli (Councilor) <vjmags@gmail.com>; Nick Paro
>> <Nick.Paro1stWard@gmail.com>; Daniel Ciciarelli
>> <ciciarelli3rdward@gmail.com>; David Carnie
>> <councilorcarnie@gmail.com>; Doug Wickman <dwickman@salina.ny.us>;
>> fpavia@HarrisBeach.com; Colleen Gunnip <cgunnip@salina.ny.us>
>> Subject: Response to EPA General Notice Letter
>>
>> Dear Ms. Ludmer:
>>
>> Please find the attached general notice response letter.
>>
>> If you have any questions, please don't hesitate to reach out to us.
>>
>> Kindly,
>>
>>
>> Nancy O'Neil
>> Executive Assistant to the Supervisor Town of Salina
>> 201 School Road
>> Liverpool, New York 13088
>> Phone: (315) 457-6661
>> Fax: (315) 457-4476
>> noneil@salina.ny.us
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>>