Message

From: Storm, Linda [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=473A11576E9E401B98840BB1A54FBAC7-STORM, LINDA]
Sent: 11/4/2022 11:02:49 PM
To: Whitley, Annie [Whitley.Annie@epa.gov]
Subject: RE: US95, Thorn Creek Road to Moscow Walla Walla District Project
Attachments: 03-084-FHW US 95 Thorn Creek to Moscow - J Olson (002).pdf; FW: US 95 Thorn Creek to Moscow DEIS

Hi there Annie, your suggested approach is good. I have records regarding EPA's review and involvement on this which goes back in time to about 2004. Nothing would be expected to be on our SharePoint site (I discovered this after looking further in my files after my first response to Zach).
Here's a sampling of the things I've found. I can create a SharePoint folder to put stuff in for more easeful reference. I just sent you a link to my OneDrive folder from my older coordination with Elaine Somers and John Olson.
I'm only in 3 days next week. When should we chat? I'm off at 4:30 today.
Best,
Linda

Linda E. Storm, Aquatic Ecologist
Pronouns: she/her/hers (Why is this important?)
U.S. EPA Region 10 – Water Division
1200 Sixth Avenue, Suite 155, 19-H13
Seattle, WA 98101-3144
(206)553-6394 ofc/(206)437-2293 cell
Email: storm.linda@epa.gov

Black Lives Matter
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From: Whitley, Annie <Whitley.Annie@epa.gov>
Sent: Friday, November 04, 2022 3:40 PM
To: Storm, Linda <Storm.Linda@epa.gov>
Subject: RE: US95, Thorn Creek Road to Moscow Walla Walla District Project

Hi Linda,

I just sent a message to Zak and Dave, suggesting EPA have internal discussions and then circle back. Hope that is OK.

I understand the want for EPA's involvement and would like to determine what path that should take.

My initial thoughts are to:

1. Look at any comments we previously provided on the project for awareness as we are determining/discussing next steps.
    a. I did not see any, but did see the permit verification in the file on SharePoint (attached)
2. Reach out to Amy, who is the 404 lead and see what she thinks. Will start with an email.
    a. Include Dave, for his awareness and perspective.
3. *Possibly* reach out to EPA enforcement to describe the situation and see if they have any input
4. Reach out to the Corps **

**At this point, I think we understand the situation, so I am not sure we need to reach out to the Corps for more info. Based on our convos internally, we can decide together how best to approach the Corps. We should make sure we are all on the same page – i.e., what is our goal here? Or how can we best provide input/assistance?

What do you think?

Annie Whitley, Environmental Scientist
Wetlands & Oceans Section
Standards, Assessment & Watershed Management Branch, Water Division
Environmental Protection Agency
1200 Sixth Avenue, Suite 155, Mailstop 19-C04
Seattle, Washington 98101
(206) 553-0058, whitley.annie@epa.gov

From: Storm, Linda <Storm.Linda@epa.gov>
Sent: Friday, November 4, 2022 2:00 PM
To: Whitley, Annie <Whitley.Annie@epa.gov>
Subject: US95, Thorn Creek Road to Moscow Walla Walla District Project
Importance: High

Hi there Annie,
I got a call from Dave Bricklin, an environmental attorney. He is going to follow-up with an email to us both regarding this concerns about the US95 Thorn Creek Road to Moscow project. I think that EPA may have written a 401 WQC for a portion of this project (and potentially one cert for multiple NWP 14 crossings). However, I don't have the Walla Walla District permit # to verify that and am not finding "Thorn Creek Road to Moscow" in my 401 files. I have multiple other names for US95 authorizations though. John Olson and Elaine Somers were involved in the original NEPA DEIS for this work and then subsequently Charissa Bujak was. The attorney and his clients concerns was that the impacts were being piece mealed and should have been addressed in permitting as a single project given the collective/cumulative impacts. The Corps issued multiple NWP 14 authorizations, one each for each crossing. The evidence brought forth did show that the amount of wetlands impacted exceeded (in at least one crossing) the ½ acre of impact and that in fact 1acre or more was impacted. The plaintiffs argue that if this is the case with one crossing it's likely to be the case with others and that the whole project should be re-evaluated as a single project (they got access and had an independent wetland ecologist delineate the wetlands and showed this exceedance of the NWP 14 threshold).

The issue now is that IDOT has continued to do work, but the NWP 14 was no longer valid. Dave Bricklin says that the Walla Walla District Corps project manager is Shane Skaar.
I am wondering if Shane has reached out to you at all, as technically, if we did issue a 401 WQC and the original authorization under NWP 14 is no longer valid, then our 401 WQC is also no longer valid. I am just not certain that we issued a 401 WQC.

Their concern is that the Corps should have revoked/rescinded their NWP 14 authorization(s) for the project and reissued an individual permit requiring a 30-day public comment period and re-requesting 401 WQC. If you've not heard anything about this from Shane, I can give him a call just to see if we indeed did issue a 401 WQC for this – as well to find out more about it from his side.

Dave Bricklin's contact info is bricklin@bnd-law.com 206-264-8600. Again, he said he'd send us some context of the lawsuit and the issue in writing.

Best,
Linda

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