Message

From: Zachary Griefen [griefen@bnd-law.com]
Sent: 11/4/2022 10:36:52 PM
To: Whitley, Annie [Whitley.Annie@epa.gov]; Storm, Linda [Storm.Linda@epa.gov]
CC: Dave Bricklin [bricklin@bnd-law.com]
Subject: RE: Corps' suspension of authorization under NWP 14 for the US-95 Thorn Creek to Moscow highway rerouting project

Thank you very much, Annie!

Zak

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Zachary Knox Griefen
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From: Whitley, Annie <Whitley.Annie@epa.gov>
Sent: Friday, November 4, 2022 3:29 PM
To: Zachary Griefen <griefen@bnd-law.com>; Storm, Linda <Storm.Linda@epa.gov>
Cc: Dave Bricklin <bricklin@bnd-law.com>
Subject: RE: Corps' suspension of authorization under NWP 14 for the US-95 Thorn Creek to Moscow highway rerouting project

Hi Zak,

Thank you for reaching out and very clearly outlining the timeline of events.

Based on my cursory review of the project and Linda's messages, it does appear that EPA was previously involved reviewing the project. However, this project does not fall on Tribal Lands, so the 401 certifying authority was IDEQ. Regardless, I understand the request for EPA to be involved ad would like to ensure we are taking appropriate next steps.

I think it would be best for Linda and I to follow-up internally and then circle back with you all.

Talk with you soon.

Annie Whitley, Environmental Scientist
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From: Zachary Griefen <griefen@bnd-law.com>
Sent: Friday, November 4, 2022 1:57 PM
To: Storm, Linda <Storm.Linda@epa.gov>; Whitley, Annie <Whitley.Annie@epa.gov>
Cc: Dave Bricklin <bricklin@bnd-law.com>
Subject: Corps' suspension of authorization under NWP 14 for the US-95 Thorn Creek to Moscow highway rerouting project

Hi Linda and Annie,

I work for Dave Bricklin and I am writing to you at his direction. I am following up on the phone conversation that Dave and Linda had earlier today, regarding the Corps' suspension of authorization under NWP 14 for the US-95 Thorn Creek to Moscow highway rerouting project.

The Corps had verified 13 wetland and/or surface water "crossing sites" under NWP 14 on March 9, 2021. Our client Paradise Ridge Defense Coalition ("PRDC") sued, conducted a wetland delineation, and established that, at least for the southernmost crossing site (Site 1), the wetland impacts were far greater than the Corps had assumed based on information provided to the Corps by the Idaho Transportation Department.

On August 9, 2022, the Corps concluded that the loss of aquatic resources at Site 1 may exceed the 0.5-acre threshold and suspended its verification under NWP 14 at Site 1 pending additional consideration. See attached.

On August 15, 2022, PRDC filed a motion for summary judgment seeking to extend the Site 1 suspension to all 13 crossing sites, because the mistake made by ITD and the Corps at Site 1 was likely repeated elsewhere along the project route. See attached.

On August 29, 2022, the Corps issued a follow-up letter to its prior suspension letter, in which the Corps suspended its verification decisions for the remaining crossing sites (Sites 2–13). See attached.

The case is now being held in abeyance at the request of the Corps and we are waiting for the Corps to decide what to do next. Dave and I think that now might be a good time for the Corps to hear from EPA as to what the appropriate next step should be. As you know, EPA has expressed strong reservations about the ITD-selected "E-2 Route" alternative for project from the outset.

Please let me know if you have any questions or would like more information.

Thank you.

Zak

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