UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

August 06, 2015

Darci Foss, Bureau Director
Remediation and Redevelopment Program
Wisconsin Department of Natural Resources
101 South Webster Street, P.O. Box 7921
Madison, Wisconsin 53707-7921

RE: Tower Standard Site, Lac du Flambeau Reservation

Dear Ms. Foss:

This letter follows up on our discussions and a conference call between Wisconsin Department of Natural Resources (WDNR), the Lac du Flambeau Band of Lake Superior Chippewa Department of Natural Resources, and the U.S. Environmental Protection Agency, Region 5, on Friday, May 15, 2015, regarding the Tower Standard Leaking Underground Storage Tank (LUST) site, located on non-member owned fee land within the reservation boundaries of the Lac du Flambeau Reservation.

I want to call your attention again to EPA's authority to undertake action at the site and determine whether the site, ultimately, has been cleaned up to relevant federal cleanup and tribal levels. EPA carries out its statutory and regulatory responsibilities and authorities under RCRA Subtitle I, Underground Storage Tank requirements, Subchapter IX, 42 U.S.C § 6991 *et seq.* and EPA's *Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,* 40 CFR Part 280, in Indian country, as defined at 18 U.S. C. § 1151. This includes all land within the boundaries of a reservation, including lands that may be owned by non-tribal members. Section 9013 of RCRA, 42 U.S.C. §6991*l*, explicitly directs EPA to implement and enforce requirements concerning underground storage tanks located, among other places, wholly within the boundaries of an Indian reservation. EPA implements the underground storage tank program in Indian country regardless of whether a state has state program approval to operate in lieu of the federal program under Section 9004 of RCRA, 42 U.S.C. § 6991c. Furthermore, "One Cleanup" memoranda of understanding like the agreement between EPA and WDNR in Wisconsin do not limit federal or tribal jurisdiction within the boundaries of any Indian reservation.

I greatly appreciate the outstanding working relationship of EPA and WDNR in Wisconsin, and expect that we will continue that relationship. EPA is supportive of any cooperative relationship between WDNR and the Band at the Tower Standard site that conducts activity under the state program, as long as it respects the sovereignty of the Band. As I indicated in our phone

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conversation, I suggest that the Band, EPA and WDNR meet to discuss the necessary work that needs to be done at the Tower Standard site and what each party may contribute to the site characterization and cleanup.

Sincerely,

Margaret Guerriero,
Director
Land and Chemicals Division

cc:

Larry Wawronowicz, Tribal Natural Resource Director, Lac du Flambeau Band
Richard A. Du Bey, Short, Cressman & Burgess PLLC