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

REPLY TO THE ATTENTION OF:

AUG 14 2015

MEMORANDUM

SUBJECT: Request for Concurrence on Federal Lead Corrective Action Activities Using LUST Trust Funding in EPA Region 5 Indian Country: Tower Standard Gas Station Site, Lac du Flambeau Reservation, Wisconsin

FROM: Margaret M. Guerriero, Director
Land and Chemicals Division

TO: Carolyn Hoskinson, Director
Office of Underground Storage Tanks

Introduction

Pursuant to OSWER Directive 8-33, the purpose of this memorandum is to request your authorization[1] to increase the spending limit from $50,000 to $248,000 for continued corrective action (site assessment) activities at Tower Standard Gas Station (site), located near Lac du Flambeau, Wisconsin within the boundaries of the Lac du Flambeau Reservation.

The site is a high priority for the Lac du Flambeau Band of Lake Superior Chippewa Indians because of the presence of high levels contamination at significant depth in groundwater and the possible presence of source soil contamination.

Additional funding authorization may be needed after completing the proposed site assessment in this request. Further investigative and remedial needs cannot be determined until the source soil and initial groundwater investigation is completed. Interim measures will be considered as the project moves forward, but none are proposed at this time.

History of the Site and Need for Additional LUST Trust Fund Authorization

The Wisconsin Department of Natural Resources (WDNR) reopened the site in May 2015 after reviewing recent investigation results provided by the tribe. Reopening the site provided access to Wisconsin's Petroleum Cleanup Fund Award (PECFA) money, which provides financial assurance coverage for William and Linda Kozak, the UST owners. The owners have access to

[1] Once approved, this memo indicates authorization to spend up to the approved funding level. However, actual funding is subject to annual appropriations.

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this funding source, as they participated in the PECFA program when the facility was operating. The Kozaks have met their PECFA co-payment obligation and will not need to provide personal funds for further work at the site. Although EPA has ultimate jurisdiction for cleanup at the site, access to the state fund will allow a great deal of work to be performed with PECFA money, saving LUST trust fund money to be used for augmenting the state effort and eventually meeting federal cleanup requirements.

The state, tribe and EPA have differed on where site investigations are needed to clearly delineate the location and identify the source of contamination. Because prompt action is required to protect human health and the environment at this site, Region 5 requests use of additional LUST Trust Funds to complete investigations that EPA believes is necessary but where Wisconsin has limitations on the use of their funds. EPA is the implementing agency for UST sites in Indian county. Therefore, the tribe has asked EPA and Region 5 believes it is necessary to undertake additional site assessment activities at the site.

Region 5 has spent the previously authorized funding of $43,000 for private well sampling in 2014 (about $17,000) and 2015 (about $26,000).

See the attached August 8, 2014 memorandum for historic background, investigative, and remedial information about the site.

Current Status of Site

This contamination is close to a lake and other surface water bodies, homes with private wells, some of which are tribal residences, and a motel with transient and longer-term residents. The full extent of groundwater contamination is not yet known, but is suspected to be beneath the lakebed and moving toward homes located along the lakeshore. Any remaining soil contamination may serve as a source for continued groundwater contamination, possibly impacting ecological receptors in the lake. Soil vapors from the source area may threaten the motel and a business at the site.

Contamination appears to be moving toward and under the bed of Haskell Lake, in the direction of houses that border the lake (groundwater flow direction shown on Figure 2 of the attached memo).

Groundwater is within ten to twelve feet of the ground surface and there are numerous water bodies in the site area. Tribal members fish in Haskell Lake and collect plants for cultural and medicinal purposes in the nearby wetlands and surface water bodies. The tribe fears that effects from site contamination may impact their ability to use these cultural resources.

LUST Eligibility Determination

Region 5 is requesting LUST Trust Fund authorization pursuant to the justification in the Solid Waste Disposal Act (SWDA) 9003(h)(B), *A situation exists which requires prompt action by the Administrator (or the State) under this paragraph to protect human health and the environment.*

Due to the high-risk site conditions and proximity to residences, drinking water wells, and surface water, Region 5 continues to believe that prompt action is necessary to assess possible threats to human health and the environment.

Proposed Site Investigations and Corrective Action Activities

Wisconsin plans to identify source areas and evaluate whether off-site sources from other historically contaminated properties may be contributing to site contamination. PECFA has $1 million limit for LUST sites, has spent approximately $450,000, and has about $550,000 to spend at this site. Therefore, state-funded work will continue through remediation up to the additional $550,000 PECFA money that is available.

Region 5 will augment this investigation by continuing to sample private wells, review state-fund generated documents, and support the tribe through additional field activities not paid by PECFA. The cost of the proposed work, as outlined below, is based upon Region 5's recent experience with similar expenditures at this site and other sites in the region.

Proposed Work, Pending Approval

Region 5 plans to supplement PECFA-funded activities by performing groundwater monitoring well installation, soil boring and sampling, and groundwater sampling in an effort to create a complete understanding of the current situation at and near the site. This data will provide an opportunity for the region to collaborate with tribal and state project managers to craft the plans for next steps in investigation and possible interim actions.

Region 5 is confident in our estimated need for $205,000 in LUST Trust Funds based on experience with costs at similar sites and the scope of work necessary at this site. A cost estimate with described tasks is shown in the table below.

Task	Description	Cost
1	Conduct a soil boring and sampling investigation to supplement the PECFA field work.	$20,000
2	Drill, install, and sample monitoring wells at four locations, three wells at each location, to provide a preliminary understanding of current groundwater quality. Sample soil at-depth during installation.	$65,000
3	Continue private well sampling and quarterly sampling of installed wells. Prepare a site assessment report with a preliminary Conceptual Site Model.	$75,000

4	Conduct sampling of sediment/pore water to assess impact to surface water bodies downgradient of site.	$40,000
5	Contractor review of PECFA-generated documents.	$5,000
Total		**$205,000**
Work Previously Tasked	Private well sampling in 2014 and 2015.	$43,000
Grand Total		**$248,000**

Optimization Efforts

Risk-based decision-making will be central to our efforts, and it will serve as a mechanism for identifying necessary and appropriate action throughout the corrective action process.

Tribal Government and Community Engagement

The tribe expressed its deep concern about releases to groundwater and surface water in past communications with the region. On May14, 2014 the tribe requested EPA assistance for sampling at the site. In July 2015, Region 5 began formal consultation with the tribe on LUST sites within reservation boundaries and my staff and I visited the site.

Region 5 has been and will continue to work closely with the tribe as the project moves forward. This will be especially important considering WDNR involvement and the need to coordinate review and comment on documents, sampling activities, and ultimately reaching consensus on remedial actions, if necessary.

Should corrective action costs exceed $248,000, Region 5 may request approval to use an additional amount if required for the site.

Policy Implications

There are no known policy implications regarding the approval of this action.

Conclusion

Region 5 requests your approval to increase authorization from $50,000 to $248,000 of LUST Trust Fund money for the Tower Standard site. The region will use the additional authorization for $198,000 to conduct site assessment activities. All significant findings and proposed decisions regarding the site will be shared with the Lac du Flambeau Tribe, the WDNR, and other interested parties before taking additional action at the site.

If you have any questions concerning this action memorandum, please contact Sherry Kamke, Chief, Underground Storage Tanks Section, LCD, EPA Region 5 at (312) 353-5794, or Bob Egan, the Contract Officer Representative, at (312) 886-6212 or by e-mail at egan.robert@epa.gov.

Approve: _____ _____

Carolyn Hoskinson, Director, OUST Date

Disapprove: _____ _____

Carolyn Hoskinson, Director, OUST Date

Attachment:

August 8, 2014 memorandum

cc: Judy Barrows, Office of Underground Storage Tanks
Lela Hagan, Office of Underground Storage Tanks
Sherry Kamke, Underground Storage Tanks Section, Region 5
Lynn DePont, Office of Underground Storage Tanks
Thomas Kenney, Senior Attorney, Region 5

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