To: Olson, Erik[olson.erik@epa.gov]
From: Joshua B. Lane
Sent: Fri 10/28/2016 6:45:17 PM
Subject: RE: Tower Standard/Haskell Lake UST Site
removed.txt

Erik,

Thank you for your response. It is unfortunate that USGS was unable to access the site to complete the necessary data sampling in the wells. It sounds like it may be helpful to have confirmation from USGS that USGS will accept access to the site by way of the EPA access agreement. I will follow-up with more information to that end.

In the meantime, can you advise whether there has been further progress with regard to the status of the revised MOA?

Thanks again and have a good weekend,

Josh

Joshua B. Lane, Attorney | 206.223.2010 (direct)

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From: Olson, Erik [mailto:olson.erik@epa.gov]
Sent: Thursday, October 27, 2016 2:21 PM
To: Joshua B. Lane <JLane@scblaw.com>
Subject: Re: Tower Standard/Haskell Lake UST Site

Josh:

Thank you for providing me with additional details about the work USGS is planning on doing at the site. I am uncomfortable assuming that USGS is an "authorized representative" of EPA based solely on the fact that it is a sister federal agency, when there has been no contact between USGS and EPA prior to USGS showing up on site and still no contact between USGS and EPA. I also am uncomfortable assuming, without contacting USGS, that USGS would find it appropriate to pursue access under an agreement that doesn't name USGS.

It is unfortunate that the Kozaks have declined access to USGS to conduct this work, and I appreciate your work to try to gain that important access to move forward your client's understanding of site conditions. I would be glad to initiate and facilitate a discussion with USGS and Lac du Flambeau about the site work and the access issue. If you have contact information you could provide for USGS that may speed things up.

Regards,

Erik

From: Joshua B. Lane <JLane@scblaw.com>
Sent: Thursday, October 27, 2016 2:01 PM
To: Olson, Erik
Subject: RE: Tower Standard/Haskell Lake UST Site

Erik,

Thank you. During our conversation, you asked for additional detail about the intended USGS monitoring at the Site; you also asked for additional detail about USGS' authority to conduct this monitoring. As Kristen explained during her call this morning (which I understand Bob Egan participated in), USGS is planning on installing lake stage equipment, stream gage, and pull data from the temperature transduces in wells on the hotel property. For a complete dataset,

they require sampling water level elevations from all existing site wells, which includes 4 well nests on the Kozaks Property (installed under TNR conditional approval dated 10.30.15) and one EPA well (installed by EPA's contractor under EPA's access agreement). In other words, to obtain the necessary data, USGS requires access to wells on the Kozaks property. Please also not that it is the USGS (not the Tribe) that is seeking access for the purpose of this sampling.

EPA's access agreement that you shared expressly provides access to authorized representatives of the EPA for, inter alia, sampling of the monitoring wells on the Kozaks property. This authority is echoes under the enforcement provisions of 42 USC Sec. 6991d(a)(3), which provides that representatives of the EPA may access property "to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding solids, air, surface water or ground water." As we discussed, as part of the "federal family," USGS is necessarily an authorized representative of the EPA.

If EPA does not agree that USGS (which receives its funding for this work from the BIA (DOI)) is an authorized representative of the EPA in these circumstances, please let me know the basis for this assessment.

Thanks again, Erik. This is a time sensitive issue and I appreciate your availability to address it with me.

- Josh

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Attorney Athan Tramountanas to Present at Joint Construction CLE, November 4, 2016. October 13, 2016 by SCBLaw Staff. The Construction Law Sections of the Washington ...

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From: Olson, Erik [mailto:olson.erik@epa.gov]
Sent: Thursday, October 27, 2016 11:21 AM
To: Joshua B. Lane <JLane@scblaw.com>
Subject: Re: Tower Standard/Haskell Lake UST Site

Josh:

Attached please find EPA's access agreement with the Kozaks.

- Erik

From: Joshua B. Lane <JLane@scblaw.com>
Sent: Wednesday, October 26, 2016 4:30 PM
To: Olson, Erik
Subject: Tower Standard/Haskell Lake UST Site

Confidential Communication

Dear Erik,

I am working with Richard Du Bey on the Tower Standard/Haskell Lake UST Site on behalf of the Lac du Flambeau Band. An emergent time sensitive issue arose today involving USGS and EPA and I would appreciate 10 minutes of your time. Are you available for a brief call?

Thank you,

Josh

Joshua B. Lane, Attorney | 206.223.2010 (direct)

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