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

REPLY TO THE ATTENTION OF:
C-14J

August 16, 2016

Richard A. Du Bey
Short Cressman & Burgess PLLC
999 Third Avenue, Suite 3000
Seattle, WA 98104-4088

RE: Lac du Flambeau Memorandum of Agreement

Dear Richard:

This letter acknowledges your August 9, 2016 letter transmitting a draft Memorandum of Agreement (MOA) regarding regulatory oversite of underground storage tanks within the boundaries of the reservation of the Lac du Flambeau Band of Lake Superior Chippewa. The U.S. Environmental Protection Agency shares the Tribe's concerns over the threat posed by leaking underground storage tanks (LUSTs) and the desire to understand and remedy those threats as quickly and efficiently as possible. To that end EPA Region 5 has been working cooperatively at the Tower Standard site with the Tribe, and as necessary with the Wisconsin Department of Natural Resources and the contractor chosen by the property owner and funded under the Petroleum Environmental Cleanup Fund Award program.

While I share your concerns and commitment to addressing environmental hazards from LUSTs within the reservation boundaries, I do not agree with your characterization of past and current efforts to understand and address those hazards at the Tower Standard site. The site has been the focus of significant effort by Region staff and EPA funded contractors, including completion of private well sampling, soil borings and sampling, groundwater sampling, and vapor intrusion sampling. Work ongoing related to the site includes generation of two- and three-dimensional figures of site contamination and a technical memorandum with recommendations for near term source control at the site. In addition to time spent in the field, EPA staff and management have expended significant effort in the preparation of task orders required to initiate federal funding for all these activities. The Tower Standard site has been the number one priority of Region 5's tribal underground storage tank program for the past year.

EPA is reviewing the draft MOA you provided and expects to respond as quickly as feasible. Our internal policy on establishing agreements such as the MOA contemplated here requires consultation with our headquarters offices; we are also investigating whether other EPA Regions may have entered into similar agreements that might inform our action together here. I am especially interested in other tribes' efforts to take a primary role in addressing LUSTs through tribal corrective action programs funded in part by EPA cooperative agreements. Given the Lac

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du Flambeau Tribal Natural Resource Department's expertise and intimate involvement at the Tower Standard site, this may be an important part of our cooperation going forward.

Given the level of review required of MOAs at EPA I suspect that your goal of a presenting a final MOA to our clients by September 1, 2016 may be unachievable, but I will contact you this week with some initial feedback on the MOA.

Sincerely,

Erik H. Olson
Associate Regional Counsel