LAC DU FLAMBEAU BAND
OF LAKE SUPERIOR
CHIPPEWA INDIANS

TRIBAL NATURAL RESOURCE DEPARTMENT

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Fish Culture - Fisheries Management - Wildlife Management - Water Resources - Environmental Protection - Conservation Law - Energy - Air Quality

CONFIDENTIAL ENFORCEMENT SENSITIVE COMMUNICATION

December 2, 2015

Margaret M. Guerriero, Director
Land and Chemicals Division
U.S. Environment Protections Agency
Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Haskell Lake Area Petroleum Contamination
TNR Site # 4-2015
14267 W State Highway 70, Lac du Flambeau

Dear Margaret:

In an effort to move forward at the Haskell Lake Petroleum Contamination Site, we expect an EPA-Tribal lead Site Investigation and Cleanup Effort. Although some State work was initiated, the activities have not respected Tribal sovereignty and only delayed any significant reasonable progress. In addition, we are astonished, four years after requesting assistance from EPA, and over 4 months since our recent consultation meeting, EPA has initiated no new site work (beyond already planned private well sampling and some duplicate sampling of State initiated and funded work).

The current practice of waiting for the State of Wisconsin to act and then plan around their independent actions is grossly insufficient to Tribal requirements and has vastly hampered progress on any remedial actions. WDNR autonomous site planning, nonresponse to both the Tribe/EPA work plan questions, unwillingness to share project information, and noncompliance with Tribal provisions for on-reservation work, are all examples of WDNR acting outside of your condition that the State respect Tribal Sovereignty. Neither the Tribe nor EPA has been provided results and reports from work independently negotiated and planned by the State. We are not any closer to a complete site investigation. We feel the State's partial well network is insufficient to define the plume. Also, source soils are not delineated in a manner in order for the EPA/Tribe to plan assessment/removal actions.

The Tribe expects EPA to honor the March 25, 2015 letter recognizing ***"the Haskell Lake site is within the exterior boundaries of the Lac du Flambeau Reservation, we (EPA) are, and will remain, in the lead on this project."*** To date, I do not feel EPA has acted as the lead on this project!

The content of a site investigation was agreed by EPA and the Tribe on April 28, 2015 and amended to include emergency residential vapor intrusion concerns on November 5, 2015. A Site Investigation Work Plan was included in EPA's August 28, 2015 Task Order. To date, the Site Investigation Work Plan has yet to be initiated by EPA.

Subsequently, I propose the following timeframe and conditions. The Tribe expects that the Site Investigation Work Plan be drafted by EPA and completed with substantial Tribal involvement by December 17, 2015. We also expect field work described in the Site Investigation Work Plan be initiated by December 31, 2015. Supplemental State work will be allowed by the Tribe only under these conditions:

1) All work plans are submitted to EPA and the Tribe;
2) EPA and the Tribe approve work plans prior to any work;
3) Coordination and notification of planned work meets Tribal requirements;
4) Tribal staff be present during all site work; and
5) All work products including results, reports, and field notes are concurrently submitted to EPA and the Tribe within Tribal deadlines.

For any productive work at this site to move forward, the EPA-Tribal pathway must be pursued and not follow the lead of the State. If the State provides any work of value, it needs to be conditioned and approved by the Tribe.

Tribal Sovereignty must be respected and remedial action must commence ASAP!

Sincerely,

Larry Wawronowicz
Tribal Natural Resource Director

CC: Henry St. Germaine, Tribal President
Susan Hedman, EPA Regional Administrator