Message

From: McCoy, Lisa [LMcCoy@idem.IN.gov]
Sent: 5/5/2017 3:05:34 PM
To: Kaiser, Steven [kaiser.steven@epa.gov]; Carla Morgan (cmorgan@eastchicago.com) [cmorgan@eastchicago.com]; Joe Allegretti [joe@joeallegretti.com]; Beth Admire [badmire@idem.IN.gov]; Dixon, Douglas [Dixon.Douglas@epa.gov]
Subject: RE: USS Lead - Motion to Intervene

Good decision. Congratulations!

From: Kaiser, Steven [mailto:kaiser.steven@epa.gov]
Sent: Friday, May 05, 2017 11:03 AM
To: Carla Morgan (cmorgan@eastchicago.com) <cmorgan@eastchicago.com>; Joe Allegretti <joe@joeallegretti.com>; McCoy, Lisa <LMcCoy@idem.IN.gov>; ADMIRE, BETH <BADMIRE@idem.IN.gov>; Dixon, Douglas <Dixon.Douglas@epa.gov>
Subject: USS Lead - Motion to Intervene

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Colleagues:

I am attaching a copy of the Opinion issued on May 2, 2017. The Court found that the Applicants' Motion was untimely.

The Court relied on the fact that the applicants knew or should have known that their interests might be impaired on at least three occasions: (1) when EPA provided notice and comment on the clean-up plan in July 2012 and held a public meeting at that time; (2) when the Consent Decree was subject to public notice and comment in September 2014, which included a press release and a local article; and (3) when EPA held two public meetings in November 2014 after entry of the Consent Decree. Opinion at 4-6.

The Court also found that intervention now would result in prejudice to the parties to the CD who obtained a judgment in the case over two years ago. Id. at 6.

In addition, the Court stated that "delay to the remediation endangers public health." Id. And "Applicants will suffer little prejudice if the motion is denied." Id. at 7.

Sincerely,

Steven P. Kaiser
Associate Regional Counsel
U.S. EPA, Region 5