Message

From: Ramanauskas, Peter [ramanauskas.peter@epa.gov]
Sent: 2/22/2018 1:54:08 PM
To: Steketee, John [steketee.john@epa.gov]
Subject: MKC Update

<!--[if lte mso 15 || CheckWebRef]-->

Ramanauskas, Peter has shared a OneDrive for Business file with you. To view it, click the link below.

Example TSCA Coord Approval Request Letter.docx

<!--[endif]-->

Hi John,

RRB had our "technical" call with MKC yesterday afternoon. They are on board with submitting a Coordinated Approval request. We told them that we would review the available cleanup documentation along with the settlement requirements and let them know what type of additional information we need. They will be submitting a list of available documents and all site well boring logs for our review. They asked for an example request letter. To that end, I based the attached on a letter I received for a different cleanup site in Wisconsin.

Just wanted to give you an update. Let me know if you have any comments. I'll then forward it to MKC and let Mike S at WDNR know MKC will be following this approach with us and will keep us informed along with the State as the project continues.

Thanks,
Peter

From: Steketee, John
Sent: Thursday, February 15, 2018 9:07 AM
To: Ramanauskas, Peter <ramanauskas.peter@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Ok. Great. Please keep me updated on any calls, meetings, discussions, etc., and what MKC's position is with regard to the terms and conditions we want to see in a TSCA Approval.
Also, I know you know this, but no lawyers from MKC or WDOJ should participate in a call/meeting/discussion if I am not participating. Good luck. Thx.

From: Ramanauskas, Peter
Sent: Thursday, February 15, 2018 8:42 AM
To: Steketee, John <steketee.john@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Thanks, John. The MKC corporate folks have responded positively to a technical call and I am working on arranging it. So I don't think you need to reach out to Dave.

Peter

From: Steketee, John
Sent: Wednesday, February 14, 2018 1:50 PM
To: Ramanauskas, Peter <ramanauskas.peter@epa.gov>
Subject: FW: MKC Update -- Call with Dave Crass, Counsel for MKC

Peter. I filed my EAB brief today, so now my schedule will open back up. Let me know if you still want me to call Dave Crass to let him know EPA wants to schedule a technical call in the MKC matter. Thx. John

From: Steketee, John
Sent: Wednesday, February 07, 2018 2:30 PM
To: Ramanauskas, Peter <ramanauskas.peter@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

No, I think you may proceed. You may want to mention that it's no be a technical rep meeting only and that counsel for EPA will not be participating, so if counsel for MKC intends to participate he should call me and we will discuss counsel participation. Thx..

From: Ramanauskas, Peter
Sent: Wednesday, February 07, 2018 2:20 PM
To: Steketee, John <steketee.john@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

John – I was asked whether we (RRB) should then hold off on contacting MKC's consultant to try to schedule anything until you speak to Crass?

From: Steketee, John
Sent: Wednesday, February 07, 2018 1:39 PM
To: Ramanauskas, Peter <ramanauskas.peter@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Not yet. I have been working non-stop on an EAB Appeal brief due next week. If I get a chance to call him I will, but he typically doesn't call me back right away, iie only after he has an answer on something from his client. He already knows we want to use the FAST process which I believe presumes a technical meeting. Thx.

From: Ramanauskas, Peter
Sent: Wednesday, February 07, 2018 12:58 PM
To: Steketee, John <steketee.john@epa.gov>
Subject: FW: MKC Update -- Call with Dave Crass, Counsel for MKC

Hi John,

Wanted to touch base and see if you've had a chance to speak to MKC's counsel about RRB scheduling a call with their technical folks.

Thanks,
Peter

From: Arrazola, Ignacio
Sent: Monday, February 05, 2018 10:50 AM
To: Beedle, Michael <beedle.michael@epa.gov>; Steketee, John <steketee.john@epa.gov>; Harris, Michael <harris.michael@epa.gov>

Cc: Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>; Cisneros, Jose <Cisneros.Jose@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

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We're comfortable with this approach (John sent the link to the PCB FAST to MKC's counsel last Friday, and he can follow up with him). If MKC does not apply, we'll need to consider our enforcement options.

From: Beedle, Michael
Sent: Monday, February 05, 2018 10:18 AM
To: Steketee, John <steketee.john@epa.gov>; Harris, Michael <harris.michael@epa.gov>; Arrazola, Ignacio <arrazola.ignacio@epa.gov>
Cc: Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>; Cisneros, Jose <Cisneros.Jose@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

All,
EPA's technical folks had a conference call with WDNR on Friday to discuss MKC.

We discussed technical issues and outlined steps forward on the matter. One issue, among many, that we will have to work on with MKC and WDNR is the rain garden.

The course of action that Peter and I propose on this matter is that we have a technical conversation with MKC technical folks to discuss what they would need to do to meet federal PCBs requirements and get them to commit to sending us a PCB remediation application within a short time frame.

If they agree with our proposed approach, we would confirm their commitment with a letter, share the PCB FACT tools, and works towards receiving an approvable application from MKC within the specified time frame.

If after the meeting, MKC does not commit to sending us an application, we would follow-up with a letter stating what category in the MOU we see this matter and outline the reasons they need to come to EPA with a PCB remediation application.

If this acceptable approach, John, could you contact MKC/counsel and confirm we can reach out to the appropriate technical persons at MKC and their consultants to restart the technical conversations.

Thanks
Mike

From: Steketee, John
Sent: Thursday, February 01, 2018 10:24 AM
To: Beedle, Michael <beedle.michael@epa.gov>; Harris, Michael <harris.michael@epa.gov>; Arrazola, Ignacio <arrazola.ignacio@epa.gov>
Cc: Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>; Cisneros, Jose <Cisneros.Jose@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Ignacio:

Please let me know if I may communicate our decision to counsel for MKC. Also, may I communicate that we are setting parameters on this pre-application process and, if so,
what those would be. Thank you.

-John

From: Beedle, Michael
Sent: Thursday, February 01, 2018 10:20 AM
To: Harris, Michael <harris.michael@epa.gov>; Arrazola, Ignacio <arrazola.ignacio@epa.gov>
Cc: Steketee, John <steketee.john@epa.gov>; Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>; Cisneros, Jose <Cisneros.Jose@epa.gov>
Subject: RE: MKC Update -- Call with Dave Crass, Counsel for MKC

Sounds good. We will plan on using the PCB Fast tools as appropriate on this matter. We are hopeful that we will able to move forward collaboratively on the project.
Thanks

From: Harris, Michael
Sent: Wednesday, January 31, 2018 8:04 PM
To: Arrazola, Ignacio <arrazola.ignacio@epa.gov>
Cc: Steketee, John <steketee.john@epa.gov>; Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Beedle, Michael <beedle.michael@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>
Subject: Re: MKC Update -- Call with Dave Crass, Counsel for MKC

Hi Ignacio,
Yes, this sounds similar to our RCRA FIRST approach. Unless there's some reason that I'm not aware of, I think we should consider this approach.

Michael D. Harris
Deputy Director
Land and Chemicals Division
U. S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604
(312) 886-0760

On Jan 31, 2018, at 6:01 PM, Arrazola, Ignacio <arrazola.ignacio@epa.gov> wrote:

Privileged/Deliberative/Enforcement Sensitive/FOIA Exempt

Thanks John. The concept of an upfront meeting to reach agreement on critical issues, including the overall strategy for cleanup, prior to the submission of an application is contemplated by EPA's PCB Facility Approval Streamlining Toolbox : https://www.epa.gov/pcbs/pcb-facility-approval-streamlining-toolbox-fast-streamlining-cleanup-approval-process

Is LCD interested in taking a PCB FAST approach here? It may be a way to put this matter on a more collaborative track with MKC

Sent from my iPhone

On Jan 31, 2018, at 2:07 PM, Steketee, John <steketee.john@epa.gov> wrote:

Privileged/Deliberative/Enforcement Sensitive/FOIA Exempt

Ignacio:

Here is a brief summary of my call today with counsel for MKC.

1. I notified counsel that the Regional Administrator has recused herself from the matter.

2. I passed on our position that EPA believes MKC has not met its burden to definitively demonstrate that all of the PCBs releases at the MKC site were pre-78, and, as a result, EPA may presume PCBs were illegally disposed of at the site and the Agency may require remediation under TSCA. At counsel's request I described our theory as to why we believes releases continued into the 1980s from the die-casting equipment at the site. We also, discussed the fact that, notwithstanding any pre-78 jurisdictional argument by MKC, EPA could also proceed under the legal theory that there have been, and possibly continue to be, uncontrolled releases (ongoing releases) of PCBs at or from the facility which pose an unreasonable risk of injury to human health and the environment, and should such a determination be made by the Regional Administrator, EPA could require remediation at the site under TSCA regardless of the date of the original release.

3. I relayed the fact that, due to #2 above, EPA believes MKC is required to apply for a TSCA PCB Approval at the site.

4. I briefly explained why the Agency believes the site is a Type A site (complex) under the WI OneCleanup MOA and EPA's concerns with groundwater contamination at the site.

5. I also described the Agency's various options going forward if MKC continued to take the position that EPA does not have jurisdiction under TSCA at the site.

[redacted]

[redacted]

-John

From: Steketee, John
Sent: Wednesday, January 24, 2018 3:45 PM
To: Arrazola, Ignacio <arrazola.ignacio@epa.gov>
Cc: Harris, Michael <harris.michael@epa.gov>; Mendoza, Stephen <mendoza.stephen@epa.gov>; Zolnierczyk, Kenneth <zolnierczyk.kenneth@epa.gov>; Ramanauskas, Peter <ramanauskas.peter@epa.gov>; Beedle, Michael <beedle.michael@epa.gov>; Petrovski, David <petrovski.david@epa.gov>; Star, David <star.david@epa.gov>; Klevs, Mardi <klevs.mardi@epa.gov>
Subject: MKC Update -- Call with Dave Crass, Counsel for MKC

Ignacio:

A quick update on my outreach to counsel for MKC after our meeting today. Dave Crass's secretary returned my call this afternoon and said Dave is unavailable this week to discuss the matter and suggested he and I speak about the matter next week. So we set up a call for next Wednesday, January 31, 2018. I'll update everyone on the status of the matter after that call. Thanks.

Sincerely,

John P. Steketee

John P. Steketee
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