Draft Access Agreement

Michael Overbay to: bob.costello, Chris Hill, john.satterfield 07/27/2012 03:41 PM

Cc: Stephen Hess, Susan Mravik, Doug Beak, Jeanne Briskin, "Florentino, Gene"

Hi Bob, Chris and John,

As we just discussed, here is the draft access agreement with edits from counsels representing EPA, CHK and E&E.

draft EPA Chesapeake access agreement July 27 12.docx

I had discussed the recent revisions with Chris Hill on Wednesday, July 18th, regarding the changes to the insurance language requirements. I am still waiting on E&E to get cost information so that I can go forward to EPA management to approve the additional insurance costs for liability and well control insurance. Also, based on our discussions today, CHK will make additional revisions to address the issue of allowing EPA continued access to the property should CHK no longer own the mineral interests in the future. Bob Costello will also send Steve Hess information relating to the title opinion he discussed. Since it seems that is something that we may be able to do in just a few days, I will wait to make sure that we are comfortable with our understanding of that issue before pushing forward for final OK. Hopefully, we can this all resolved next week.

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

ACCESS AGREEMENT

DRAFT DOCUMENT DRAFT DOCUMENT DRAFT DOCUMENT

Chesapeake ~~Energy Corporation~~ Operating, Inc. (~~"~~"CHK~~Owner~~"), pursuant to the Surface Damage Agreement and Release between CHK and the surface owners of the Northeast Quarter of Section15, Township 28 North, Range 11 West Alfalfa County, OKk (attached as Exhibit A) hereby ~~voluntarily consents to provide~~ authorize entry and access on the property in Alfalfa County, Oklahoma (as described in Exhibit B~~A~~, "Property") to the employees and authorized representatives, agents, consultants, contractors and subcontractors of the United States Environmental Protection Agency ("EPA") in order to implement a prospective case study of potential impacts of hydraulic fracturing on drinking water resources (hereinafter the "Project").

1. The following activities (hereinafter the "Work") -may be conducted on the Property by the EPA and its contractors and representatives, and are covered by this authorization:

- Staging equipment and supplies
- Installation and sampling of ground water monitoring wells
- Collection of environmental media samples (e.g., soil, surface water)
- Measurement of geophysical properties
- Related Activities

The activities conducted by EPA are undertaken as part of a national scientific study. EPA shall, in the exercise of the rights and privileges granted by this agreement, adhere to and comply with good engineering practices and all laws, ordinances, rules, regulations and orders applicable to EPA's activities, operations and work performed upon, or use of, the Property.

2. The Work shall be coordinated and approved in advance with ~~Owner~~CHK, and a CHK representative shall accompany the EPA at all times the EPA enters the Property. Therefore, EPA shall provide ~~Owner~~CHK a copy of the schedule for the Work ~~with a 72-hour~~ with -5 business days ~~[as per john Satterfield]~~notice prior to commencement.

Formatted: Highlight

The initial notice, any subsequent notices or communications shall be provided to:

~~Owner~~CHK's Representative: Chris Hill
(405)935-2321 (office)
(405)388-3907 (cell)
chris.hill@chk.com

EPA Representative: Michael Overbay
(214)665-6482 (office)
(469)964-0579 (cell)
overbay.michael@epa.gov

CHK does not intend, and EPA shall not be required to follow the provision in this paragraph ~~four (4)~~two (2) if and when it enters the Property in its official enforcement and inspection capacity.

3. ~~Owner~~CHK shall provide the Property to EPA in "as-is" condition. EPA has inspected the Property and is satisfied that it is fit for EPA's purpose. ~~Owner~~CHK shall not be responsible for repairing, maintaining or removing any alterations to or installations on the Property by EPA or its contractors.

4. EPA's access to the Property is non-exclusive. EPA shall access the Property and perform the Work at all times so as not to unreasonably interfere with the use of the Property by ~~Owner~~CHK or any owner, tenant, licensee or other occupant of the Property.

Formatted: Font: (Default) Times New Roman, 12 pt

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0.06"

5. Upon the completion of either of the activities included in the Work on the Property or upon the expiration of this Access Agreement, whichever shall earlier occur, EPA's contractors shall restore the portions of the Property disturbed by the Work to the same or substantially similar condition, based upon photographs to be taken by EPA's contractors prior to the commencement of the Work, as existed prior to the commencement of the Work. The foregoing will not apply to any wells and appurtenances required to be maintained by EPA on ~~Owner~~CHK's Property.

6. EPA's contractors and subcontractors shall provide the following insurance for the Work:

(a) Certificates of Insurance for EPA's prime contractor have been furnished to and accepted by ~~Owner~~CHK as evidence that such contractors maintain the following insurance coverage and the subcontractors certificate of insurance will be provided prior to entering the Property; and that CHK has been named as an "additional Insured" on all policies except Workers Compensation and that CHK is extended a waiver of subrogation on all those policies:

(i) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this Access Agreement is located. Also, Employers' Liability Insurance having limits of not less than $500,000 per accident, $500,000 per disease – policy limit, and $500,000 per disease – each employee.

(ii) Comprehensive General Liability Insurance having a limit of not less than $1,000,000 per occurrence for all loss, damage, cost, and expense, including attorney's fees, arising out of bodily injury, liability, and property damage liability during the policy period. Such insurance for the drilling subcontractor shall include, but not be limited to, coverage for regaining control of any well.

DRAFT

(iii) Automobile Liability Insurance having a combined single limit of not less than $1,000,000 million per occurrence.

(iv) Excess Liability Insurance having a limit of not less than $~~15~~10,000,000 per occurrence. The coverage provided under such insurance shall be at least as broad as the underlying policies.

(b) Said certificates should be forwarded to:

Chris Hill
(405)935-2321 (office)
(405)388-3907 (cell)
chris.hill@chk.com

~~*Name and address of Chesapeake contact to be inserted here.*~~

~~(c) EPA's Contractors shall be responsible for any acts or omissions of any sub-contractors. EPA's Contractors insurance, as required above, shall include coverage for the acts or omissions of any sub-contractors.~~

Formatted: Indent: Left: 0"

Formatted: Indent: Left: 0.5"

7. Nothing contained in this Access Agreement shall be deemed or construed to create the relationship of principal and agent, or a partnership, or any form of joint venture between the parties, it being understood and agreed that there is no relationship between the parties.

8. By giving consent, ~~Owner~~CHK does not waive or otherwise compromise its rights under federal, state or local law, nor under common law, with the exception of those rights waived in giving this consent.

9. This Access Agreement shall expire on December 31, 2015, unless earlier withdrawn, in

which case notice of such withdrawal shall be made at least 30 days in advance. The expiration date may be extended by mutual agreement, confirmed in writing, prior to the expiration date.

Formatted: Indent: Left: 0"

10. This Access Agreement constitutes the entire agreement between the parties as to the subject matter and there are no verbal or collateral understandings, agreements, representations or warranties not expressly set forth herein. This Access Agreement may not be changed or terminated orally but only by an instrument in writing signed by the party against whom enforcement is sought.

11. These terms, conditions, covenants, releases, provisions and undertakings shall be binding upon and inure to the benefit of the parties to this Access Agreement and their respective heirs, successors, representatives and assigns.

12. If any provision of this Access Agreement is held invalid under any applicable statute or rule of law, whether now existing or hereinafter passed or adopted, such invalidity shall not affect any other provision of this Access Agreement that can be given effect without the invalid provision, and, to this end, the provisions of this Access Agreement are declared to be severable. In such event, the particular provision held invalid shall be renegotiated and redrafted so as to comply with the particular statute or rule of law. In no event, however, shall this severability provision operate to as to alter in any material respect the basic understandings to the parties as to their respective obligations hereunder.

13. EPA, an agency of the federal government, shall be liable for claims, damages and injuries which may occur under this Access Agreement as provided in subsections a. and b. below:

a. The Federal Tort Claims Act (28 U.S.C. 2671, 2680) provides coverage for damage or loss of property, or personal injury or death, caused by the negligent or wrongful act or omission of an employee of EPA while acting within the scope of his or her employment, under circumstances where EPA, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

b. If an employee of EPA is injured while acting within the scope of his or her employment, government liability for that injury will generally be dictated by the provisions of the Federal Employees Compensation Act (5 U.S.C. 1801).

DRAFT

OWNER:

Chesapeake Energy Corporation

Signature

Date

Printed or Typed Name

Title

DRAFT

U.S. Environmental Protection Agency

_____ _____
Signature Date

Michael Overbay
Printed or Typed Name

EPA Co-Principal Investigator
Title

DRAFT

Fw: Chesapeake's insurance reply

Stephen Hess to: Stephen Hess 05/07/2013 04:30 PM

----- Forwarded by Stephen Hess/DC/USEPA/US on 05/07/2013 04:30 PM -----

From:	Michael Overbay/R6/USEPA/US
To:	Jeanne Briskin/DC/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA
Cc:	Doug Beak/ADA/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA
Date:	07/17/2012 08:12 AM
Subject:	Chesapeake's insurance reply

I just opened this and haven't read it yet, but figured Steve would need to see it, so I'm sending it on.

Mike

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

----- Forwarded by Michael Overbay/R6/USEPA/US on 07/17/2012 07:09 AM -----

From:	"Chris Hill (Regulatory)" <chris.hill@chk.com>
To:	Michael Overbay/R6/USEPA/US@EPA
Cc:	David Jewett/ADA/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA, John Satterfield <john.satterfield@chk.com>
Date:	07/16/2012 10:57 PM
Subject:	RE: Insurance information

Mike,

Please see CHK's comments regarding EPA's proposed agreement attached. The embedded revisions address all concerns regarding the subcontractor issue. Once EPA has accepted all changes to the agreement, signed the document and provided CHK a new E&E certificate of insurance aligned with the agreement, CHK will consider the contractor liability issues adequately addressed to proceed with field activities. I would be more than happy to setup a conference call in the near future, if there are any issues with the revised agreement that we need to work through.

I have attached a copy of the CHK/Landowner access agreement for your information.

Please let me know if you have any questions or comments, or if there is anything else we can do to help. We look forward to proceeding with the Mississippi Lime prospective study.

Thank you,
Chris Hill
Environmental Engineer
Chesapeake Energy Corporation

Office: (405) 935-2321
Mobile: (405) 388-3907
Fax: (405) 849-2321
E-mail: Chris.Hill@chk.com

From: John Satterfield
Sent: Thursday, July 12, 2012 3:37 PM
To: 'Michael Overbay'
Cc: Chris Hill (Regulatory); 'Jeanne Briskin'; 'Ramona Trovato'; 'Bob Sussman'; 'Stephen Hess'; 'Lek Kadeli'; 'Steve Pressman'; 'David Jewett'; 'Doug Beak'; 'Susan Mravik'
Subject: RE: Insurance information

Thanks! Will run to ground and get back with you as soon as I can.

From: Michael Overbay [mailto:Overbay.Michael@epamail.epa.gov]
Sent: Thursday, July 12, 2012 3:35 PM
To: John Satterfield
Cc: Chris Hill (Regulatory); Jeanne Briskin; Ramona Trovato; Bob Sussman; Stephen Hess; Lek Kadeli; Steve Pressman; David Jewett; Doug Beak; Susan Mravik
Subject: Insurance information

Hello John,

I am happy to finally be able to provide you information about the insurance requirements contained in the EPA contract with our prime contractor for this project, Ecology and Environment (E&E). Attached is a certificate of insurance showing E&E's existing policies, with coverage up to $15 million. The policies will be carried forward under our existing contract with E&E. If the coverage is sufficient, Chesapeake will be added as an additional insured for the liability coverage.

Per Stephanie's E-mail message June 27th, it appears you will not need insurance information about the drilling subcontractor in order to move forward. I am hoping the above information will be adequate to allow Chesapeake to resolve their concerns about liabilities issues.

Once you have had a chance to share this information and discuss it internally, I would appreciate receiving an E-mail with your confirmation that the liability/indemnification issue is resolved. Also, we would like to receive a copy of the access agreement with the landowner to confirm that we have access to conduct our EPA activities through your agreement. As you know, we would like to make sure all the paperwork is agreed to so that we can move ahead with this project.

Please feel free for either you or Chris Hill to call me if you have any questions.

Best regards,

Mike

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6

(214)665-6482
(214)665-2191 (FAX)

This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any). Draft Access Agreement with Chesapeake v1 by MO CBH2.docx Scanned Document.pdf E and E insurance certificate.pdf

Re: Chesapeake agreement final version
Stephen Hess to: Michael Overbay 09/26/2012 03:21 PM

Mike - Everything looks good. The only thing I noticed was the missing word "is" is paragraph 4. Thanks. Steve.

4. EPA's access to the Property is non-exclusive. EPA shall access the Property and perform the Work at all times so as not to unreasonably interfere with the use of the Property by CHK or any owner, tenant, licensee or other occupant of the Property. The Surface Agreement, recorded at Book 693, Page 298 of the records of the County Clerk, Alfalfa County, Oklahoma [is] intended to and shall constitute a covenant running with the Property for the term hereof.

Stephen Hess
U.S. EPA, Office of General Counsel
1200 Pennsylvania Avenue, N.W.
Room 7426 C, Mail Code 2399A
Washington, D.C. 20460
Phone: 202-564-5461

Michael Overbay Hi Steve, I think I have made the final changes a... 09/25/2012 10:52:03 AM

From: Michael Overbay/R6/USEPA/US
To: Stephen Hess/DC/USEPA/US@EPA
Date: 09/25/2012 10:52 AM
Subject: Chesapeake agreement final version

Hi Steve,

I think I have made the final changes and here is the access agreement and the two insurance exhibits (C & D). Exhibits A (CHK's agreement with the surface owner) and B (property description) will need to be provided by CHK.

Exhibit D Professional Services subcontrator requirements 09-25-12 FINAL.docx

EPA Chesapeake access agr-clean 9-25-12 FINAL.DOCX Exhibit C Drilling Subcontractor requirements 09-25-12 FINAL.docx

I made slight changes to the access agreement in that:

1. I expanded the title
2. I changed section 6 to refer to "professional services subcontractors" rather than "all other subcontractors," because this is consistent with the language used in Exhibit D, which CHK had approved.
3. I added a section 14 to list the exhibits to the agreement.

I made no changes to Exhibits C and D other than to label them C and D and accept all changes.

Please let me know if I can send them to everyone as soon as you have read them.

Go Rangers!

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

RE: Access agreement insurance requirements

Stephen Hess to: Michael Overbay 09/07/2012 12:10 PM
Bcc: Richard Feldman, Steve Pressman

Mike - Attached for the call are a revised Section 6 of the Access Agreement and the exhibits prepared by E&E, with descriptive headings added. Please feel free to send them to CHK after you review them. Thanks. Steve.

CHK Access section 6 draft 9-7.docx

CHK Exhibit driller_ccmwrev.doc

CHK -EXHIBIT prof serv_ccmwrev.doc

Stephen Hess
U.S. EPA, Office of General Counsel
1200 Pennsylvania Avenue, N.W.
Room 7426 C, Mail Code 2399A
Washington, D.C. 20460
Phone: 202-564-5461

Michael Overbay Thanks Chris. 1:30 pm Central (2:30 pm Easter... 09/07/2012 08:55:01 AM

From: Michael Overbay/R6/USEPA/US
To: "Chris Hill (Regulatory)" <chris.hill@chk.com>
Cc: John Satterfield <john.satterfield@chk.com>, Stephen Hess/DC/USEPA/US@EPA
Date: 09/07/2012 08:55 AM
Subject: RE: Access agreement insurance requirements

Thanks Chris.

1:30 pm Central (2:30 pm Eastern). We can use my conference line at (866)299-3188, code 214 665 6482#.

Mike

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

"Chris Hill (Regulatory)" Mike, We can definitely meet today at 1:30... 09/07/2012 07:49:34 AM

From: "Chris Hill (Regulatory)" <chris.hill@chk.com>
To: Michael Overbay/R6/USEPA/US@EPA
Cc: John Satterfield <john.satterfield@chk.com>
Date: 09/07/2012 07:49 AM
Subject: RE: Access agreement insurance requirements

Mike,

We can definitely meet today at 1:30 pm. I look forward to our discussion.

Thanks,
Chris

From: Michael Overbay [mailto:Overbay.Michael@epamail.epa.gov]
Sent: Thursday, September 06, 2012 1:34 PM
To: Chris Hill (Regulatory)
Cc: John Satterfield
Subject: RE: Access agreement insurance requirements

Hi Chris,

We have been working on trying to accommodate the insurance requirements and have a proposal we would like to discuss with you on Friday. Could we do a call at 1:30 pm tomorrow? It will just be me and an attorney from our Office of General Counsel, Stephen Hess. Invite John or whomever you feel appropriate from CHK.

We can use my conference line at (866)299-3188, code 214 665 6482#.

Mike

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

From: "Chris Hill (Regulatory)" <chris.hill@chk.com>
To: Michael Overbay/R6/USEPA/US@EPA
Cc: John Satterfield <john.satterfield@chk.com>
Date: 09/05/2012 08:37 AM
Subject: RE: Access agreement insurance requirements

Mike,

I hope you had a wonderful Labor Day weekend!

Would it be beneficial to schedule a conference call in the near future to discuss the remaining access agreement

issues?

Thank you,

Chris Hill
Environmental Engineer
Chesapeake Energy Corporation
Office: (405) 935-2321
Mobile: (405) 388-3907
Fax: (405) 849-2321
E-mail: Chris.Hill@chk.com

Chesapeake ENERGY | DECLARE YOUR ENERGY INDEPENDENCE Click here ▸

From: Chris Hill (Regulatory)
Sent: Thursday, August 30, 2012 5:29 PM
To: 'Michael Overbay'; John Satterfield
Cc: 'David Jewett'; 'Doug Beak'; 'Susan Mravik'; 'Florentino, Gene'; 'Lukert'; 'George'; 'George'; 'Jeanne Briskin'; 'Stephen_Hess/DC/USEPA/US@EPA.epa.gov'
Subject: RE: Access agreement insurance requirements

Hello Mike,

I have attached a revised version of the agreement with the below comments incorporated, and would appreciate an opportunity to have a conference call early next week to discuss these comments/revisions.

Section 6.(a)
It is unfortunate to hear that some of your subcontractors do not want to provide the requested insurance certificates of coverage with CHK named as ***additional insured*** (not *insured* as stated below) and a waiver of subrogation. We understand that these contracts may be small in comparison to the prime contractor and drill, however, liabilities are not necessarily correlated to the size of a particular contract. Therefore, CHK cannot remove this reasonable requirement from the agreement. However, CHK is willing to minimize the burden on your subcontractors by expend internal resources to assist your sub-contractors in obtaining this documentation from their respective insurance agencies. Based on conversation with our insurance experts, this would take a simple phone call, therefore, all CHK would need is the name and phone number of the subcontractors and their insurance companies.

Section 6.(a)(ii)
Based on your email and our internal insurance experts, we believe the issue surrounding Section 6.(a)(ii), which says, "Such insurance shall include coverage for underground resource damage including but not limited to damage to any wellbore," may be a simple misunderstanding. We have revised the language to provide clarification regarding CHK intentions; "Such insurance shall not exclude coverage for underground property damage." CHK does not believe it is unreasonable for a water well drilling contractor to have this type of coverage due to the inherent risk of property damage (e.g., pipelines, underground cables) associate with this type of work. Simply confirming this type of coverage is not excluded from the Liability Policies could easily resolve this issue.

I look forward to our discussion next week. Have a wonderful and safe Labor Day weekend!

Thank you,

Chris Hill
Environmental Engineer
Chesapeake Energy Corporation
Office: (405) 935-2321
Mobile: (405) 388-3907
Fax: (405) 849-2321
E-mail: Chris.Hill@chk.com

Chesapeake ENERGY | DECLARE YOUR ENERGY INDEPENDENCE Click here ▸

From: Michael Overbay [mailto:Overbay.Michael@epamail.epa.gov]
Sent: Wednesday, August 22, 2012 4:23 PM
To: John Satterfield
Cc: Chris Hill (Regulatory); David Jewett; Doug Beak; Susan Mravik; Florentino, Gene; Lukert; George; George; Jeanne Briskin; Stephen Hess/DC/USEPA/US@EPA.epa.gov
Subject: Access agreement insurance requirements

Hello John,

I spoke with Chris a little while ago and relayed this information to him, but wanted to follow up on it with an email to you.

I and Stephen Hess, of our Office of General Counsel in D.C., have been working with our contractors to try and accommodate Chesapeake's requests for insurance coverage which were added to the access agreement by Chris's submittal on August 10th. We have yet to find a way to comply with the language Chesapeake has requested be included in the Access Agreement in Section 6.(a)(ii), which says, "Such insurance shall include coverage for underground resource damage including but not limited to damage to any wellbore."

As of today (and I just confirmed this with our prime contractors after speaking with Chris this afternoon) the feedback I have is that this type of insurance is typically associated with oil and gas operations, and since our contractors and drilling sub will not be the owner of the gas well, they have yet to find a source for this type of insurance. This means that as of now, we have no ability to provide this coverage, regardless of the cost. Also, the feedback from the subs is that they have never had to purchase this type of insurance before for any other projects.

EPA's belief is that there is not a significant risk of this type of damage occurring. We have already agreed that *if* we need to use directionally drilled wells under the pad we will adhere to the 30' setback from the well, and we anticipate we will be using technology which has a 3' accuracy, making any damage to the wellbore and resulting underground resource damages extremely unlikely. It was my understanding from the conversation with Paul at the meeting in D.C a few weeks ago that he also agreed that there was little or no risk of this type of damage, and he agreed to drop the insurance requirements related to damages to the wellbore and regaining control of the well during a blowout. Chris told me today he only referred to the wellbore blowout issue, but that was not how we perceived his intent.

Regardless, because of the extremely low risk of damages and our inability to secure this type of insurance, we would like to remove this requirement in Section 6.(a)(ii) from the agreement.

Another aspect of the agreement that is problematic is the addition of new language to section 6.(a), which would require all of EPA's subcontractors to provide the requested insurance certificates of coverage with Chesapeake as a named insured and with a waiver of subrogation. Our intent was to do so for EPA' prime contractor and the drilling subcontractor, but we did not anticipate providing this for other subcontractors, such as the surveyor and geophysical logging company. These contracts are much smaller in value than the drilling contract, and I have been told by my contractors that there is a reluctance on the part of the subs to modify their insurance documents for such limited efforts. As you know, due to the booming oil business in this area, these subs have no shortage of work. However, we are willing to provide the requested insurance certificates showing they have the worker's compensation, general liability, and automotive liability insurance.

Please let me know what your thoughts are on these issues. Once these insurance issues are resolved, we will proceed with securing the subcontractors for the drilling, surveying and geophysical logging.

In the meantime, we are continuing to move forward with the preparation and internal review of the Phase I QAPP, and we expect to be able to provide it to Chesapeake, the Oklahoma Conservation Commission (Tim Baker) and the Oklahoma Water Resources Board (Kent Wilkins) for review on or about September 10 for a one week review.

Best regards,

Mike

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).

This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).

Re: Fw: Chesapeake Case Study

Stephen Hess to: Michael Overbay 08/02/2012 11:30 AM

Cc: Bob Sussman, Fred Hauchman, Jeanne Briskin, Lek Kadeli, Mary Hanley, Ramona Trovato, Cynthia Sonich-Mullin, Ralph Ludwig, David Jewett, Wren Stenger, William Honker, Layla Mansuri, Doug

Mike - As we discussed, the continuity of operations will be based on a recent agreement between CHK and the owner of the **surface rights** to the property. This Surface Damage Agreement provides that when the CHK well is "capable of commercial production," EPA will have access to the property and the right to maintain our monitoring wells for a period of two years.

CHK has a lease with the owners of the **oil and gas rights** to the property. If that lease is transferred, EPA would not have rights under the lease, however, we would argue that our right to maintain the EPA wells is separate from the mineral rights. A new owner of the lease would have bring legal action against EPA if that new leasehold owner wanted to force EPA to remove its wells. We would argue that EPA's wells do not interfere with the oil and gas drilling rights under the lease.

Bob Costello is going to call me today to finalize the language in the Access Agreement. Please let me know if there are any questions. Steve.

Stephen Hess
U.S. EPA, Office of General Counsel
1200 Pennsylvania Avenue, N.W.
Room 7426 C, Mail Code 2399A
Washington, D.C. 20460
Phone: 202-564-5461

Michael Overbay Hi Bob, Good news! We have reached agreeme... 08/02/2012 11:02:27 AM

From: Michael Overbay/R6/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Fred Hauchman/DC/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, Lek Kadeli/DC/USEPA/US@EPA, Mary Hanley/DC/USEPA/US@EPA, Ramona Trovato/DC/USEPA/US@EPA, Cynthia Sonich-Mullin/CI/USEPA/US@EPA, Ralph Ludwig/ADA/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA, Wren Stenger/R6/USEPA/US@EPA, William Honker/R6/USEPA/US@EPA, Layla Mansuri/R6/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA
Date: 08/02/2012 11:02 AM
Subject: Re: Fw: Meeting tomorrow.

Hi Bob,

Good news! We have reached agreement on moving forward with the prospective case study in northern Oklahoma. Paul Hagemeier said that before Tuesday, he had never been told of Chesapeake's requirement for the well control insurance they were asking us to get through the drilling subcontractor. He felt there was no possible way a water well drilling rig could cause a loss of well control, so he committed that they would drop that issue and send us confirmation in writing (which I haven't got yet, but will check on today).

Their requirement for liability insurance in the amount of $10 million to be carried by both the prime and subcontractors for EPA is being addressed. The prime will amend their insurance certificate to name Chesapeake as an additional insured, and will require the same from the sub when they bid the drilling work. The access agreement is in final revisions with Steve Hess of OGC talking to Chesapeake's counsel, Bob Costello, today. This will add about $20K in costs to the project, but I assume at this point that is not a problem.

Steve Hess and Bob Costello are also working on revising the access agreement to address the continuity of access to the site should Chesapeake sell the site, or be taken over by another company. Steve told me yesterday that it is 99% there, and he expects to finalize the language today or tomorrow. While this may not be absolutely binding, both sides felt it was the best that can be done under the circumstances.

Having resolved the insurance and access issues, we had a scoping meeting with our prime contractor (Ecology and Environment, or E&E) immediately following the Chesapeake meeting on Tuesday, and have already directed them to move forward with preparing the revised QAPP for characterizing the site and securing the drilling subcontractor. They also have been directed to complete the insurance certificate changes and provide that to us ASAP.

Regards,

Mike

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

Bob Sussman | Mike -- sorry i had to leave yesterday's Chesape... | 08/01/2012 05:04:58 PM

From: Bob Sussman/DC/USEPA/US
To: Michael Overbay/R6/USEPA/US@EPA
Cc: Fred Hauchman/DC/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, Lek Kadeli/DC/USEPA/US@EPA, Mary Hanley/DC/USEPA/US@EPA, Ramona Trovato/DC/USEPA/US@EPA, Cynthia Sonich-Mullin/CI/USEPA/US@EPA, Ralph Ludwig/ADA/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA, Wren Stenger/R6/USEPA/US@EPA, William Honker/R6/USEPA/US@EPA, Sam Coleman/R6/USEPA/US@EPA, Layla Mansuri/R6/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA
Date: 08/01/2012 05:04 PM
Subject: Re: Fw: Meeting tomorrow.

Mike -- sorry i had to leave yesterday's Chesapeake meeting before we discussed these issues. Was there any resolution during the discussion?

Rereading your e-mail, it would seem desirable to avoid the 25K cost for well control insurance. Is Chesapeake prepared to back off on this demand?

I do believe we should get stronger continuity of access language in the access agreement, recognizing that it may not fully protective our interests if a new owner is uncooperative.

Assuming we can reach closure on the various open items, senior management here is ready to go ahead with the Chesapeake case study. How much longer do we need to get to the finish line.

Robert M. Sussman

Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

Michael Overbay Hi Bob, I spoke with Jeanne this afternoon, and s... 07/30/2012 04:35:09 PM

From: Michael Overbay/R6/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: Fred Hauchman/DC/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, Lek Kadeli/DC/USEPA/US@EPA, Mary Hanley/DC/USEPA/US@EPA, Ramona Trovato/DC/USEPA/US@EPA, Cynthia Sonich-Mullin/CI/USEPA/US@EPA, Ralph Ludwig/ADA/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA, Wren Stenger/R6/USEPA/US@EPA, William Honker/R6/USEPA/US@EPA, Sam Coleman/R6/USEPA/US@EPA, Layla Mansuri/R6/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA, Mary Hanley/DC/USEPA/US@EPA
Date: 07/30/2012 04:35 PM
Subject: Re: Fw: Meeting tomorrow.

Hi Bob,

I spoke with Jeanne this afternoon, and she asked me to send you some bullets updating you on the prospective case study with Chesapeake.

- Liability insurance seems very close to an agreement. Our prime contractor has the necessary insurance in place, but will have to get their policy modified to list CHK as an "additional insured" and to provide the requested subrogation language. Our prime contractor said this is not a problem and can be done in a few weeks once we resolve to move forward.
  - The request for proposals for the drilling subcontractor will have to include a spec that they get $10 million in liability insurance. They can do that, but it will cost us $20-25K.
- The CHK request for well control insurance is unresolved. CHK had estimated that our drilling subcontractor could purchase this insurance for $3K + tax. Our prime contractor informed me today it is not normally sold to anyone but the well owner, and that IF we can get the sub to purchase it, it is likely to cost us $25K. I have sent an email to John Satterfield today asking them if the well control insurance is a "must have" for them. No reply as of yet.
- Total additional cost to the project for insurance: $45-50K
- A draft access agreement has been shared and revised several times. Last Friday afternoon I sent them the latest version, which included language that says we will require our drilling subcontractor to provide both $10 million in liability insurance and the well control insurance, subject to approval by EPA management. (That was before the $25K quote). If you agree to spend the insurance money, and if the sub can actually purchase well control insurance, it seems pretty close to agreement.
- On the subject of continuity of access should CHK sell this property or itself be taken over by another company, Steve Hess, Susan Mravik and I had a call with John Satterfield and Bob Costello (CHK's senior counsel) on Friday afternoon. They are willing to add language to the access agreement to document the intent, but I think we all left the call with the understanding that this cannot be guaranteed in any useful way (meaning a new owner might be able to tie us up in court beyond when the site would be useful to the study).
- You had asked me to check with our other interested company about were they still interested in participating in a prospective case study should we decide to do that. The answer is yes. I feel we can get a list of proposed sites from them within 3-4 weeks and begin scoping meetings at the end of August if that were the decision.

I will be in Ada tomorrow and will call in from there.

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6

(214)665-6482
(214)665-2191 (FAX)

Bob Sussman I wanted to make sure we're ready for tomorrow'... 07/30/2012 01:05:48 PM

From: Bob Sussman/DC/USEPA/US
To: Jeanne Briskin/DC/USEPA/US@EPA, Ramona Trovato/DC/USEPA/US@EPA, Lek Kadeli/DC/USEPA/US@EPA, Fred Hauchman/DC/USEPA/US@EPA, Michael Overbay/R6/USEPA/US@EPA
Cc: Mary Hanley/DC/USEPA/US@EPA
Date: 07/30/2012 01:05 PM
Subject: Fw: Meeting tomorrow.

I wanted to make sure we're ready for tomorrow's meeting with Chesapeake. Paul wants to focus on the studies that Chesapeake has conducted of the two Pennsylvania sites (Which include a retrospective case study site). Ibelieve we previously received reports of these studies and Paul will presume some familiarity with the issues.

He will also want to know where we are in resolving the access and indemnification issues for the prospective case studies. I haven't heard anything more about the open issues and would appreciate an update before tomorrow's meeting.

If there's anyone else who should be invited to tomorrow's meeting, please work with Mary and Don to make sure they get an invite.

Thanks.

Robert M. Sussman
Senior Policy Counsel to the Administrator
Office of the Administrator
US Environmental Protection Agency

----- Forwarded by Bob Sussman/DC/USEPA/US on 07/30/2012 02:00 PM -----

From: Paul Hagemeier <paul.hagemeier@chk.com>
To: Bob Sussman/DC/USEPA/US@EPA
Cc: John Satterfield <john.satterfield@chk.com>, Donald Maddox/DC/USEPA/US@EPA
Date: 07/30/2012 10:54 AM
Subject: Meeting tomorrow.

Bob – wanted to get a quick read on your agenda for tomorrow's meeting.

We are currently planning to answer questions on methodology and findings from these two studies. We plan to answer questions at a fairly high level, but wanted to find out what depth you or your team might want to get into. They have had these reports for some time, so they may have questions that we can cover.

I believe that we have covered the access and contract issues, but would be happy to address that or any other issues you care to discuss.

Thank you,

Paul Hagemeier
Vice President - Regulatory Compliance
Chesapeake Energy Corporation
Office: (405) 935-4014
Fax: (405) 849-4014
E-mail: paul.hagemeier@chk.com

DECLARE YOUR ENERGY INDEPENDENCE!

chk.com/independence

See the plan. Spread the word.

This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).

Fw: Final draft access agreement - 9-25 Version w/ Additional Contractor Details
Stephen Hess
to:
Pooja Parikh, Carrie Wehling, Jeanne Briskin, Avi Garbow
01/23/2013 05:12 PM
Hide Details
From: Stephen Hess/DC/USEPA/US
To: Pooja Parikh/DC/USEPA/US@EPA, Carrie Wehling/DC/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, Avi Garbow/DC/USEPA/US@EPA,
3 Attachments

Exhibit D Professional Services subcontrator requirements 09-25-12 FINAL.docx EPA Chesapeake access agr-clean 9-25-12 FINAL.DOCX

Exhibit C Drilling Subcontractor requirements 09-25-12 FINAL.docx

This should be the latest version of the Chesapeake agreement.
Steve.

-----Forwarded by Stephen Hess/DC/USEPA/US on 01/23/2013 05:05PM -----

To: Chris Hill <chris.hill@chk.com>, john.satterfield@chk.com
From: Michael Overbay/R6/USEPA/US
Date: 09/27/2012 09:59AM
Cc: Susan Mravik/ADA/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA, Jeanne Briskin/DC/USEPA/US@EPA, William Honker/R6/USEPA/US@EPA, Wren Stenger/R6/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA, Steven Acree/ADA/USEPA/US@EPA, Randall Ross/ADA/USEPA/US@EPA
Subject: Final draft access agreement

Hi Chris and John,

I have made what I hope are the final changes to the access agreement and cleared them with OGC. The access agreement and the two insurance exhibits (C & D) are attached for your final approval. Exhibits A (CHK's agreement with the surface owner) and

B (property description) to the agreement will need to be provided by CHK.

(See attached file: Exhibit D Professional Services subcontrator requirements 09-25-12 FINAL.docx)(See attached file: EPA Chesapeake access agr-clean 9-25-12 FINAL.DOCX)(See attached file: Exhibit C Drilling Subcontractor requirements 09-25-12 FINAL.docx)

I made slight changes to the access agreement in that:

1. I expanded the title
2. I changed section 6 to refer to "professional services subcontractors" rather than "all other subcontractors," to be consistent with the language used in Exhibit D, which CHK had approved.
3. I added a section 14 to list the exhibits to the agreement.

I made no changes to Exhibits C and D other than to label them C and D and accept all changes.

If you are comfortable with the agreement and the insurance information for our prime contractor (Ecology and Environment) that I provided by my E-mail on September 12, 2012, please add exhibits A and B and send it back to me; then we will get it into the signing process.

Michael Overbay, P.G.
Regional Ground Water Center Coordinator
U.S. Environmental Protection Agency - Region 6
(214)665-6482
(214)665-2191 (FAX)

EXHIBIT D

INSURANCE REQUIREMENTS – Professional Services Subcontractors

It is expressly understood and agreed that before work is actually commenced, Subcontractor and Sub-subcontractor, if any shall subscribe for and maintain in full force and effect during the progress of the work, the following minimum insurance coverage:

1. Worker's Compensation and Employer's Liability insurance coverage as required in the State in which work is being done. Employers Liability: $1,000,000 per accident, $500,000 per disease – policy limit, and $500,000 per disease – each employee. The policy should include United States Long Shore and Harbor Workers Compensation Act Coverage (USL&H) if work is on, in or near navigable waterway(s).

2. Commercial General Liability insurance covering bodily injury and broad form property damage in an amount of not less than $1,000,000 per occurrence and a $2,000,000 aggregate combined single limit. Coverage form to be CG0001 or CG0002. The policy shall contain the following coverage:
   a. Premises Operations
   b. Products & Completed Operations
   c. Contractual Liability coverage in accordance with ISO policy form CG0001. Modifications to the standard provision will not be acceptable if they serve to reduce coverage.
   d. Cross liability/severability of interest.
   e. Personal Injury.
   f. Independent Contractors.
   g. Aggregate limit shall apply per project.
   h. No XCE (explosion, collapse, underground) exclusion.
   i. The policy shall not contain any provision or definition that would serve to eliminate third party action over claims.
   j. For work within 50 feet of a railroad CG2417 shall apply.
   k. Such insurance shall not exclude coverage for underground property damage.

3. Comprehensive Automobile Liability insurance extending to owned and non-owned and hired automobile (Symbol 1) in an amount of not less than $1,000,000 per occurrence Bodily Injury & Property Damage Combined Single Limit. Coverage form to be CA0001. If hazardous materials or waste are to be transported, the policy shall contain an MCS90 endorsement and a CA9948 endorsement.

4. Professional Liability insurance in an amount of not less than $1,000,000 per occurrence.

5. Excess Liability Insurance having a limit of not less than $1,000,000 per occurrence. The coverage provided under such insurance shall be at least as broad as the underlying policies.

Other insurance provisions:

1. General Liability, Automobile Liability, and Excess Liability shall specify Ecology and Environment, Inc. and Chesapeake Operating, Inc. as additional insured. Additional insured endorsements must also be provided. Additional Insured coverage on the General Liability shall include products & completed operations coverage.

2. All policies shall provide Ecology and Environment, Inc. and Chesapeake Operating, Inc. with a waiver of subrogation.

3. All policies shall require thirty (30) days prior notice of non-renewal or cancellation of coverage by either party to Ecology and Environment, Inc. and Chesapeake Operating, Inc.

4. Deductibles and Self-Insured Retentions – Any deductibles or self-insured retentions must be declared to and approved by Ecology and Environment, Inc. and Chesapeake Operating, Inc. Any self-insured retention or deductible amount on the policy shall not reduce the amount of collectible limits of liability.

5. For claims related to this project, the subcontractor's insurance coverage shall be primary insurance as respects Ecology and Environment, Inc. and Chesapeake Operating, Inc. and their subsidiaries, officials and employees. Any insurance or self-insurance maintained by Ecology and Environment, Inc. and Chesapeake Operating, Inc. andtheir subsidiaries, officials and employees shall be excess of the subcontractor's insurance and shall not contribute with it.

6. The Subcontractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7. **If any of the aforementioned insurance policies are written on a claims made basis, the Subcontractor warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time the work under this contract is completed.**

8. Excess Coverage in the form of an Umbrella policy may be used to meet the required limits. Such coverage must be at least as broad as the primary coverage. Any excess umbrella layers must be written on a strict following form basis over the primary umbrella. If the Umbrella does not extend over any of the required coverage, the certificate must note the exclusion.

Certificates shall be forwarded to:

Gayle Kroetsch
Ecology and Environment, Inc.
368 Pleasant View Dr.
Lancaster, NY 14086
Phone: 716-684-8060
Fax: 716-684-2771
Email: gkroetsch@ene.com

Chris Hill
Chesapeake Operating, Inc.
6100 N Western Avenue
Oklahoma City, OK 73118
Phone: 405-935-2321
Fax: 405-849-2321
Email: chris.hill@chk.com

ACCESS AGREEMENT
BETWEEN EPA AND CHESAPEAKE OPERATING, INC
HYDRAULIC FRACTURING PROSPECTIVE CASE STUDY
IN ALFALFA COUNTY, OKLAHOMA

Chesapeake Operating, Inc. ("CHK"), pursuant to the Surface Damage Agreement and Release between CHK and the surface owners of the Northeast Quarter of Section 15, Township 28 North, Range 11 West Alfalfa County, OK (attached as Exhibit A, the "Surface Agreement") and pursuant to the necessary rights and privileges arising from CHK's ownership interest in the oil and gas leasehold estate, hereby authorizes entry and access on the property in Alfalfa County, Oklahoma (as described in Exhibit B, "Property") to the employees and authorized representatives, agents, consultants, contractors and subcontractors of the United States Environmental Protection Agency ("EPA") in order to implement a prospective case study of potential impacts of hydraulic fracturing on drinking water resources (hereinafter the "Project").

1. The following activities (hereinafter the "Work") may be conducted on the Property by the EPA and its contractors and representatives, and are covered by this authorization:

    - Staging equipment and supplies
    - Installation and sampling of ground water monitoring wells
    - Collection of environmental media samples (e.g., soil, surface water)
    - Measurement of geophysical properties
    - Related Activities

The activities conducted by EPA are undertaken as part of a national scientific study. EPA shall, in the exercise of the rights and privileges granted by this agreement, adhere to and comply with good engineering practices and all laws, ordinances, rules, regulations and orders applicable to EPA's activities, operations and work performed upon, or use of, the Property.

2. The Work shall be coordinated and approved in advance with CHK, and a CHK representative shall accompany the EPA at all times the EPA enters the Property. Therefore, EPA shall provide CHK a copy of the schedule for the Work with 5 business days notice prior to commencement.

The initial notice, any subsequent notices or communications shall be provided to:

CHK's Representative:	Chris Hill (405)935-2321 (office) (405)388-3907 (cell) chris.hill@chk.com
EPA Representative:	Michael Overbay (214)665-6482 (office) (469)964-0579 (cell) overbay.michael@epa.gov

CHK does not intend, and EPA shall not be required to follow the provision in this paragraph two (2) if and when it enters the Property in its official enforcement and inspection capacity.

3. CHK shall provide the Property to EPA in "as-is" condition. EPA has inspected the Property and is satisfied that it is fit for EPA's purpose. CHK shall not be responsible for repairing, maintaining or removing any alterations to or installations on the Property by EPA or its contractors.

4. EPA's access to the Property is non-exclusive. EPA shall access the Property and perform the Work at all times so as not to unreasonably interfere with the use of the Property by CHK or any owner, tenant, licensee or other occupant of the Property. The Surface Agreement, recorded at Book 693, Page 298 of the records of the County Clerk, Alfalfa County, Oklahoma intended to and shall constitute a covenant running with the Property for the term hereof.

5. Upon the completion of either of the activities included in the Work on the Property or upon the expiration of this Access Agreement, whichever shall earlier occur, EPA's contractors shall restore the portions of the Property disturbed by the Work to the same or substantially similar condition, based upon photographs to be taken by EPA's contractors prior to the commencement of the Work, as existed prior to the commencement of the Work. The foregoing will not apply to any wells and appurtenances required to be maintained by EPA on the Property.

6. EPA's contractors shall provide the following insurance for the Work:

(a) Certificates of Insurance for EPA's prime contractor, Ecology and Environment, have been furnished to and accepted by CHK as evidence that such contractor maintains adequate insurance coverage. The drilling subcontractor will be required to maintain the insurance coverage described in Exhibit C. All other professional services subcontractors will be required to maintain the insurance coverage described in Exhibit D. Prior to entering the Property the subcontractors must submit to CHK certificates of insurance showing that the subcontractor has the proper insurance coverage, as described above, and that CHK has been named as an "additional Insured" on all policies except Workers Compensation and Professional Liability where applicable, and that CHK is extended a waiver of subrogation on all those policies.

(b) Said certificates should be forwarded to:

Chris Hill
(405)935-2321 (office)
(405)388-3907 (cell)
chris.hill@chk.com

7. Nothing contained in this Access Agreement shall be deemed or construed to create the relationship of principal and agent, or a partnership, or any form of joint venture between the parties, it being understood and agreed that there is no relationship between the parties.

8. By giving consent, CHK does not waive or otherwise compromise its rights under federal, state or local law, nor under common law, with the exception of those rights waived in giving this consent.

9. This Access Agreement shall expire on December 31, 2015, unless earlier withdrawn, in which case notice of such withdrawal shall be made at least 30 days in advance. The expiration date may be extended by mutual agreement, confirmed in writing, prior to the expiration date.

10. This Access Agreement constitutes the entire agreement between the parties as to the subject matter and there are no verbal or collateral understandings, agreements, representations or warranties not expressly set forth herein. This Access Agreement may not be changed or terminated orally but only by an instrument in writing signed by the party against whom enforcement is sought.

11. These terms, conditions, covenants, releases, provisions and undertakings shall be binding upon and inure to the benefit of the parties to this Access Agreement and their respective heirs, successors, representatives and assigns, and is intended to and shall constitute a covenant running with the Property for the term hereof.

12. If any provision of this Access Agreement is held invalid under any applicable statute or rule of law, whether now existing or hereinafter passed or adopted, such invalidity shall not affect any other provision of this Access Agreement that can be given effect without the invalid provision, and, to this end, the provisions of this Access Agreement are declared to be severable. In such event, the particular provision held invalid shall be renegotiated and redrafted so as to comply with the particular statute or rule of law. In no event, however, shall this severability provision operate as to alter in any material respect the basic understandings to the parties as to their respective obligations hereunder.

13. EPA, an agency of the federal government, shall be liable for claims, damages and injuries which may occur under this Access Agreement as provided in subsections a. and b. below:

a. The Federal Tort Claims Act (28 U.S.C. 2671, 2680) provides coverage for damage or loss of property, or personal injury or death, caused by the negligent or wrongful act or omission of an employee of EPA while acting within the scope of his or her employment, under circumstances where EPA, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

b. If an employee of EPA is injured while acting within the scope of his or her employment, government liability for that injury will generally be dictated by the provisions of the Federal Employees Compensation Act (5 U.S.C. 1801).

14. List of Exhibits:

A. Surface Damage Agreement and Release between CHK and the surface owners of the Northeast Quarter of Section 15, Township 28 North, Range 11 West Alfalfa County, OK

B. Property description
C. Insurance Requirements - Drilling Subcontractor
D. Insurance Requirements - Professional Services Subcontractors

[Remainder of Page Intentionally Blank]

OWNER:

Chesapeake Operating Inc.

_____ _____

Signature Date

_____

Printed or Typed Name

_____

Title

U.S. Environmental Protection Agency

_____ _____

Signature Date

_____

Printed or Typed Name

_____

Title

EXHIBIT C

INSURANCE REQUIREMENTS – Drilling Subcontractor

It is expressly understood and agreed that before work is actually commenced, Subcontractor and Sub-subcontractor, if any, shall subscribe for and maintain in full force and effect during the progress of the work, the following minimum insurance coverage:

1. Worker's Compensation and Employer's Liability insurance coverage as required in the State in which work is being done. Employers Liability: $1,000,000 per accident, $500,000 per disease – policy limit, and $500,000 per disease – each employee. The policy should include United States Long Shore and Harbor Workers Compensation Act Coverage (USL&H) if work is on, in or near navigable waterway(s).

2. Commercial General Liability insurance covering bodily injury and broad form property damage in an amount of not less than $1,000,000 per occurrence and a $2,000,000 aggregate combined single limit. Coverage form to be CG0001 or CG0002. The policy shall contain the following coverage:
   a. Premises Operations
   b. Products & Completed Operations
   c. Contractual Liability coverage in accordance with ISO policy form CG0001. Modifications to the standard provision will not be acceptable if they serve to reduce coverage.
   d. Cross liability/severability of interest.
   e. Personal Injury.
   f. Independent Contractors.
   g. Aggregate limit shall apply per project.
   h. No XCE (explosion, collapse, underground) exclusion.
   i. The policy shall not contain any provision or definition that would serve to eliminate third party action over claims.
   j. For work within 50 feet of a railroad CG2417 shall apply.
   k. Such insurance shall not exclude coverage for underground property damage.

3. Comprehensive Automobile Liability insurance extending to owned and non-owned and hired automobile (Symbol 1) in an amount of not less than $1,000,000 per occurrence Bodily Injury & Property Damage Combined Single Limit. Coverage form to be CA0001. If hazardous materials or waste are to be transported, the policy shall contain an MCS90 endorsement and a CA9948 endorsement.

4. Pollution Liability insurance in an amount of not less than $1,000,000 per occurrence/$2,000,000 aggregate. Coverage should be for losses caused by pollution conditions that arise from the operations of the subcontractor described under the scope of services of this subcontract. Coverage should include:
   a. Bodily Injury, sickness, disease, mental anguish or shock sustained by any person, including death.
   b. Property Damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed.
   c. Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.

The coverage may be written in combination with the General Liability with separate limits for Pollution Liability and General Liability. If the required work involved asbestos abatement, asbestos liability must be included. If the work includes transportation, treatment or disposal, such activities must be insured under this policy.

5. Excess Liability Insurance having a limit of not less than $10,000,000 per occurrence. The coverage provided under such insurance shall be at least as broad as the underlying policies.

Other insurance provisions:

1. General Liability, Automobile Liability, Excess Liability and Pollution Liability shall specify Ecology and Environment, Inc. and Chesapeake Operating, Inc.as additional insured. Additional insured endorsements must also be provided. Additional Insured coverage on the General Liability shall include products & completed operations coverage.

2. All policies shall provide Ecology and Environment, Inc. and Chesapeake Operating, Inc. with a waiver of subrogation.

3. All policies shall require thirty (30) days prior notice of non-renewal or cancellation of coverage by either party to Ecology and Environment, Inc and Chesapeake Operating, Inc.
4. Deductibles and Self-Insured Retentions – Any deductibles or self-insured retentions must be declared to and approved by Ecology and Environment, Inc and Chesapeake Operating, Inc. Any self-insured retention or deductible amount on the policy shall not reduce the amount of collectible limits of liability.

5. For claims related to this project, the subcontractor's insurance coverage shall be primary insurance as respects Ecology and Environment, Inc. and Chesapeake Operating, Inc., and their subsidiaries, officials and employees. Any insurance or self-insurance maintained by Ecology and Environment, Inc. or Chesapeake Operating, Ince, their subsidiaries, officials and employees shall be excess of the subcontractor's insurance and shall not contribute with it.

6. The Subcontractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7. **If any of the aforementioned insurance policies are written on a claims made basis, the Subcontractor warrants that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time the work under this contract is completed.**

8. Excess Coverage in the form of an Umbrella policy may be used to meet the required limits. Such coverage must be at least as broad as the primary coverage. Any excess umbrella layers must be written on a strict following form basis over the primary umbrella. If the Umbrella does not extend over any of the required coverage, the certificate must note the exclusion.

Certificates shall be forwarded to:

Gayle Kroetsch
Ecology and Environment, Inc.
368 Pleasant View Dr.

Lancaster, NY 14086
Phone: 716-684-8060
Fax: 716-684-2771
Email: gkroetsch@ene.com

Chris Hill
Chesapeake Operating, Inc.
6100 N Western Avenue
Oklahoma City, OK 73118
Phone: 405-935-2321
Fax: 405-849-2321
Email: chris.hill@chk.com

Re: Draft Access Agreement
Stephen Hess to: Jeanne Briskin 06/08/2012 04:36 PM
Bcc: Richard Feldman

Access Agreement -sample-chesapk.docx

Stephen Hess
U.S. EPA, Office of General Counsel
1200 Pennsylvania Avenue, N.W.
Room 7426 C, Mail Code 2399A
Washington, D.C. 20460
Phone: 202-564-5461

Jeanne Briskin Steve, I believe you anticipated this. Lets chat. ... 06/08/2012 09:50:19 AM

From: Jeanne Briskin/DC/USEPA/US
To: Stephen Hess/DC/USEPA/US@EPA
Cc: Pooja Parikh/DC/USEPA/US@EPA, Cynthia Sonich-Mullin/CI/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA, Michael Overbay/R6/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA
Date: 06/08/2012 09:50 AM
Subject: Fw: Information Update - Description has changed: Prospective case study: Chesapeake question re: indemnification

Steve,

I believe you anticipated this. Lets chat. Are there materials that exist that we can provide?

Jeanne

Jeanne Briskin
Office of Science Policy
Office of Research and Development
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (8104R)
Washington, D.C. 20460
(202) 564-4583 - office
(202) 565-2911 - fax
briskin.jeanne@epa.gov

Address for Deliveries:
US EPA
Ronald Reagan Building --Room 51144
Washington DC 20004

----- Forwarded by Jeanne Briskin/DC/USEPA/US on 06/08/2012 09:49 AM -----

From: Stephanie Timmermeyer <stephanie.timmermeyer@chk.com>
To: Jeanne Briskin/DC/USEPA/US@EPA, "Chris Hill (Regulatory)" <chris.hill@chk.com>, Cynthia Sonich-Mullin/CI/USEPA/US@EPA, David Jewett/ADA/USEPA/US@EPA, Doug Beak/ADA/USEPA/US@EPA, Michael Overbay/R6/USEPA/US@EPA, Pooja Parikh/DC/USEPA/US@EPA, Stephen Hess/DC/USEPA/US@EPA, Susan Mravik/ADA/USEPA/US@EPA
Cc: John Satterfield <john.satterfield@chk.com>, Ramona Trovato/DC/USEPA/US@EPA

Date: 06/08/2012 09:47 AM
Subject: RE: Information Update - Description has changed: Prospective case study: Chesapeake question re: indemnification

---

Jeanne and Team:
Our legal department is in the process of preparing for our meeting next week regarding the potential liability and indemnity issues with respect to the EPA's prospective study. In an effort to facilitate discussions, they have asked whether you can provide a "sample" or "standard" agreement the EPA uses with its non-government vendors or partners. Specifically, they are looking for EPA standard provisions around premises liability, personal injury, safety, subcontractor indemnity, and environmental hazard/pollution, etc. By making this request, the legal department is hoping that they may be able to work from your standard provisions in creating an agreement to address any concerns more quickly than might be the case in starting fresh.
Thanks
Stephanie

-----Original Appointment-----
From: Jeanne Briskin/DC/USEPA/US [mailto:Briskin.Jeanne@epamail.epa.gov]
Sent: Friday, June 08, 2012 8:27 AM
To: Jeanne Briskin/DC/USEPA/US; Chris Hill (Regulatory); Cynthia Sonich-Mullin/CI/USEPA/US; David Jewett/ADA/USEPA/US; Doug Beak/ADA/USEPA/US; Michael Overbay/R6/USEPA/US; Pooja Parikh/DC/USEPA/US; Stephanie Timmermeyer; Stephen Hess/DC/USEPA/US; Susan Mravik/ADA/USEPA/US
Cc: John Satterfield; Ramona Trovato/DC/USEPA/US
Subject: Information Update - Description has changed: Prospective case study: Chesapeake question re: indemnification
When: Tuesday, June 12, 2012 2:00 PM-3:00 PM Eastern.
Where: 866-299-3188, conf code 8243351

To assist the discussion, please provide to EPA in advance with a draft of any access agreement or other similar document Chesapeake anticipates using in connection with this project. << File: ATT00001.htm >> << File: c092647.ics >>

This email (and attachments if any) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential or privileged and exempt from disclosure under applicable law. If the reader of this email is not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by return email and destroy all copies of the email (and attachments if any).

ACCESS AGREEMENT

Company ("Owner"), hereby voluntarily consents to provide entry and access on the property in , (as described in Exhibit A, "Property") to the employees and authorized representatives, agents, consultants, contractors and subcontractors of the United States Environmental Protection Agency ("EPA") in order to implement a Project ("Project").

1. The following activities, as further described in Attachment 1 (hereinafter the "Work") may be conducted on the Property by the EPA and its contractors and representatives, and are covered by this authorization:

- Staging equipment and supplies
- Placing _____
- Utilizing _____
- Related Activities

The activities conducted by EPA are undertaken pursuant to its authorities and responsibilities under the Act of 200 , as amended, USC § 1. EPA shall, in the exercise of the rights and privileges granted by this agreement, adhere to and comply with good engineering practices and all laws, ordinances, rules, regulations and orders applicable to EPA's activities, operations and work performed upon, or use of, the Property.

The locations for the Placement Area and the Project's Staging Area are shown on Exhibit B, attached.

2. The Work shall be coordinated in advance with Owner. EPA shall provide Owner a copy of the schedule for the Work with a 72-hour notice prior to commencement. The initial notice, any subsequent notices or communications shall be provided to:

Owner:

322-3761
d2@.com

EPA: Project Manager
353-9184
C.s@epa.gov

3. Owner shall provide the Property to EPA in "as-is" condition. EPA has inspected the Property and is satisfied that it is fit for EPA's purpose. Owner shall not be responsible for repairing maintaining or removing any alterations to or installations on the Property by EPA or its contractors.

4. EPA's access to the Property is non-exclusive. EPA shall access the Property and perform the Work at all times so as not to unreasonably interfere with the use of the Property by Owner or any tenant, licensee or other occupant of the Property.

5. Upon the completion of either of the activities included in the Work on the Property or upon the expiration of this Access Agreement, whichever shall earlier occur, EPA's contractors shall restore the portions of the Property disturbed by the Work to the same or substantially similar condition, based upon photographs to be taken by EPA's contractors prior to the commencement of the Work, as existed prior to the commencement of the Work. The foregoing will not apply to any wells and appurtenances required to be maintained by EPA on Owner's Property.

6. EPA's contractors shall provide the following insurance for the Work:

(a) Certificates of Insurance have been furnished to and accepted by Owner as evidence that such contractors maintain the following insurance coverage:

(i) Workers' Compensation Insurance in satisfaction of statutory requirements of the state where the property covered by this Access Agreement is located. Also, Employers' Liability Insurance having limits of not less than $500,000 per accident, $500,000 per disease – policy limit, and $500,000 per disease – each employee.

(ii) Comprehensive General Liability Insurance having a limit of not less than $1,000,000 per occurrence for all loss, damage, cost, and expense, including attorney's fees, arising out of bodily injury, liability, and property damage liability during the policy period.

(iii) Automobile Liability Insurance having a combined single limit of not less than $1 million per occurrence.

(iv) Excess Liability Insurance having a limit of not less than $5,000,000 per occurrence.

(b) Said certificates should be forwarded to:

7. Nothing contained in this Access Agreement shall be deemed or construed to create the relationship of principal and agent, or a partnership, or any form of joint venture between the parties, it being understood and agreed that there is no relationship between the parties.

8. By giving consent, Owner does not waive or otherwise compromise its rights under federal, state or local law, nor under common law, with the exception of those rights waived in giving this consent.

9. This Access Agreement shall expire on , 201, unless earlier withdrawn, in which case notice of such withdrawal shall be made at least 30 days in advance. The expiration date may be

extended by mutual agreement, confirmed in writing, prior to the expiration date.

10. This Access Agreement constitutes the entire agreement between the parties as to the subject matter and there are no verbal or collateral understandings, agreements, representations or warranties not expressly set forth herein. This Access Agreement may not be changed or terminated orally but only by an instrument in writing signed by the party against whom enforcement is sought.

11. These terms, conditions, covenants, releases, provisions and undertakings shall be binding upon and inure to the benefit of the parties to this Access Agreement and their respective heirs, successors, representatives and assigns.

12. If any provision of this Access Agreement is held invalid under any applicable statute or rule of law, whether now existing or hereinafter passed or adopted, such invalidity shall not affect any other provision of this Access Agreement that can be given effect without the invalid provision, and, to this end, the provisions of this Access Agreement are declared to be severable. In such event, the particular provision held invalid shall be renegotiated and redrafted so as to comply with the particular statute or rule of law. In no event, however, shall this severability provision operate to as to alter in any material respect the basic understandings to the parties as to their respective obligations hereunder.

13. EPA, an agency of the federal government, shall be liable for claims, damages and injuries which may occur under this Access Agreement as provided in subsections a. and b. below:

a. The Federal Tort Claims Act (28 U.S.C. 2671, 2680) provides coverage for damage or loss of property, or personal injury or death, caused by the negligent or wrongful act or omission of an employee of EPA while acting within the scope of his or her employment, under circumstances where EPA, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

b. If an employee of EPA is injured while acting within the scope of his or her employment, government liability for that injury will generally be dictated by the provisions of the Federal Employees Compensation Act (5 U.S.C. 1801).

THIS SPACE INTENTIONALLY LEFT BLANK

OWNER:

_____ Company

_____ _____

Signature Date

_____

Printed or Typed Name

_____

Title

U.S. Environmental Protection Agency

Signature By: , Project Manager	Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF RESEARCH AND DEVELOPMENT

May 23, 2012

Stephanie R. Timmermeyer
Director, Regulatory Affairs
Chesapeake Energy Corporation
P.O. Box 18496
Oklahoma City, OK 73154-0496

Re: Horizontal Drilling

Dear Ms. Timmermeyer:

Thank you for your letter of April 11, 2012 regarding the prospective case study we are in the process of planning in cooperation with Chesapeake Energy Corporation. It is my understanding discussions on the topic of ground water monitoring wells have been progressing well, and it appears we are now in agreement on the issues raised in your letter.

The Environmental Protection Agency (EPA) believes that our monitoring wells, which are to be placed nearest the production gas well, must be able to detect a release originating near the wellbore within 6 months of the release, based on the ground water flow velocity. EPA agrees that should the hydrogeologic characterization data - which have not yet been gathered - sufficiently demonstrate that the ground water velocity at this site will transport constituents released near the wellbore to off-pad monitoring wells within that time frame, no under pad construction of angle-drilled or horizontal monitoring wells will be necessary.

However, should the gradient in this area be relatively flat, and the ground water velocity not be sufficient to meet that goal, it is our understanding, that Chesapeake will allow angle-drilled or horizontal wells to be installed under the pad, with the stipulation that they come no closer than 30 feet of the gas well. Reaching this agreement represents a significant achievement and is based on discussions between Mr. Michael Overbay and Mr. Steven Acree of EPA with Mr. Chris Hill of Chesapeake on Tuesday, May 1, 2012,

With regard to your request for a monitoring well plugging and abandonment plan, we have tasked our support contractor with preparing a generalized plan based on the current conceptual monitoring well designs and regulatory requirements of the Oklahoma Water Resources Board. However, once the hydrogeologic site characterization data have been collected, the monitoring well designs will need to be modified to reflect actual site conditions. Subsequently, once installation has been completed, the well plugging and abandonment plan will also be modified to reflect actual well construction details.

The issue related to the assumption of liability for any damages to the Chesapeake gas well, or to the environment, caused by the installation and use of the monitoring wells by EPA and its contractors, has been referred to the EPA Office of General Counsel (EPA OGC) for consideration. EPA OGC has

confirmed that the federal government, including the EPA, is "self-insured," and that all claims are subject to payment under the Federal Tort Claims Act, 28 U.S.C. § 2671, *et seq.* Also, once a contract is awarded to a drilling contractor we can provide details of their required liability insurance. If you would like, we can set up a conference call with OGC to discuss this further.

Finally, while we understand and appreciate your request to include your concerns regarding the use of non-vertical monitoring wells (should they be used) in the final study report, we cannot commit to including such specific information in a report that will not be finalized for approximately 30 months. However, should it be necessary to use such wells, we will discuss this with you as the final report is being developed.

I do hope these responses adequately address Cheasapeake's remaining concerns on these issues. We will provide you additional information on the plugging and abandonment plan as it becomes available.

I will contact you next week to confirm resolution of these issues and to finalize our agreement to allow us to begin our field work. If Chesapeake provides site characterization work, then we expect to get out into the field by July 11, 2012. If EPA provides the site characterization work, we will start the contracts necessary to support that effort now to enable us to start in the field by July 23. In either case, we estimate that the field work will require two weeks, so the pad construction date may be affected.

Thank you in advance for your consideration. We look forward to working with you and to begin this important case study. Feel free to contact me anytime at (202) 564-7504 or (202) 570-6023.

Sincerely,

E. Ramona Trovato

E. Ramona Trovato
Principal Deputy Assistant Administrator